ARIZONA DEPARTMENT OF CORRECTIONS	CHAPTER: 600 INSPECTOR GENERAL	OPR: DIR SS
DEPARTMENT ORDER MANUAL	DEPARTMENT ORDER: 601 ***ADMINISTRATIVE INVESTIGATIONS AND EMPLOYEE DISCIPLINE***	SUPERSEDES: DO 601 (4/29/13) DI 320 (9/13/13)
		EFFECTIVE DATE: AUGUST 28, 2014
		REPLACEMENT PAGE REVISION DATE: SEPTEMBER 19, 2015

TABLE OF CONTENTS

PURPOSE
APPLICABILITY
PROCEDURES

		PAGE
601.01	GENERAL RESPONSIBILITIES	1
601.02	MISTAKE OR MISCONDUCT	2
601.03	ADMINISTRATIVE INQUIRY FORM	3
601.04	ASSIGNING THE INVESTIGATION AND INITIALLY NOTIFYING THE EMPLOYEE	5
601.05	DISCIPLINE ADMINISTRATION	6
601.06	EMPLOYEE RIGHT TO REPRESENTATION	9
601.07	CONDUCTING INTERVIEWS AND INVESTIGATIONS	11
601.08	REASSIGNING OR PLACING EMPLOYEE ON ADMINISTRATIVE LEAVE WITH PAY	13
601.09	DETERMINING FINDINGS FOR ADMINISTRATIVE INQUIRIES	14
601.10	EMPLOYEE DISCIPLINE	15
601.11	DISCIPLINARY SANCTIONS	16
601.12	ACCESS TO INVESTIGATION REPORTS AND AIU FILES	19
601.13	GRIEVANCE/APPEAL OPTIONS	19
601.14	CRIMINAL AND ADMINISTRATIVE INVESTIGATIONS	20
601.15	RESIGNATIONS	21
601.16	INVESTIGATION REPORTS AND EMPLOYEE RECORDS	22
601.17	REHIRE RESTRICTIONS	22
	DEFINITIONS	23
	CROSS-REFERENCE INDEX	26
	AUTHORITY	27
	ATTACHMENTS	

PURPOSE

This Department Order establishes procedures for conducting investigations of allegations of misconduct by employees; for temporary reassignment of an employee during the investigation; and for review and disposition of completed investigations by approving authorities. In furtherance of the Department's guiding principles and code of ethics, this Department Order also establishes a standardized and consistent approach to address and correct unacceptable employee behavior and/or performance.

APPLICABILITY

This Department Order does not create a contract for employment between any employee and the Department. Nothing in this Department Order changes the fact that all uncovered employees of the Department are at-will employees and serve at the pleasure of the appointing authority.

This Department Order applies to all staff.

PROCEDURES

601.01 GENERAL RESPONSIBILITIES

1.1 Supervisors shall address minor staff performance issues as outlined in Department Order #514, Performance Appraisal for Correctional Employees (PACE) and/or Managing Accountability and Performance (MAP) Employee Appraisal Process. Misconduct issues shall be addressed as outlined in section 601.02 of this Department Order. The processes by which facts are identified and evidence is established are the investigative procedures outlined in this Department Order.

1.1.1 Continued incidents of similar minor performance issues may lead to progressive discipline as outlined in this Department Order.

1.2 The Administrative Investigations Unit (AIU) Supervisor shall immediately open an investigation without referral for staff arrests or when a criminal citation, complaint, information or indictment is issued to staff. The AIU Supervisor shall also immediately open an investigation without referral for inmate suicides, unattended deaths of inmates, inmate escapes, and homicides involving inmates. In the event an AIU Investigation without referral indicates a staff member(s) as a potential principal(s) the Warden, Deputy Warden or Bureau Administrator shall issue the staff member(s) an Administrative Inquiry, Form 601-1, as outlined in section 601.03 of this Department Order. The corresponding case number issued on the AIU investigative report shall be used on the Administrative Inquiry form.

1.2.1 All other investigations must be requested by the Warden, Deputy Warden or Bureau Administrator as set forth below.

1.2.2 The AIU Supervisor shall notify the Deputy Director, Division Directors, Assistant Director, Regional Operations Directors (RODS), Wardens, Deputy Wardens, and Administrators of investigations occurring in their area of supervision.

1.3 Employee discipline may be imposed after an Administrative Inquiry form has been issued and responded to by the employee or in instances when the employee has admitted to the allegations on an Information Report.

1.3.1 An administrative investigation need not be conducted when sufficient facts are known, admitted to or otherwise not in dispute based upon the information contained in the Administrative Inquiry form.

1.3.2 Wardens or Bureau Administrators shall track all such cases for their institution or bureau.

1.4 Wardens, Administrators and Bureau Administrators:

1.4.1 Shall request a case number from their complex Administration or AIU and ensure it is referenced on the Administrative Inquiry form prior to the employee being served.

1.4.2 Shall use the Administrative Inquiry form and the employee response to determine if an AIU investigation should be initiated.

1.4.3 Need not initiate an AIU investigation when sufficient facts are known, admitted to, or otherwise not in dispute based upon the information contained in the Administrative Inquiry form. The recommendation form shall state the reason an investigation was not warranted.

1.4.4 Shall appoint a staff member to track all Administrative Inquires for their institution or bureau.

1.4.5 Be the primary point of contact for the AIU Supervisor or designee.

1.5 All employees are expected to respond fully and truthfully throughout any investigative process, as is consistent with professional and ethical conduct standards. If it is determined that an employee was dishonest during an investigative process, sanctions shall be aggravated as outlined in Attachment B.

1.6 Employees shall report any contact with law enforcement agencies to their immediate supervisor as required by Department Order #501, Professionalism, Ethics, Conduct and Equal Opportunity. (See Department Order #501 for information relating to staff arrests.)

601.02 MISTAKE OR MISCONDUCT

1.1 Incidents that are required to be reported shall be reported and documented by the employee with knowledge of such acts, in accordance with Department Order #105, Information Reporting, Department Order #501, Employee Professionalism, Ethics and Conduct, and Department Order #527, Employment Discrimination and Harassment. The Administrator shall review the report within five calendar days (excluding holidays) and determine if the act in question was a mistake or misconduct, which may warrant further action.

1.2 If the incident in question is determined to be:

1.2.1 Mistake - the incident shall be regarded as unintentional and the procedures outlined in Department Order #514, Performance Appraisal for Correctional Employees (PACE) and/or Managing Accountability and Performance (MAP) Employee Appraisal Process shall be followed as appropriate.

1.2.2 Misconduct - the Warden or Administrator shall initiate an Administrative Inquiry as outlined in section 601.03 of this Department Order. Upon receipt of the employee's response, the approving authority may request further investigation, render findings, issue discipline or determine the allegations to be unfounded, non-sustained or exonerated.

601.03 **ADMINISTRATIVE INQUIRY FORM** - The Administrative Inquiry form represents the beginning of the factual discovery process. Through the issuance of this form with a corresponding case number, allegations are made known to an employee and the employee is afforded an opportunity to respond and explain their actions or inaction. The Administrative Inquiry form may be supplemented with additional interviews or witness statements as necessary. The Administrative Inquiry process shall be used to determine if there is need for an AIU investigation.

1.1 When a supervisor determines that an employee's performance or conduct requires further review, the supervisor shall:

1.1.1 Conduct a managerial inquiry of the employee's actions by asking questions of the employee and involved persons to include witnesses, and request information reports in accordance with Department Order #105, Information Reporting.

1.1.2 Confer with the Warden, Deputy Warden, Administrator or Bureau Administrator to determine if an Administrative Inquiry form should be initiated.

1.1.2.1 If the employee admits wrongdoing and no further investigation is required, the Warden, Deputy Warden, Administrator or Bureau Administrator shall initiate corrective action consistent with section 601.10 of this Department Order utilizing page 4 of the Administrative Inquiry, Form 601-1, and shall not issue the employee an Administrative Inquiry form.

1.1.3 Initiate the Administrative Inquiry form to determine whether an employee's actions constitute misconduct when sufficient information is not contained in the employee Information Report.

1.1.3.1 Supervisors shall complete page one of the Administrative Inquiry, form and obtain a case number from the designated area. The supervisor shall ensure that the allegations listed on page one of the Administrative Inquiry form are specific and provide the employee sufficient information to respond to the performance deficiency or misconduct.

1.1.3.2 Supervisors shall ensure the employee is given an opportunity to provide a written response to the Administrative Inquiry form (five workdays), as defined by their current duty schedule.

1.1.3.3 The Warden shall be advised of any other potential principals identified as a result of the service and response of an Administrative Inquiry form.

