State of Iowa Department of Corrections

Policy and Procedures

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Chapter 1: ADMINISTRATION & MANAGEMENT
Sub Chapter: PERSONNEL
Related DOC Policies: CBC-PREA-02, PREA-02
Administrative Code Reference: 11-61
Subject: EMPLOYEE INVESTIGATIONS & DISCIPLINE
PREA Standards: 115.22(a-b), 115.6, 115.222(a-b), 115.26
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Authority:

1. PURPOSE

To establish procedures that shall be followed in the Iowa Department of Corrections (IDOC) when conducting employee investigations and administering discipline.

2. POLICY

It is the policy of the IDOC to assure a safe and secure environment in its institutions, facilities, offices and work areas. When there are allegations of misconduct, or failure to meet performance expectations - investigations shall begin as soon as possible, or when management becomes aware of an alleged misconduct, and the investigation shall be conducted professionally, confidentially and concluded without unreasonable or unnecessary delays.

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3. DEFINITIONS – As used in this document:

A. Complaint – Any report, allegation, or information indicating misconduct by another person. A complaint may be verbal or in writing.

B. Investigation – A searching inquiry for ascertaining facts.

C. Internal Investigation – A formal investigation conducted by Institution/Community Based Corrections staff at the respective Institution/District.

D. Department of Administrative Services/Human Resources Enterprise (DAS/HRE) – State agency responsible for all human resource matters.

E. Discipline - Sanction for misconduct or failure to meet job expectations.

F. External Investigation – A formal investigation conducted by investigator(s) assigned by the designated Deputy Director. The lead investigator is from outside the institution/facility/community-based corrections district from where the complaint originated.

G. Officer - As used in this policy means a certified law enforcement officer, corrections officer, or a probation or parole officer.[1]

4. PROCEDURES

A. Investigation Procedures

1. The Warden/District Director/Designee shall investigate, or cause to be investigated, incidents of alleged violations of policy, procedure and/or work rules per **Iowa Code 904.401**.

[1] Iowa Code §80F.1(1)(f)

2. Incidents of staff sexual misconduct, sexual harassment, retaliation, or staff neglect or violation of responsibilities that may have contributed to such incidents shall be reviewed and assigned for investigation by the IDOC Division of Investigative Services (DIS) Unit pursuant to IDOC policy **PREA-02** *Staff, Contractor, or Volunteer Sexual Misconduct/Harassment/ Retaliation with Incarcerated Individuals* and **CBC-PREA-01** *Prevention Planning*.[2]

3. Staff claims of sexual harassment and discrimination are to be forwarded to DAS/HRE. DAS/HRE will make a determination if they will investigate or refer back to the Iowa Department of Corrections for investigation. https://das.iowa.gov/sites/default/files/hr/documents/MS_manual/M-0318_Complaint_form_fillable.pdf

4. Types of investigations

    a. Internal – Assigned, institutional/community-based corrections employees that investigate employee misconduct not covered under external.

    b. External – Staff assigned by the designated Deputy Director shall investigate allegations of employee misconduct when:

        1) Such allegations pertain to the Warden/District Director or staff directly reporting to the Warden/District Director and/or an independent investigation is requested by the Deputy Director;

        2) Such allegations pertain to staff sexual misconduct, sexual harassment, retaliation, or staff neglect or violation of responsibilities that may have contributed to such incidents;[3]

        3) An internal investigation would reasonably give rise to allegations of a conflict of interest, cover-up, or favoritism

[2] PREA Standard §§115.22(a-b)/115.222(a-b)
[3] PREA Standard §§115.6/115.22(a)/115.222(a)/115.26

and an independent investigation is requested by the Warden/District Director or Deputy Director.

B. Interviews

1. Form **AD-PR-13 F-1** *Staff Investigation Form*, shall be utilized and the employee given notice of the subject of the investigation.

2. During an investigative interview, where the employee reasonably believes he/she may be subject to discipline the employee may request a co-worker/peer or, where applicable, a union steward, as a representative. AFSCME and IUP covered staff representatives are union representatives - non-contract staff representatives are peer representatives in the investigation phase.

3. If the employee is an "officer" as defined in **Iowa Code section 80F.1(f)**, IDOC must:

    a. Provide a written summary of the complaint prior to an interview. If a collective bargaining agreement applies, the complaint or written summary shall be provided pursuant to the procedures established under the collective bargaining agreement. If the complaint alleges domestic abuse, sexual abuse, workplace harassment, or sexual harassment, an officer shall not receive more than a written summary of the complaint.[4]

    b. Advise that the officer must answer the questions and advise that the answers cannot be used against the officer in any subsequent criminal proceeding.[5]

    c. Audio or video record the interview with the officer.[6]

    d. Permit the officer to have the assistance of legal counsel, at the officer's expense, during the interview in addition to a right to union steward or staff representative as set forth above.[7]

[4] Iowa Code §80F.1(5)
[5] Iowa Code §80F.1(6)
[6] Iowa Code §80F.1(7)
[7] Iowa Code §80F.1(8)

4. The original recording of the interview shall be preserved as evidence in a secure location per **Iowa Code 904.405**.

