



Administrative Policies and Procedures: 4.9

Subject:	Employee Disciplinary Actions
Authority:	TCA 37-5-105 (3), 37-5-106
Standards:	ACA: 4-JCF-3D-07
Application:	To All Department of Children's Services Employees
Policy Statement:	
The Department of Children's Services (DCS) shall comply with all Federal and State Laws, Rules and Regulations of the Tennessee Department of Human Resources to ensure that employee disciplinary actions are administered fairly and timely.	
Purpose:	
Employee development and retention are vital elements to promoting quality services to the children and families of Tennessee. Job performance problems, inappropriate personal conduct and/or behavior problems related to job performance shall be dealt with through corrective counseling, performance evaluation, employee assistance programs, oral/written warnings and other disciplinary actions as appropriate.	
Procedures:	
A. Supervisor's responsibilities	It is the responsibility of all managers to become familiar with the Tennessee Department of Human Resources Rules, and to ensure that subordinate supervisors are also familiar with such rules. It is expected that human resource representatives, thoroughly trained in disciplinary procedures, will be consulted by managers and supervisors in contemplating disciplinary actions. All disciplinary actions shall be issued as swiftly as possible after the problem behavior or performance issues occur in order to deter the employee from future problem behaviors and/or performance deficiencies.
B. Causes for disciplinary action	Causes for disciplinary action fall into two categories: 1. Causes relating to <u>performance of duties</u> ; and 2. Causes relating to <u>conduct</u> which may affect an employee's ability to successfully fulfill the requirements of the job.

<p>C. Disciplinary action for alleged criminal acts</p>	<ol style="list-style-type: none">1. Any employee who is arrested, indicted or convicted of a criminal offense, either misdemeanor or felony, must immediately report this information to their direct supervisor within twenty-four (24) hours following the event. If the direct supervisor is unavailable, the employee can report up the chain of command as appropriate. If reporting cannot be done due to weekend or holidays, it must be reported on the next work day.2. It is the responsibility of the supervisor or manager to report any such issues to the Regional Administrator, Director or Superintendent who will notify their Central Office Division Director. The Central Office Division Director must ensure that the DCS Human Resources and Internal Affairs Directors are fully informed of the factors surrounding the event.3. After obtaining all available information, (<i>i.e.</i>, any reports/findings from any investigation, <i>etc.</i>), the Regional Administrator/Director or Superintendent, in consultation with DCS Human Resources, may recommend disciplinary action that is deemed appropriate.4. In a case where a conviction has not occurred, or the case has not gone to trial, or has been diverted from normal legal proceedings, or been delayed pending completion of some alternative action, a decision to impose discipline must be supported at the same level of proof required for any disciplinary action (<i>e.g.</i>, a preponderance of evidence to support the imposition of the disciplinary sanction, <i>etc.</i>).5. Factors to consider when recommending disciplinary action include, but are not limited to, the following:<ol style="list-style-type: none">a) Employee's position, duties and responsibilities;b) Media coverage of the incident;c) Outcome of any internal investigation;d) Client (child and family) awareness of and reaction to the incident;e) Other employees' knowledge and reaction;f) Public knowledge and reaction;g) Employee's work record, including prior disciplinary history;h) Whether the alleged conduct involved moral turpitude;i) Any unusual circumstances surrounding the incident; andj) Any violent conduct towards others.6. Concealment of an arrest, indictment and/or conviction (including a pre-trial diversion, plea of <i>nolo contendere</i> or a conditional guilty plea) is grounds for disciplinary action, up to and including termination.7. An indication of child abuse against an employee will be grounds for termination.
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D. Inappropriate employee/child/youth/relative relationships