1.2 Upon receipt of an Administrative Inquiry form:

1.2.1 The employee shall have five workdays, as defined by his/her current duty schedule, to complete the employee response section of the Administrative Inquiry form and return it to his/her supervisor. The employee's response should include any pertinent information regarding the incident or allegation including information that may mitigate the employee's action(s).

1.2.2 The supervisor shall review the response, ensure the response completely addresses the allegations, indicate the results of his/her review on the Administrative Inquiry form, and forward it to the Warden, Deputy Warden, Administrator or Bureau Administrator with a recommendation for no further investigation or for the initiation of an AIU administrative investigation within three workdays.

1.2.3 The Warden, Deputy Warden, Administrator or Bureau Administrator:

1.2.3.1 The Warden, Deputy Warden, Administrator or Bureau Administrator shall review all documentation and determine whether there is sufficient information to make a decision or the initiation of an AIU administrative investigation is required.

1.2.3.2 The Warden, Deputy Warden, Administrator or Bureau Administrator may request that the involved employee answer a more precise list of questions prior to making a determination, utilizing page 3 (Addendum) of the Administrative Inquiry form.

1.2.3.3 If the employee admits wrongdoing and no further investigation is required, the Warden, Deputy Warden, Administrator or Bureau Administrator shall initiate disciplinary action consistent with section 601.10 of this Department Order.

1.2.3.4 The Warden, Deputy Warden, Administrator or Bureau Administrator may, after reviewing the Administrative Inquiry form and supporting documentation, determine the matter may be resolved without an AIU investigation, and shall close the case after taking appropriate action.

1.2.3.5 If the Warden, Administrator or Bureau Administrator, after reviewing the Administrative Inquiry form and supporting documentation, determines an AIU investigation is required, all documentation shall be forwarded to AIU.

1.2.3.6 If a matter is resolved without an AIU investigation, the Regional Operations Director or designee shall provide a copy of the completed Administrative Inquiry to the Inspector General within ten workdays.

1.3 <u>Employees receiving criminal or civil citations</u>

1.3.1 Employees who receive a civil traffic citation, including photo radar or a criminal speeding citation while operating a State vehicle, shall report the incident through their chain of command. It shall be handled at the Complex level through the use of the Administrative Inquiry process.

1.3.2 Employees who receive a criminal traffic citation (excluding criminal speeding) including a DUI, reckless driving and driving while driver's license is suspended, while operating a State vehicle, shall report the incident to their chain of command. Notification through the executive report shall be completed and an administrative investigation conducted by the AIU.

1.3.3 Employees who receive a criminal speeding citation while operating a privately owned vehicle shall report the incident to their chain of command. It shall be handled at the Complex level through the use of the Administrative Inquiry process.

1.3.4 Employees who receive any other criminal traffic citation while operating a privately owned vehicle shall report the incident to their chain of command. Notification through the executive report shall be completed and an administrative investigation conducted by the AIU.

1.3.5 Employees who receive a civil traffic citation, including photo radar while operating a privately owned vehicle are not required to report it.

601.04 ASSIGNING THE INVESTIGATION AND INITIALLY NOTIFYING THE EMPLOYEE

1.1 When an administrative investigation has been requested, the AIU Supervisor shall:

1.1.1 Ensure an AIU case number has been assigned.

1.1.2 Assign the investigation to an AIU investigator.

1.2 Notice Requirement - Prior to the commencement of an interview of the principal employee, the investigator shall provide the principal employee with a written notice, which includes a copy of the Administrative Inquiry form containing any facts regarding the alleged allegations of misconduct. Principal employees shall not be provided copies of complaint(s) which involve allegations managed pursuant to Federal Law under the jurisdiction of the Equal Employment Opportunity Commission. Neither shall employees be provided with a complaint in cases of staff arrest.

1.2.1 The written notice shall inform the principal of:

1.2.1.1 The specific nature of the investigation and all known allegations of misconduct that lead to the investigation, if applicable. Arizona Revised Statute (A.R.S.) 38-1101

1.2.1.2 Their status in the investigation. A.R.S. 38-1101

1.2.1.3 Their right to have a representative present during the interview(s). A.R.S. 38-1101

1.2.1.4 Their right to discuss the matter with their identified representative at all times except during the interview and as otherwise provided in this Department Order.

1.2.2 The notice requirement does not apply to an interview that is conducted in the course of a criminal investigation or polygraph examination. A.R.S. 38-1101

1.2.3 The investigator is not required to stop an interview to issue another notice to the principal for allegations based on information provided by the employee during the interview. A.R.S. 38-1101

1.2.4 The investigator is not required to disclose any fact to the employee or the employee's representative that would impede the investigation. A.R.S. 38-1101

1.2.5 In cases when a witness is identified as a principal as a result of information gained during an interview, the affected employee shall be provided written notice, as described in 1.2.1 above prior to completion of or further interview in the employee's new status as principal.

1.3 Upon receipt of notification, the employee shall acknowledge receipt by signing the notification letter. A copy shall be provided to the employee. The Warden's office shall immediately fax a copy to AIU. The original shall be placed in the case file.

601.05 DISCIPLINE ADMINISTRATION

1.1 Action Process – It is expected that all investigations and corrective disciplinary actions shall be conducted and completed as expeditiously as possible. Final disciplinary action shall be administered within 120 calendar days from the initiation date of an administrative investigation. In the event a principal is on approved FMLA leave or other extended leave which renders the employee unavailable, all time frames shall be suspended pending the principal's return to work. In accordance with the following time frame guidelines, appropriate personnel shall electronically transmit completed forms and investigative documents to the next level(s) of review/action.

1.1.1 The time frames in attachment G-1 and G-2 are not intended to override the time frames cited elsewhere in this Department Order and are only intended to be guidelines for the administrative tracking and management of the investigative process up to the issuance of disciplinary.

1.1.1.1 All completed steps in this process shall result in immediate electronic dissemination of the investigative packet to the next level(s).

1.1.1.2 For actions appealable by covered employees (Involuntary Demotion or Dismissal), at the completion of the investigation by the AIU, the entire investigative packet shall be electronically sent to the approving authority, Warden/Regional Operations Director/Administrator and involved Division Director/Assistant Director simultaneously.

1.1.1.3 At the completion of the approving authority review/recommendation phase, the entire investigative packet shall be electronically sent to the Employee Relations Unit and the Division Director/Assistant Director. The Employee Relations Unit shall coordinate writing notice of charge letters with the approving authority.

1.1.1.4 Except in authorized extensions of time frames, every administrative investigation and issuance of final disciplinary action must be completed by 120 calendar days. Any unauthorized failure to complete investigation and final action by 120 calendar days shall result in a finding of not sustained, irrespective of the facts of the case.

1.1.2 Prior to the expiration of the above referenced time frames:

1.1.2.1 The approving authority shall review the administrative investigation, consider all applicable information, to include aggravating and/or mitigating circumstances, determine violations, render findings and issue the appropriate level of discipline. This shall be conducted in accordance with the Class of Offense Guidelines, Attachment C; the Chart of Disciplinary Sanctions, Attachment B; and the Chart of Disciplinary Suspensions, Attachment E - based on the employees FLSA (Fair Labor Standards Act) status.

1.1.2.1.1 In extenuating circumstances, investigators and approving authorities shall submit a request to the Director, through their respective chain of command, requesting approval to extend the 120 calendar day time frame.

1.1.2.1.2 The request shall include specificity regarding the reason the investigation could not be completed or the findings could not be rendered within the designated period. The extension shall be requested in 30 calendar day increments.

1.1.2.1.3 In extenuating circumstances, i.e., awaiting court adjudication for felony convictions, etc., extensions may be requested for a longer duration.

1.1.2.1.4 Failure to administer discipline or request an extension within the designated time frame will result in a non-sustained finding and the case shall be closed.

1.1.2.2 The approving authority shall provide the employee identified as a principal of an investigation, a written notice advising him/her of the outcome when an investigation has resulted in a non-sustained, unfounded or exonerated findings.

1.1.2.3 Upon completion of the Administrative Inquiry, disciplinary action may be initiated where the employee has been given an opportunity to respond to the allegation(s) or complaint and where facts are known and not in dispute. This shall be completed within 30 calendar days from the “date of complaint” indicated on the Administrative Inquiry form. In the event a principal is on approved FMLA leave or other extended leave, which renders the employee unavailable, all time frames shall be suspended pending the principal’s return to work.

1.1.2.3.1 In cases where the approving authority has determined an action appealable by covered employees (Involuntary Demotion or Dismissal) or uncovered dismissals shall be administered, a total of 60 calendar days shall be allowed from the date of the Administrative Inquiry to final disciplinary action. In such event, the approving authority shall submit a draft Notice of Charges letter to the Employee Relations Unit within 30 calendar days from the date of the Administrative Inquiry. The Employee Relations Unit shall ensure the final disciplinary action letter is forwarded to the approving authority for issuance prior to the expiration of the initial 60 calendar days.