C. Reporting

1. Internal Investigations - Internal investigator(s) shall submit the final report to the Warden/District Director or designee.

2. External Investigations - The IDOC DIS Unit/Designee investigator shall submit the final report to the designated Deputy Director and the Warden/District Director.

D. Records and Confidentiality

1. Investigative case files and information shall be maintained separately from personnel records.

2. Investigative information is considered confidential and shall be retained under secure conditions.

3. In the event a formal administrative investigation of an officer, under **Iowa Code section 80F.1(1)(f)**, results in the removal, discharge, or suspension, or other disciplinary action against an officer, copies of any witness statements and the complete investigative agency's report shall be timely provided to the officer upon the request of the officer or the officer's legal counsel upon request at the completion of the investigation.

E. Referral for Prosecution

1. When evidence suggests that an employee has become involved in criminal activity, the Warden/District Director, in consultation with the designated Deputy Director, may refer the matter to law enforcement and/or the County Attorney.

2. The Deputy Director shall determine when the evidence in a staff sexual misconduct case is sufficient for referral for criminal prosecution and shall refer appropriate incidents to law enforcement authorities.[8]

3. If a complaint against an officer, under **Iowa Code section 80F.1(1)(f)**, is determined by the investigator to be a violation of **Iowa Code section 718.6**, False Reports to or Communications with Public Entities, the investigator shall be responsible for filing the necessary paperwork with the county attorney's office in order for the county attorney to make a determination as to whether to charge the person with a violation of **section 718.6**.[9]

F. Discipline Procedures

1. Discipline will be administered if just cause has been met. Elements of just cause are found in the DAS-HRE Managers and Supervisors Manual.

2. The following progressive discipline schedule will be followed for all employees, except employees during their probationary period, unless the misconduct or failure in job performance is so egregious that it warrants a higher level of discipline, up to and including termination:

    a. Written reprimand

    b. 1-day paper suspension

    c. 3-day paper suspension

    d. 5-day paper suspension

    e. Termination

3. Disciplinary Notices

    a. Written Reprimand Notice

        1) The letter of reprimand must include the following information:

[8] PREA Standard §§115.22(b)/115.222(b)
[9] Iowa Code §§80F.1(12)/718.6

2) Written notice of infraction, citing specific rule(s) and policy(s) violated.

3) Specific information (dates, times, what occurred) regarding the unacceptable behavior or performance.

4) Information regarding what is expected of the employee to correct the problem or performance.

5) Grievance or appeal rights as outlined in **Iowa Administrative Code 11-61.1(1) and 11-61.2(5)**.

6) The following must be verbatim in the notice:

   Notice pursuant to **Iowa Code Section 22.7(11)(a)(5)** and **22.15** that the disciplinary action may become a public record.

b. Letter of Suspension/Discharge

The letter of suspension/discharge must contain the following information:

1) Effective date(s) of suspension/discharge.

2) Reason for suspension/discharge, including the infraction and appropriate rule or policy violation.

3) If progressive, reference to prior actions taken.

4) The following must be verbatim in the notice:

   "Notice pursuant to **Iowa Code Section 22.7(11)(a)(5) and 22.15** that the disciplinary action may become a public record."

5) Grievance or appeal right:

   The DAS-HRE administrative rules require that on discipline notices for suspension, reduction of pay within

the same pay grade, disciplinary demotion or discharge, the following language from **IAC 11-61.2(6)** be included verbatim:

"Appeal of disciplinary actions. Any nontemporary employee covered by merit system provisions who is suspended, reduced in pay within the same pay grade, disciplinarily demoted, or discharged, except during the employee's period of probationary status, may bypass steps one and two of the grievance procedure provided for in rule 11-61.1(8A) and may file an appeal in writing to the director for a review of the action within 7 calendar days after the effective date of the action. The appeal shall be on the forms prescribed by the director. The director shall affirm, modify or reverse the action and shall give a written decision to the employee within 30 calendar days after the receipt of the appeal. The time may be extended by mutual agreement of the parties. If not satisfied with the decision of the director, the employee may request an appeal hearing before the public employment relations board as provided in sub rule 61.2(5)."

4. Grievance Process

   The grievance process is according to **11-61** of the DAS-HRE Administrative Rules.