1. While DCS encourages employees to engage with children and families, special care must be taken to ensure that relationships between employees and children/youth (and their families) remain professional. Social relationships between an employee and a child (or a child's immediate family, relatives and/or clearly identifiable close associates) are prohibited, including but not limited to emotional, romantic and/or sexual attachments.
2. Any established relationship with a child/youth (or a child's immediate family, relatives and/or clearly identifiable close associates) must be reported to the employee's supervisor upon employment or when the relationship is established.
3. An employee may not trade or barter with children/youth or their relatives except as outlined in policy, nor shall an employee carry, mail or pass contraband in or out of any DCS facility. An employee may not donate items to child/youth or engage in any financial transaction with the child/youth (or a child's immediate family, relatives and/or clearly identifiable close associates) without prior written approval of the facility administrator/regional administrator/director/superintendent.
4. Visitation of child/youth or their relatives or clearly identifiable close associates at an employee's home, for social or other functions, is strictly prohibited without prior written approval of the facility administrator/regional administrator/director.
5. An employee may not utilize any child/youth for labor, concerning any personal issue, either paid or unpaid. Such utilization will be considered a violation of state law and will be grounds for termination for gross misconduct. Youth should only be utilized to perform tasks that are part of an approved DCS facility program, approved vocational program, or an approved work program.
6. Exchange of correspondence is strictly forbidden, except for official correspondence completed as a part of an employee's duties with regards to the child/youth (*e.g., Family Service Workers (FSW) routinely correspond with child/youth/families, however, copies of all correspondence is maintained in the child/youth case file.*).
7. Inappropriate correspondence using such websites as myspace.com and hotmail accounts is not allowed and such use could result in disciplinary action.
8. Inappropriate personal phone communication with either children/youth or their relatives is strictly prohibited. Any such contacts/correspondence must be immediately reported to the supervisor of the facility or office.
9. If an employee has knowledge of any employee engaged in inappropriate relationships with a child/youth (or a child's immediate family, relatives and/or clearly identifiable close associates) in violation of this policy, is required to report such information to his/her supervisor **immediately**. Any attempt by a child/youth to use relatives, family and/or clearly identifiable close associates in an effort to circumvent this policy must be brought to the attention of the supervisor.

	<p>10. Employees, who violate this policy, or an employee who fail to immediately report a violation of this policy by himself/herself or another employee may be subject to immediate disciplinary action up to and including termination.</p> <p>11. Employees must conduct themselves in a firm, non-offensive and professional manner when interacting with children/youth or their relatives.</p> <p>12. It is the duty of each employee to correct all children/youth observed in violation of rules and regulations in a fair, consistent, and impartial manner.</p> <p>13. Conversations with children/youth or family representatives are limited to those necessary as part of the employee's duties as related to case management, counseling, conduct, discipline, rules and regulations. Child/youth questions that cannot be answered shall be referred to the immediate supervisor.</p>
<p>E. Grounds for disciplinary action</p>	<p>1. In addition to the disciplinary offenses listed in the Tennessee Department of Human Resources Rules, the following offenses may be grounds for disciplinary action, up to and including termination:</p> <ul style="list-style-type: none">a) Violation of the oath of office of the Department of Children's Services ;b) Falsification of any official document;c) Transporting contraband, weapons, or ammunition onto the property of any DCS facility;d) Brutality or abuse of clients or staff, including verbal, physical or sexual abuse in the performance of job duties; ore) Failure to report to immediate supervisor, the suspension/revocation of motor vehicle license, or loss/expiration of automobile insurance coverage, within twenty-four (24) hours of notification of suspension/revocation or loss/expiration.f) Violations of the Tennessee Department of Human Resources leave and attendance policy(ies) include, but are not limited to:<ul style="list-style-type: none">◆ Taking accrued leave without prior supervisory approval;◆ Failure to notify supervisor in a timely manner of calling out sick;◆ Pattern of taking leave as it is accrued;◆ Exhausting all accrued leave, placing the employee in a leave without pay status (AWOL – Absent without Leave); or◆ Failure to return to work following the exhaustion of all accrued leave or special approved leave, (e.g., Family and Medical Leave, without requesting and being granted approved special leave, etc.).g) Personal or romantic relationships that arise to the level of a conflict of interest with DCS functions.

	<p>h) An indication for child abuse by the employee will be grounds for termination.</p> <p>2. The above list is not inclusive of all possible grounds for disciplinary action.</p>
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Forms:	None
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Collateral documents:	None
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Glossary:	
Term	Definition
Absent Without Leave (AWOL):	Absent without “prior approval” or any leave that would put the employee in a “Special leave status”, absent when all leave balances are depleted and employee is not on approved leave, or absence not reported appropriately as required.
Moral Turpitude:	Extreme immorality or wickedness.
Nolo Contendre:	In U.S. law, a plea entered by a defendant that does not explicitly admit guilt, but subjects the defendant to punishment, while allowing denial of the alleged facts in other proceedings.