1.2 The Employee Relations Unit shall:

1.2.1 Review all disciplinary actions subject to appeal, uncovered dismissals, and all corresponding investigative reports, including discipline for criminal conduct. This review shall occur prior to issuing discipline to the employee. The approving authority shall submit an Administrative Investigations Disciplinary Worksheet, Form 601-8, to the Employee Relations Unit along with the appropriate draft disciplinary letter.

1.2.2 Provide advice and technical assistance as needed.

1.2.3 Ensure all investigation reports are reviewed by the Equal Opportunity Unit in accordance with Department Order #501, Employee Professionalism, Ethics and Conduct and Department Order #527, Employment Discrimination and Harassment, prior to any action being taken on cases involving allegations of discrimination or harassment.

1.2.4 Apprise management of any open/pending investigations of a criminal nature prior to administering final disciplinary action involving an 80-hour suspension, demotion, or dismissal. This applies to both covered and uncovered employees.

1.2.5 Initiate contact with the Inspector General Bureau for confirmation of any pending/open criminal investigations involving an employee who is named as a principal facing an 80-hour suspension, demotion, or dismissal.

1.2.5.1 In response to the contact from the Employee Relations Unit, the Inspector General shall confirm any pertinent information involving an employee who is a principal in any open/pending investigation of a criminal nature.

1.2.5.2 The Employee Relations Unit shall ensure all pertinent information is obtained and included in the employee relations review files for review with the respective Division Director.

1.3 Disciplinary Notice - When an employee is disciplined, with exception of the dismissal of an employee on original probation or dismissal of an uncovered employee, the disciplinary notice shall:

1.3.1 Clearly document the reason(s) for the disciplinary action(s) and be written pursuant to the applicable formats.

1.3.2 Include a brief statement informing the employee of the imposed violations.

1.3.3 Include the employee's rights, such as appeal, grievances, etc.

1.4 Action Requirements - Processing of disciplinary actions shall not be delayed due to the absence of an approving authority. Authority to take action can be the next highest position in the chain of command or a designated acting authority.

601.06 EMPLOYEE RIGHT TO REPRESENTATION

1.1 Employees identified as the principal of an administrative investigation, which the Department reasonably believes could result in suspension, involuntary demotion, or dismissal, may request a representative.

1.1.1 Employees who are identified as witnesses relating to an investigation which the Department reasonably believes could lead to another employee's suspension, involuntary demotion or dismissal, may request a representative during the interview. The representative shall meet the same criteria as the representative for the principal in accordance with this Department Order.

1.2 Representative

1.2.1 The principal of the administrative investigation or an employee identified as a witness in the administrative investigation may request and select a representative that is a current Department employee, regardless of classification or job assignment. The principal and/or witness are responsible for coordinating the presence of the representative and advising the representative of their responsibilities.

1.2.2 Serving as a representative is voluntary. Only one representative is permitted per principal and/or witness in an administrative investigation.

1.2.3 To avoid a conflict of interest and to retain the integrity of the decision-making process, the representative shall:

1.2.3.1 Not be a relative of the principal under investigation or the employee identified as a witness in the investigation. Relative is defined by Personnel Rule, R2-5A-305.

1.2.3.2 Not be a direct subordinate or an individual within the employee's direct chain of command.

1.2.3.3 Not be an employee from Administrative, Backgrounds or Criminal Investigations Units, Human Resources, the Employee Relations Unit or the Director's Office.

1.2.3.4 Not be a participant, (principal, complainant, witness) in the current investigation.

1.2.4 The representative shall:

1.2.4.1 Only participate in the interview as an observer. A.R.S. 38-1101

1.2.4.2 Be subject to the same confidentiality requirements of the employee under investigation and/or the employee identified as a witness in the investigation. Violations may result in discipline pursuant to section 601.10 of this Department Order.

1.2.4.3 Be at no cost to the Department. A.R.S. 38-1101

1.2.4.4 Be on approved leave (annual leave, holiday leave, compensatory leave, or leave without pay) or in off duty status.

1.2.4.5 Not cause an unreasonable delay in the interview process. An unreasonable delay is defined as a delay greater than two hours unless an emergency exception is granted by the investigator. A.R.S. 38-1101

1.2.4.6 Be required to sign a representative acknowledgment form indicating they understand and agree with the requirements and limitations. The investigator shall provide the form at the onset of the interview.

1.3 Administrative Provisions

1.3.1 On the day of the investigation interview, in the event an emergency prevents a representative from attending, the employee subject to investigation and/or the employee identified as a witness in the investigation may elect to proceed without a representative or select another representative. Rescheduling may occur as long as there is not an unreasonable delay in the administrative investigation process.

1.3.2 At the employee's discretion, a ten-minute break shall be allowed after any 50-minute duration during the interview. The employee may use this break to converse with the representative or for a telephonic or in-person consultation with others, including an attorney, if immediately available. A.R.S. 38-1101

1.4 Limitations

1.4.1 The representative may participate in the interview only as an observer. A.R.S. 38-1101

1.4.2 The representative may not ask questions, coach the employee on responses, pass notes, or exhibit other behavior the investigator reasonably believes is disrupting the interview process. The representative may take notes and may speak to the employee during breaks and at the conclusion of the interview process.

1.4.3 The representative shall not be a witness or principal in the administrative investigation. If the representative is later alleged to have engaged in wrongdoing, which the Department determines could result in suspension, involuntary demotion or dismissal, the representative shall be removed from that capacity. The employee shall be afforded the right to request an alternate representative in all subsequent administrative investigation interviews in accordance with this Department Order.

1.4.4 A representative who disrupts, delays, or otherwise impedes the investigation interview process shall be excused from the investigation interview by the investigator. The representative shall be required to leave the vicinity of the interview location, even if the interview location is their duty post.

1.4.4.1 At the conclusion of the investigative interview, the investigator shall advise their supervisor in writing of the facts supporting the removal of the representative.

1.4.5 A representative who disrupts delays, reveals confidential information, or otherwise impedes the investigation process may be precluded from acting as a representative in future investigation interviews and may be subject to disciplinary action, pursuant to section 601.10 of this Department Order.

1.5 Representatives are not authorized to be present for the following:

1.5.1 In the normal course of duty, for performance evaluations, counseling, instruction, an informal oral admonishment, reprimands, or other routine or otherwise unplanned contact with a supervisor or any other individual within the chain of command. A.R.S. 38-1101

1.5.2 As preliminary questioning to determine the scope of the allegations which is used to determine if an investigation is necessary. A.R.S. 38-1101

1.5.3 In the course of a criminal investigation. A.R.S. 38-1101

1.5.4 In the course of a polygraph investigation. A.R.S. 38-1101

601.07 CONDUCTING INTERVIEWS AND INVESTIGATIONS

1.1 Interviews - Investigators shall:

1.1.1 Be authorized to bring into an institution only the Department issued items necessary to conduct the investigation.

1.1.2 To the extent possible, conduct interviews during the employee's scheduled work hours and day. Unless justified by unusual circumstances, interviews shall not be conducted while the employee is on leave or regular days off.

1.1.2.1 The employee's supervisors shall approve unscheduled work hours when the investigators determine that it is necessary to schedule an interview while the concerned employee is off duty.

1.1.2.2 The investigator shall consult with the Warden, Deputy Warden, Administrator or Bureau Administrator prior to making a determination that it is necessary to conduct an off duty interview.

1.1.3 When possible, conduct interviews at the institution or facility where the employee is assigned.

1.1.4 Permit the principal and/or witness to have a representative present during an administrative investigation as outlined in A.R.S. 38-1101, Employees' Right to Representation. The investigator shall complete the Administrative Investigation Representative Acknowledgement, Form 601-4.

1.1.5 Comply with the notice requirements specified in section 601.04 of this Department Order, prior to starting the interview.

1.1.6 Limit interviews to four hours for any single interview session. More than one interview session per employee may be required and is permitted.

1.1.7 Make written notes and/or recordings of the interview(s) and permit the employee to do the same.

1.1.8 Afford the employee a ten-minute rest period every 50 minutes for personal necessities, meals, and telephone calls during the interview session.

1.1.9 Not subject an employee being interviewed to coercion, offensive or abusive language.

1.1.10 Not allow an employee to be questioned by more than two interviewers at one time, except that an observer approved by the interviewers and/or the AIU Supervisor may be present for training or supervisory purposes.

1.2 At no time shall a Criminal Investigations Unit (CIU) investigator conduct an administrative investigation, or an AIU investigator conduct a criminal investigation.

1.3 Administrative Interviews

1.3.1 Investigators are not required to advise an employee of their constitutional rights prior to commencing an administrative interview.

1.3.2 The investigator shall advise all employees of the Garrity warning prior to initiating an interview.

1.3.3 The employee shall fully cooperate and completely and truthfully answer all of the investigator's questions concerning the investigation.

1.3.4 Should previously unknown criminal conduct become evident during an interview, the investigator shall immediately terminate the interview and contact the AIU Supervisor.

1.4 Assigned investigators shall conduct investigations in a confidential, impartial manner to preserve the dignity of all persons involved.

1.4.1 Any employee may be required to prepare written reports of any information relevant to the investigation.

1.4.2 All employees have the right at any time during the investigation to submit further written reports of relevant information.

1.4.3 Investigators shall review all Post Orders, and other source documents as appropriate.

1.5 When new information surfaces during the investigation that is unrelated to the initial allegation(s) being investigated, the investigator shall immediately bring the new allegations to the attention of the AIU Supervisor and the Warden, Deputy Warden, Administrator or Bureau Administrator who will determine if an independent investigation should be initiated or that combining the information into one investigation is appropriate.

1.6 The Warden, Administrator or Bureau Administrator shall periodically advise the employee's supervisor and the employee of the status of the investigation when appropriate or upon inquiry.

1.6.1 If the employee has questions about the status of the investigation, the question(s) shall be forwarded to the Warden, Administrator or Bureau Administrator who in turn shall contact the investigator to ask the question(s). The Warden, Administrator or Bureau Administrator may then inform the requesting party of the answer if appropriate.

1.6.2 AIU shall track all cases to ensure completion of the case within established time frames.

1.7 Preparing the Investigation Report - At the completion of an administrative investigation, the investigator shall prepare a comprehensive report that:

1.7.1 Is prepared in the approved Investigative Report format.

1.7.2 Includes a synopsis of the complaint and investigation, providing the details of the complaint and a summary of relevant information that was discovered during the investigation.

1.7.3 Contains a narrative that includes each allegation and the interviews of involved employees and witnesses.

1.7.4 Summarizes the findings of fact on each allegation.

1.7.5 Does not contain conclusions or recommendations.

1.7.6 Is electronically forwarded simultaneously to the AIU Supervisor and/or Inspector General for approval.

1.7.7 Is then electronically forwarded to the affected Division Director, Assistant Director, Warden, Administrator or Bureau Administrator.

1.8 Polygraph examinations shall be conducted in accordance with the provisions of this Department Order and Department Order #603, Polygraph Services.

1.8.1 The AIU Supervisor shall ensure any polygraph records associated with an AIU investigation shall be maintained in accordance with Department Order #103, Correspondence/Records Control.

601.08 REASSIGNING OR PLACING THE EMPLOYEE ON ADMINISTRATIVE LEAVE WITH PAY

1.1 If it is determined that the presence of the employee who is under investigation would prevent the employee or other employees from satisfactorily performing their required duties, disrupt the work environment, interfere with the investigation, or for any other reason should preclude the employee from working under certain circumstances, a recommendation to place the employee on Administrative Leave shall be submitted to the applicable Division Director/Assistant Director. Only the Director, Deputy Director or Division Director/Assistant Director shall approve an employee's placement on Administrative Leave.

1.1.1 Upon receiving approval to place an employee on Administrative Leave, the Warden or Administrator shall:

1.1.1.1 With written notification to the employee, place the employee on Administrative Leave With Pay. The written notification shall include the name and title of the approving authority. Administrative Leave With Pay shall only be considered as a last resort, if the allegation:

1.1.1.1.1 Is so serious as to jeopardize security or negatively impact the Department, including pending criminal charges.

1.1.1.1.2 If there are no assignments available the employee can successfully perform.

1.1.1.1.3 Is such that it is determined the employee should not be in the workplace.

1.1.2 Absent approval for Administrative Leave Placement, the Warden or Administrator may temporarily reassign the employee to other shifts, work locations, Regular Days Off (RDO) or suitable duties that do not involve contact with inmates, if applicable, until the investigation is complete.

1.1.3 If the employee is to be restricted from entering into or onto state property, have the employee sign and date the Criminal Trespass Notice, Form 601-9, and ensure the distribution is completed.

1.2 Employees who are placed on administrative leave with pay shall comply with all provisions of their written notice.

1.3 Employees shall not be placed on administrative leave with pay during any period of incarceration.

1.4 If the employee is released from custody before corrective action is taken, the Warden, Administrator or Bureau Administrator shall consider reassignment or administrative leave.

601.09 DETERMINING FINDINGS FOR ADMINISTRATIVE INQUIRIES

1.1 Upon receipt of an Administrative Inquiry the Warden, Deputy Warden, Administrator or Bureau Administrator shall:

1.1.1 Review the entire report, including all attachments and relevant policies.

1.1.2 Prepare a written finding on each allegation utilizing page 4 of the Administrative Inquiry form or Tab F of the administrative investigation.

1.1.3 If there is a "sustained" finding:

1.1.3.1 Determine the appropriate level of discipline, including specific references to offenses in accordance with Attachment B and C.

1.1.3.2 If the recommended level of discipline is a written reprimand or suspension, consult with the Employee Relations Unit and issue the disciplinary action pursuant to the guidelines.

1.1.3.3 If the recommended level of discipline is an involuntary demotion or dismissal, consult with the Employee Relations Unit and any other appropriate parties about necessary procedures prior to the issuance of the final disciplinary action.

1.1.3.4 Once disciplinary action has been issued, forward all documentation and correspondence related to the findings and disciplinary action taken to the AIU Supervisor.

1.2 For allegations where the findings are unfounded, exonerated, or not sustained, the Warden, Deputy Warden, Administrator or Bureau Administrator shall forward a memo reporting the findings to the employee with a copy provided to the employee's supervisor.

601.10 **EMPLOYEE DISCIPLINE** - Under the State Personnel Rules, the ADC Director has the primary authority and responsibility in matters pertaining to employee discipline. A disciplinary action that involves an involuntary demotion or a dismissal requires review by the Director of the Arizona Department of Administration (ADOA) or designee prior to administering such action. This review shall be coordinated by the Employee Relations Unit.

1.1 Requests to access AIU files shall be submitted in writing to the Inspector General and shall include a written statement of the purpose for the request. Oral requests are not sufficient.

1.2 Official disciplinary letters to effectuate disciplinary actions that are subject to appeal to the State Personnel Board or the Law Enforcement Merit System Council, and uncovered dismissals shall be reviewed by the Department’s Employee Relations Unit, approved by the appropriate Division Director/Assistant Director and reviewed by the ADOA Director or designee prior to issuance.

1.3 Disciplinary actions subject to appeal include involuntary demotions or dismissals of permanent status covered employees.

1.4 The Deputy Director is authorized to administer all forms of discipline to employees under his/her supervision.

1.5 The Division Directors/Assistant Director are authorized to administer all forms of discipline to their respective Bureau Administrators, Regional Operations Directors, Wardens, Unit Administrators, and all employees within their division.

1.6 The Regional Operations Directors, Wardens and Bureau Administrators are authorized to administer discipline to employees under their supervision.

1.7 The Unit Administrators are authorized to administer discipline up to and including suspensions without pay to employees under their supervision, to include dismissal of employees on original probation.

1.8 All supervisors are authorized to administer oral or written counseling, memos of concern, adverse performance appraisal entries, and notices of necessity to improve. Such corrective actions are not disciplinary in nature, and are exempt from the provisions of this Department Order. These actions may be referenced in a grievance response or Personnel Board hearing or other proceeding to demonstrate progressive corrective action on the part of management.

601.11 **DISCIPLINARY SANCTIONS** - The following sanctions, which shall become part of the employee's official personnel file, may be imposed to correct an employee's behavior or conduct. The approving authority shall provide copies of the disciplinary letter pursuant to the applicable disciplinary sanction, to include but not limited to the Employee Relations Unit, the Human Resources Operations Unit for placement into the employee's personnel file, and to the Personnel Board, in the case of involuntary demotion or dismissal of a covered, permanent status employee.

1.1 Written Reprimand – (Covered and Uncovered Employees)

1.1.1 If the employee is covered, the approving authority shall advise the employee of his/her right to file a grievance upon issuance of the written reprimand. The grievance procedure is not available to uncovered employees.

1.1.2 The approving authority shall request the employee to sign and date the reprimand letter acknowledging receipt. If the employee is unwilling to sign, a notation to this effect shall be made, and a witness shall sign verifying that the employee would not acknowledge receipt. An employee shall not be disciplined or sanctioned for refusing to sign the acknowledgment of receipt.

1.2 Suspensions Without Pay – (8-80 hours – Covered, Permanent Status Employees)

1.2.1 The approving authority shall provide the employee with a suspension letter that includes a written statement of the reason(s) and grounds for the suspension, imposed violations, and his or her right to grieve the action taken in accordance with Department Order #517, Employee Grievances.

1.2.1.1 The grievance procedure is not available to uncovered employees.

1.2.2 The approving authority shall ensure the Positive Attendance Report (PAR) or Employee Time Entry (ETE) is appropriately coded for activation of the suspension.

1.2.3 An 80 hour suspension shall be served in consecutive weeks; however, it must cover two pay periods.

1.2.4 An employee who is suspended may not apply or be eligible for promotion for a period of one year, effective the first day of the suspension period. Management reserves the right to impose a greater restriction on promotion time frames and will provide notice of an extended restriction before suspension is imposed.

1.2.5 Employees issued suspensions without pay are prohibited from working overtime during the affected pay period.

1.2.6 The approving authority shall request the employee to sign and date the suspension letter acknowledging receipt. If the employee is unwilling to sign, a notation to this effect shall be made, and a witness shall sign verifying that the employee would not acknowledge receipt. An employee shall not be disciplined or sanctioned for refusing to sign the acknowledgment of receipt.

1.3 Involuntary Demotion of Covered Permanent Employees:

1.3.1 The approving authority shall:

1.3.1.1 Prior to making the decision to demote, meet with the employee and issue a Notice of Charges letter. Ensure the Notice of Charges letter has been reviewed by the Employee Relations Unit, the appropriate Division Director/Assistant Director and the ADOA Director or designee, prior to issuance. The Notice of Charges letter shall:

1.3.1.1.1 Inform the employee that discipline is being considered.

1.3.1.1.2 Include a written statement specifying the misconduct and violations.

1.3.1.2 Advise the employee of the right to provide a written response to the approving authority within three business days (Monday – Friday), after receipt of the notice, unless extended in writing by the approving authority.

1.3.1.3 Prior to making a decision to demote or issue a lesser action, consider the employee's response to the Notice of Charges letter, the facts of the case, years of service and any prior disciplinary history and performance evaluations, as well as any aggravating or mitigating circumstances.

1.3.1.4 Provide the employee with an Involuntary Demotion letter that includes a written statement of the specific reason(s) and grounds for the involuntary demotion, the violations and his or her right to appeal to the State Personnel Board, or in the case of a full authority peace officer, the Law Enforcement Merit System Council. Ensure the Involuntary Demotion letter is reviewed by the Employee Relations Unit, the appropriate Division Director/Assistant Director and the ADOA Director or designee prior to issuance. The Involuntary Demotion letter shall be given to the employee at a minimum of one day prior to the effective date of the action.

1.3.1.5 Request the employee to sign and date the letter acknowledging receipt. If the employee declines to sign, a notation to this effect shall be made and a witness shall sign verifying that the employee would not acknowledge receipt. An employee shall not be disciplined or sanctioned for declining to sign the acknowledgment of receipt.

1.3.1.6 Ensure the appropriate performance appraisal ratings and documentation reflects the reasons for the involuntary demotion during the close-out evaluation. If the involuntary demotion is for performance, the ratings shall reflect below standard performance.

1.3.1.7 Ensure a Personnel Action Transmittal, Form 504-5, is completed and submitted to the Institution or Central Office Personnel Unit to process the involuntary demotion.

1.3.2 An employee who is involuntary demoted may not apply or be eligible for promotion for a period of two years, from the effective date of the involuntary demotion. Management reserves the right to impose a greater restriction on promotion timeframes and will provide notice of an extended restriction before involuntary demotion is imposed.

1.3.3 Employees may request copies of any disciplinary actions for similar infractions against other employees of similar rank within the preceding two years by submitting the Request for Information/Document – Legal Services, Form 201-1, to the Legal Services, Public Access Unit.

1.4 Dismissal of Covered Permanent Employees - The approving authority shall:

1.4.1 Prior to making the decision to dismiss, meet with the employee and issue a Notice of Charges letter. Ensure the Notice of Charges letter has been reviewed by the Employee Relations Unit, the appropriate Division Director/Assistant Director and the ADOA Director or designee prior to issuance. The Notice of Charges letter shall:

1.4.1.1 Inform the employee that discipline is being considered.

1.4.1.2 Include a written statement specifying the misconduct and violations.

1.4.2 Advise the employee of the right to provide a written response to the approving authority within three business days (Monday – Friday) after receipt of the notice, unless extended in writing by the approving authority.

1.4.2.1 An employee who opts to resign at this point in the process may do so with the concurrence of management and in consultation with the Employee Relations Unit.

1.4.2.2 Employees may request copies of any disciplinary actions for similar infractions against other employees of similar rank within the preceding two years by submitting the Request for Information/Document – Legal Services, Form 201-1, to the Legal Services, Public Access Unit.

1.4.3 Prior to making a decision to dismiss or issue a lesser action, consider the employee's response to the Notice of Charges letter, the facts of the case, years of service, and any prior disciplinary history and performance evaluations, as well as any aggravating or mitigating circumstances.

1.4.4 Upon determination to dismiss the employee, issue a dismissal letter to the employee in person. If extenuating circumstances exist and it is not possible to issue the letter in person, certified mail may be used. Ensure the Employee Relations Unit, the appropriate Division Director/Assistant Director and the ADOA Director or designee have reviewed the dismissal letter prior to issuance.

1.4.4.1 An employee who requests that the dismissal be converted to a letter of resignation in lieu of dismissal at the time of issuance may do so directly to the approving authority. The approving authority may approve this request and provide the Alternative Resignation letter for immediate submission. The employee must acknowledge the resignation in lieu of dismissal is submitted at their request, thus finalizing this action.

1.4.4.2 An employee who requests that the dismissal be converted to a letter of resignation in lieu of dismissal after the imposition of the dismissal may request a resignation settlement agreement through the Employee Relations Unit and the ADC Director.

1.5.5 Ensure the dismissal letter for covered, permanent status employees includes:

1.5.5.1 A written statement of the specific reasons for dismissal in sufficient detail to explain the facts as well as the violations.

1.5.5.2 A notification of the right to appeal to the State Personnel Board within ten workdays from the effective date of the dismissal, or in the case of a full authority peace officer, a notification of the right to appeal to the Law Enforcement Merit System Council within ten workdays from the effective date of the dismissal.

1.5.5.3 A notice that the employee may request a review of the dismissal by the ADC Director prior to the effective date of the employee's dismissal.

1.5.5.4 An employee to whom a letter of dismissal has been issued and who is granted a meeting with the ADC Director may request of the ADC Director that the dismissal be converted to a letter of resignation in lieu of dismissal via a resignation settlement agreement approved by the Employee Relations Unit and the ADC Director.

1.5.6 Unless modified by the ADC Director, ensure the dismissal action takes effect at the end of the third business day from the date the dismissal letter is served.

1.6 Dismissal of Employees on Original Probation and Uncovered Employees – ADC Director or designated approving authorities shall provide the employee a dismissal letter that contains the effective date and statutory authority for such action, if applicable. No reason for the dismissal action shall be provided or discussed, and the letter shall indicate that there is no right to appeal. The ADOA Director or designee shall review the dismissal letter prior to issuance.

1.7 Separation of Temporary Employees - ADC Director or designated approving authorities shall provide the employee a separation letter. No reason for the separation shall be provided or discussed, and the letter shall indicate that there is no right to appeal. The ADOA Director or designee shall review the separation letter prior to issuance.

601.12 ACCESS TO INVESTIGATION REPORTS AND AIU FILES

1.1 Requests to access AIU files shall be submitted in writing to the Inspector General and shall include a written statement of the purpose for the request. Oral requests are not sufficient.

1.2 AIU files and all investigation reports shall be confidential, except as required by statutes and court orders. Access shall be restricted to those individuals with authorization from the Inspector General.

1.3 Investigations involving allegations of harassment or discrimination shall not be released until the Inspector General and the Employee Relations Unit have been consulted and have been approved in writing to release of the investigation.

1.4 All investigation reports and files shall be retained by the AIU in accordance with Department Order #103, Correspondence/Records Control.

601.13 GRIEVANCE/APPEAL OPTIONS

1.1 Original probationary employees who receive corrective discipline may exercise their right to the following options:

1.1.1 Dismissal - Original Probation Status – Employees on original probation have no formal avenue of appeal.

1.1.2 Written Reprimand - Employees may file a written grievance in accordance with Department Order #517, Employee Grievances.

1.1.3 Suspension – Employees may file a written grievance if the suspension is for 8 through 80 work hours, in accordance with Department Order #517, Employee Grievances.

1.2 Covered, permanent status employees who receive corrective discipline may exercise their right to the following options:

1.2.1 Written Reprimand - Employees may file a written grievance in accordance with Department Order #517, Employee Grievances, within the required time period.

1.2.2 Suspension - An employee may, if the suspension is for 8 through 80 hours, file a written grievance within the required time period.

1.2.2.1 An employee who is a full authority peace officer may, if the suspension is for 8 through 40 hours, file a grievance within the required time period.

1.2.2.2 For a full authority peace officer, if the suspension is for more than 40 hours, the suspension may be appealed to the Law Enforcement Merit System Council within ten workdays of the effective date of the suspension.

1.2.3 Involuntary Demotion - Employees may appeal to the State Personnel Board within ten workdays of the effective date of the involuntary demotion.

1.2.3.1 Full authority peace officers may appeal to the Law Enforcement Merit System Council within ten workdays of the effective date of the involuntary demotion.

1.2.4 Dismissal – An employee may:

1.2.4.1 After the receipt of a dismissal letter, request a meeting with the ADC Director, through the Employee Relations Unit, prior to the effective date of the dismissal.

1.2.4.2 Appeal to the State Personnel Board within ten workdays of the effective date of the dismissal.

1.2.4.2.1 Full authority peace officers may appeal to the Law Enforcement Merit System Council within ten workdays of the effective date of the dismissal.

1.3 Uncovered employees who receive corrective discipline have no formal avenue of appeal.

601.14 CRIMINAL AND ADMINISTRATIVE INVESTIGATIONS

1.1 There are two types of investigations:

1.1.1 A Criminal Investigation is conducted if it appears that a crime may have been committed. (See Department Order #608, Criminal Investigations)

1.1.2 An administrative investigation is conducted to determine if Department policies or procedures have been violated.

1.1.2.1 Administrative Investigation - The AIU investigators shall conduct an administrative investigation when the Warden, Administrator or Bureau Administrator determines that an issue is complex and there is a need to establish the facts of the case.

1.1.2.2 Restraining Orders - Upon notification that an employee has been named on an Order of Protection, Injunction against Harassment, or other restraining order, the Warden, Administrator or Bureau Administrator shall determine if further investigation is required and if the violation impacts the place of employment.

1.1.2.2.1 The employee shall provide a copy of all such orders, the petitions or complaint, and supporting documents to their supervisor within 24 hours of being served.

1.1.2.2.2 Examples of violations that may impact the place of employment include firearms restrictions; employees who live in state-provided housing; orders issued against an employee by or on behalf of another employee; and orders that prohibit the employee from going to their workplace.

1.1.2.2.3 All questions should be directed to the Employee Relations Unit.

1.2 Inmate Deaths - The AIU shall complete the Inmate Death or Serious Injury Checklist and ensure all required components are addressed within the investigation.

601.15 **RESIGNATIONS** - Resignations tendered orally shall be confirmed in writing by the appropriate approving authority.

1.1 Resignations (Except in Lieu of Dismissal) - Employees who elect to voluntarily resign, including those under investigation, shall:

1.1.1 Complete and sign a Resignation letter.

1.1.2 Deliver the Resignation letter to the appropriate authority.

1.1.3 Give two weeks notice, unless the notice period is waived by management.

1.1.3.1 Employees must give two weeks notice to be considered to have resigned in good standing with State service.

1.1.3.2 The Department reserves the right to consider the circumstances under which the employee resigned if the employee files for rehire.

1.2 Resignations (In Lieu of Dismissal) – Upon receipt of a dismissal letter, employees who desire to voluntarily resign in lieu of being dismissed shall notify the approving authority, who may pursue a resignation settlement agreement through the Employee Relations Unit. Management reserves the right to decline such requests.

1.3 Resignation Separations

1.3.1 An employee may terminate his or her employment by submitting a written resignation to the ADC Director at least ten business days prior to the effective date of resignation. An employee who fails to give such notice may not be eligible for rehire.

1.3.2 Oral resignations – If an employee resigns orally, the ADC Director or designee shall confirm the resignation in writing.

1.3.3 Refusal of resignation – The ADC Director or designated approving authority may refuse to accept a resignation and dismiss an employee, in accordance with Personnel Rule, R2-5A-1002(A).

1.4 Processing Resignations - Upon receipt of a Resignation letter, the approving authority shall:

1.4.1 Record the date and time of receipt and initial on the resignation letter.

1.4.2 Attach a copy of the resignation letter to the Personnel Action Transmittal, Form 504-5 and forward copies of the accepted resignation to the:

1.4.2.1 Employee's institution personnel file.

1.4.2.2 Human Resources Operations Unit for filing in the employee's official personnel file.

1.5 Withdrawal of Resignations - Employees may submit a written request to withdraw a resignation to the approving authority no later than the end of the next workday. The approving authority may agree to a later withdrawal of the resignation. The decision to accept or reject resignation withdrawals shall be at the discretion of the approving authority.

601.16 INVESTIGATION REPORTS AND EMPLOYEE RECORDS

1.1 As outlined in section 601.01 of this Department Order, approving authorities shall:

1.1.1 Maintain all Administrative Inquires, investigation reports, files, and a copy of the final disciplinary letter at their respective complex, in accordance with Department Order #103, Correspondence/Records Control.

1.1.2 Upon completion, return administrative investigations through the appropriate chain of command to AIU.

1.1.3 Not release the contents of investigation reports, unless approved in advance by the Administrative Investigations Supervisor, Inspector General or the Legal Services Unit.

1.1.4 Allow attorneys and advising units representing the Department to have access to reports and files, and provide copies of such documents for their use.

601.17 REHIRE RESTRICTIONS

1.1 Unless authorized in writing by the Division Director/Assistant Director, employees who have left the Department “not in good standing" or under the circumstances listed below shall not be eligible for rehire:

1.1.1 Dismissed for cause.

1.1.2 Resigned in lieu of dismissal.

1.1.3 Resigned while under investigation, unless and if practical, the investigation is re-opened and concluded with no misconduct noted, and the rehire is recommended by the Warden/Administrator.

1.1.4 Failed to provide a two-week written notice prior to their departure and the notice was not waived in writing by management.

1.1.5 Employees separated for job abandonment as defined in Personnel Rule, R2-5A-1001(B).

1.2 The approving authority shall submit a written recommendation for exclusion from rehire through their chain-of-command to the Background Investigations Unit. This recommendation shall include:

1.2.1 Documentation of the reason(s) for the separation.

1.2.2 A request that the former employee be excluded from hiring consideration.

DEFINITIONS

AGGRAVATING/MITIGATING CIRCUMSTANCES - Circumstances or issues that may justify a lesser or greater discipline for violation of a particular offense, which the approving authority may consider before recommending corrective discipline. Examples may include: admission of complicity, remorse, commitment to appropriate subsequent behavior, repeated violations, refusal to commit to change, and damage to the Department's image.

APPROVING AUTHORITIES - Positions in which incumbents are authorized to recommend corrective action and implement discipline when complaints of employee misconduct are sustained.

BUSINESS DAY - For the purpose of this Department Order, are the hours between 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding observed state holidays.

COMPLAINANT - The person(s) who makes the initial complaint or files a formal charge against an employee.

COMPLAINT - An allegation of employee misconduct, which may be initiated by any person.

CORRECTIVE DISCIPLINARY ACTION - Sanctions that an approving authority may take for sustained allegations of misconduct.

COUNSELING - A non-disciplinary action that any supervisor may administer when a performance problem is first identified. Counseling, whether oral or written, shall include an explanation of the performance deficiency and a description of the expected/acceptable performance. Written counseling shall include a statement that disciplinary action may be taken if the employee fails to correct his or her conduct or performance.

COVERED EMPLOYEE – An employee who is considered covered according to the Personnel Rules for the State of Arizona.

FINDING - A determination by an approving authority that the facts contained in an administrative investigation report concerning allegations of employee misconduct are "sustained," "not sustained," "exonerated" or "unfounded".

- Sustained - The employee committed all or part of the alleged act.
- Not Sustained - The investigation produced insufficient information to prove or disprove the allegation.
- Exonerated - The employee committed all or part of the alleged act, but the act was justified, lawful and proper.
- Unfounded - The employee did not commit the alleged act.

GARRITY - Stands for the proposition that employees are not afforded the protections of the Fifth Amendment Right to Remain Silent and when compelled must answer the interviewers' questions during the administrative investigation. The content of an administrative interview compelled pursuant to *Garrity* may not be admissible in a criminal trial.

INITIAL ADMINISTRATIVE ACTION - Temporary administrative remedies (i.e., immediate temporary reassignment of an employee from current duties or administrative leave with pay pending review of the investigation report) that an approving authority may take immediately following an incident prompting an AIU investigation involving a subordinate.

INTENTIONAL – A purposeful or deliberate act.

INVESTIGATIONS - Detailed inquiries and factual reports, conducted and prepared by AIU investigators, Approving Authorities or investigators assigned by a Warden, Deputy Warden or Administrator of incidents or complaints involving allegations of misconduct. Investigations may include but are not limited to the following activities:

- Interviews
- Polygraph examinations
- Scientific analysis of physical evidence
- Verification of information contained in employment applications
- Criminal history inquiries
- Surveillance
- Searches

INVOLUNTARY DEMOTION – An action taken by the agency which results in the change in an employee's assignment from a position in one classification to a position in another classification at a lower level. (The purpose of an involuntary demotion is to place the employee in a position that is more consistent with the employee's abilities and where there are reasonable prospects that the employee can perform at an acceptable level.)

LETTER OF DISMISSAL - Written notice from the approving authority advising an employee of his/her dismissal from employment with the Department.

MISTAKE - An act or failure to act which was not a deliberate or purposeful violation of policy and/or other written instructions.

MISCONDUCT - An employee's act or failure to act which is an intentional departure from Departmental written instructions, procedures, rules and/or laws. An act is misconduct if the employee knew or should have known of the policy or instructions and knew or should have known the results or potential results of their conduct.

NOTICE OF CHARGES LETTER - Written notice from an approving authority to a covered employee expressing consideration of discipline. The letter shall advise the employee in detail of the pending charges and identify the opportunity for the employee to submit a written response to the charges.

PEACE OFFICER – For the purpose of this Department Order is a law enforcement officer who is certified by the Arizona Peace Officer Standards and Training Board (AZPOST) as a full authority peace officer and is responsible for maintaining civil/public peace and enforcing state statutes, pursuant to A.R.S. 1-215(28), A.R.S. 41-741(9), and A.R.S. 13-3871. Within the Department's Inspector General Bureau the CIU, Fugitive Apprehension Unit, and Security Threat Group Unit investigators are designated as full authority peace officers.

RESIGNATION IN LIEU OF DISMISSAL - A voluntary resignation, authorized by an approving authority, prior to or after an employee's imminent dismissal or subsequent to a dismissal.

RESIGNATION WHILE UNDER INVESTIGATION - A voluntary resignation, authorized by an approving authority, after a Department investigation (administrative or criminal) has been requested, but before such investigation has been completed and findings submitted for management review and action.

RESTRAINING ORDER - A court order which contains language prohibiting the employee from engaging in specific conduct. A restraining order may be issued in a criminal matter or a civil matter, such as an Order of Protection or Injunction against Harassment.

STAFF ARREST INCIDENT - Any contacts or involvement with law enforcement authorities, including but not limited to the arrest, criminal citation, complaint, summons, information or indictment of an employee for a felony or misdemeanor.

SUSPENSION - Temporary removal from duty for cause, not to exceed an aggregate of 240 hours during any 12 month period, which begins with the first day of the first suspension.

UNCOVERED EMPLOYEE – An employee who is considered uncovered according to the Personnel Rules for the State of Arizona.

UNINTENTIONAL - An act or failure to act, which is determined by the approving authority to not have been purposeful or deliberate.

WORK WEEK – For purposes of this Department Order, work week begins on Saturday at 12:01 a.m. and ends on Friday at 12:00 p.m.

WRITTEN REPRIMAND - Written disciplinary action administered by the approving authority that clearly defines the cause for such action, in what manner the employee's conduct was improper and that further disciplinary action may be taken if the employee's conduct or performance is not corrected.

{Original Signature on File}

_____

Charles L. Ryan
Director

ATTACHMENTS
Attachment A, Discipline Chart Introduction – Covered/Uncovered Employees
Attachment B, Chart of Disciplinary Sanctions – Covered/Uncovered Employees
Attachment C, Class of Offense Guidelines
Attachment D, Serious Misdemeanor Offenses
Attachment E, Chart of Disciplinary Suspensions
Attachment F, Commercial Driver's License (CDL) – Disciplinary Actions
Attachment G-1, Decision Tree Flow Chart
Attachment G-2, Administrative Guidelines

FORMS LIST
601-1, Administrative Inquiry
601-4, Administrative Investigations - Representative Acknowledgment
601-8, Administrative Investigations Disciplinary Worksheet
601-9, Criminal Trespass Notice

CROSS-REFERENCE INDEX

Department Order #102, Information Technology
Department Order #103, Correspondence/Records Control
Department Order #104, Communications System
Department Order #105, Information Reporting
Department Order #106, Contract Beds
Department Order #107, Legal Assistance and Process Service
Department Order #109, Smoking and Tobacco Regulations
Department Order #113, Institution Management and Organizational Structure
Department Order #121, Arizona Criminal Justice Information and Identification System
Department Order #125, Sexual Offense Reporting
Department Order #205, Contractor Security
Department Order #304, Equipment and Inventory System
Department Order #404, Fire Safety and Loss Control
Department Order #405, Vehicle and Vehicle Maintenance
Department Order #501, Employee Professionalism, Ethics and Conduct
Department Order #507, Employee Records
Department Order #509, Employee Training and Education
Department Order #510, Firearms Qualification/Firearms Instructor Certification
Department Order #512, Employee Pay, Work Hours, Compensation and Leave
Department Order #514, Performance Appraisal for Correctional Employees (PACE)
Department Order #515, Employee Identification System
Department Order #516, Employee Exit Interview and Exit Survey
Department Order #517, Employee Grievances
Department Order #518, Personal Rules – Delegated Authority
Department Order #519, Employee Health – FMLA, ADA, Industrial Injury/Illness, FFD and Alternate Assignment
Department Order #520, Employee Travel Reduction
Department Order #522, Drug Free Workplace
Department Order #523, Domestic and Workplace Violence
Department Order #524, Employee Assignment and Staffing
Department Order #525, Employee Attendance
Department Order #527, Employment Discrimination and Harassment
Department Order #602, Background Investigations
Department Order #603, Polygraph Services
Department Order #608, Criminal Investigations
Department Order #702, Key Control

Department Order #707, Inmate Escape Prevention/Response
Department Order #708, Searches
Department Order #801, Inmate Classification
Department Order #802, Inmate Grievance Procedure
Department Order #804, Inmate Behavior Control
Department Order #1102, Communicable Disease and Infection Control
Department Order #1105, Inmate Mortality Review

AUTHORITY

A.R.S. 12-1809, Injunctions Against Harassment; Petition; Venue; Fees; Notices; Enforcement; Definition
A.R.S. 13-1419, Unlawful Sexual Conduct; Correctional Facilities; Classification; Definition
A.R.S. 13-2505, Promoting Prison Contraband; Exceptions; X-radiation; Classification
A.R.S. 13-2513, Failure to Discharge Duties; Classification; Definition
A.R.S. 13-3102, Misconduct Involving Weapons; Defenses; Classification; Definitions
A.R.S. 13-3112, Concealed Weapons; Qualification; Application; Permit to Carry; Civil Penalty; Report; Applicability
A.R.S. 31-203, Persons Disqualified as Officers or Employees
A.R.S. 31-204, Interest of Employee in Contracts; Gifts To or From Prisoner; Penalty
A.R.S. 31-231, Unauthorized Communication with Prisoner; Classification; Definition
A.R.S. 38-448, State Employees; Access to Internet Pornography Prohibited; Cause for Dismissal; Definitions
A.R.S. 38-531, *et seq*, Disclosure of Information by Public Employees
A.R.S. 38-1101, Law Enforcement Officers; Probation Officers; Right to Representation
A.R.S. 41-752, Protections of Civil or Political Liberties; Prohibitions; Civil Penalty; Violation; Classification
A.R.S. 41-753, Unlawful Acts; Violation; Classification
A.R.S. 41-773, Causes for Dismissal or Discipline for Employee in Covered Service
A.R.S. 41-783, Appeals to the State Personnel board for Covered Employees; Notice of Charges; Hearings
A.R.S. 41-1461, *et seq*, Discrimination of Race, Color, Religion, Sex, Age, Handicap or National Origin; Unlawful Practices of Employers, Employment Agencies and Labor Organizations; Exceptions; Definition
A.A.C. R2-5A-101., Definitions
A.A.C. R2-5A-501., Standards of Conduct
A.A.C. R2-5A-1001., Voluntary Separation
A.A.C. R2-5A-1002., Involuntary Separation
A.A.C. R2-5B-303., Suspension
A.A.C. R2-5B-304., Involuntary Demotion
A.A.C. R2-5B-305., Dismissal
A.A.C. R2-5B-402., Grievance System
A.A.C. R2-5B-403., Grievance Procedures
18 USC 922(g) (9), Lautenberg Amendment
29 U.S.C. Section 201, Fair Labor Standards Act (FLSA)

DISCIPLINE CHART INTRODUCTION
COVERED/UNCOVERED EMPLOYEES

Multiple Infractions

In cases involving more than one sustained violation, disciplinary action should begin with the most serious violation. Other violations may then be considered as aggravating circumstances when determining the appropriate penalty from within the minimum and maximum recommended range, or each violation may be individually considered and the penalties cumulated.

Progressive Discipline

Serious acts of misconduct may warrant dismissal of an employee without preceding re-direction or discipline. However, less serious acts of misconduct may warrant the use of progressive discipline to provide the employee with the opportunity to reform his or her conduct. The increasing level of concern expressed through progressive discipline may begin with a written reprimand and proceed to suspension for up to 80 hours, involuntary demotion or dismissal.

An involuntary demotion or dismissal entitles a permanent covered employee under A.R.S. 41-783 to appeal to the Arizona State Personnel Board. Suspensions of 8-80 hours entitle employees to use the grievance procedure (See Attachment E, Chart of Disciplinary Suspensions). Lesser discipline generally should be imposed first, unless the misconduct is of a grievous nature so as to warrant more severe action (See Attachment C, Class of Offense Guidelines).

A suspension of more than 80 hours, an involuntary demotion or dismissal entitles a permanent covered full authority peace officer under A.R.S. 41-1830 to appeal to the Law Enforcement Merit System Council. Suspensions of 8-40 hours entitle full authority peace officers to use the grievance procedure (See Attachment E, Chart of Disciplinary Suspensions). Lesser discipline generally should be imposed first, unless the misconduct is of a grievous nature so as to warrant more severe action (See Attachment C, Class of Offense Guidelines)

Because one of the primary goals of this Department Order is to make discipline uniform and equitable throughout the agency, consideration of the guidelines for corrective action as well as consideration of both mitigating and aggravating circumstances is essential when determining the level of discipline to be imposed.

The Chart of Disciplinary Sanctions – Covered/Uncovered Employees (Attachment B)

This chart depicts the typical levels of discipline to be imposed for the various classes of offenses listed in Attachment C, Class of Offense Guidelines. This chart indicates the suggested level of discipline, from less serious to more serious, for the Class of Offense and for first, second and third offenses. Where a range of discipline exists, aggravating and mitigating considerations are used to determine the most appropriate action.

CHART OF DISCIPLINARY SANCTIONS
COVERED/UNCOVERED EMPLOYEES

	FIRST OFFENSE		SECOND OFFENSE		THIRD OFFENSE	
CLASS	MINIMUM	MAXIMUM	MINIMUM	MAXIMUM	MINIMUM	MAXIMUM
2	Written Reprimand	16 hrs.	16 hrs.	40 hrs.	40 hrs.	Dismissal
3	Written Reprimand	24 hrs.	24 hrs.	80 hrs.	80 hrs.	Dismissal
4	16 hrs.	40 hrs.	40 hrs.	Dismissal	Dismissal	N/A
5	24 hrs.	80 hrs.	40 hrs.	Dismissal	Dismissal	N/A
6	40 hrs.	Dismissal	80 hrs.	Dismissal	Dismissal	N/A
7	80 hrs.	Dismissal	Dismissal	Dismissal	Dismissal	N/A

- Multiple violations in any class may result in the imposition of penalties in the next higher class.
- Mitigating and aggravating circumstances should be used to determine if the minimum or maximum sanction should be imposed. Mitigating circumstances may justify the minimum sanction. Aggravating circumstances may justify the maximum sanction.
- Aggravating circumstances may warrant the imposition of penalties in the next higher class. Mitigating circumstances may warrant the imposition of penalties in the lower class. (In appropriate circumstances, the mitigating circumstances do not need to be limited to the imposition of penalties to the next lower class.)
- Repetitive offenses in the same class of offense or similar misconduct or behavior that resulted in prior discipline, although of an unrelated nature, may be considered as an aggravating circumstance.
- Suspensions are generally imposed in multiples of 8 work hours and within minimum/maximum recommended limits.
- Involuntary demotions may be imposed when appropriate, i.e. to place the employee in a position more in line with the employee's abilities and when there is a reasonable prospect the employee can perform at an acceptable level.

NOTE: **Conviction of a felony offense constitutes dismissal from State service.**

CLASS OF OFFENSE GUIDELINES

The purpose of these guidelines is to assist covered, permanent employees in identifying prohibited or required, on or off duty or work related acts or behavior, and to assist management personnel in determining the relative severity of performance deficiencies or misconduct when initiating corrective discipline.

1. INCOMPETENCY

a. Failure to take corrective action when warranted, to include failing to report misconduct of subordinates and/or co-workers. **CLASS 3**

b. Improper disposition of an inmate's disciplinary case. **CLASS 3**

c. Failure to perform required duties. **CLASS 3**

d. Failure to pass core competency test on third attempt. **CLASS 6**

2. INEFFICIENCY

a. Failure to organize and/or prioritize work assignments to ensure timely completion. **CLASS 2**

b. Failure to keep work area clean and uncluttered, causing a work hazard or misplacement or loss of documents or property. **CLASS 2**

c. Failure to maintain and/or ensure proper maintenance of State property, equipment, materials or supplies, to include confidential reports and other materials. **CLASS 2**

d. Failure to maintain prescribed records and/or accurately prepare prescribed reports, to include failure to properly investigate or complete necessary reports. **CLASS 3**

e. Allowing unauthorized personnel to enter work areas. **CLASS 3**

f. Creating or contributing to unsanitary conditions. **CLASS 3**

g. Disregarding safety rules. **CLASS 3**; if adverse outcome (damage, injury or death). **CLASS 7**

h. Failure to exercise proper supervision over employees. **CLASS 3**

i. Failure to exercise proper supervision over inmates or offenders. **CLASS 4**; if adverse outcome (attempted escape, escape, damage, injury or death) **CLASS 7**

j. Misuse and/or abuse of supervisory authority. **CLASS 5**

k. Deliberate introduction of a non-state issue cell phone into an institution **(See A.R.S. 13-2505)**. **CLASS 7**

l. Carelessness resulting in an inmate or offender escape. **DISMISSAL**

3. NEGLECT OF DUTY

a. Unauthorized accessing or acquisition of sensitive information. **CLASS 2**

b. Failure to respond to radio call (minor). **CLASS 2**; (major) **CLASS 7**

c. Failure to appear for court or a hearing regarding state business when duly notified or subpoenaed. **CLASS 2**

d. Unintentional failure to correct a Positive Attendance Report (PAR) or Employee Time Entry (ETE). **CLASS 2**

e. Abuse of sick leave. Unintentional – **CLASS 2;** Intentional – **CLASS 5**

f. Failure to intervene or respond when necessary (minor). **CLASS 3**; (major) **CLASS 7**

g. Failure to notify a supervisor of an investigation or disciplinary action by the respective licensing boards. **CLASS 3**

h. Failure to record in the medical record documentation in accordance with ADC policy, including content, format and legibility. **CLASS 3**

i. Leaving an assigned post or failing to return to an assigned post as scheduled, without authorization of a supervisor. **CLASS 3**

j. Horseplay. **CLASS 3**

k. Preferential treatment of subordinates. **CLASS 3**

l. Preferential treatment of inmate(s) or offender(s). **CLASS 3**

m. Failure to perform security functions: (without negative results) = **CLASS 3**
(with negative result) = **CLASS 7**

n. Improper disposition of seized, found or recovered property. **CLASS 4**

o. Filing false complaints. **CLASS 4**

p. Conducting outside/personal business on State time. **CLASS 4**

q. Disregarding the orders and/or directives of a supervisor. **CLASS 4**

r. Disregarding directives, policies, guidelines or procedures. **CLASS 4**

s. Failure to report and/or investigate actual or alleged incidents of misconduct or violation of written instructions or rules by subordinates and/or co-workers. **CLASS 4**

t. Intentional unauthorized disclosure of confidential material: **(without negative results) = CLASS 4; (with negative results) = CLASS 7**

u. Failure to respond to an emergency situation. **CLASS 5**

v. Failure to thoroughly search for and properly collect any available evidence in any arrest or investigation. **CLASS 5**

w. Failure to comply with professional guidelines or provide care within the scope of practice by the nurse or practitioner licensing board. **CLASS 5**

x. Providing or requesting medical orders for medication or treatment for personal use. **CLASS 5** (if a narcotic) – **DISMISSAL**

y. Failure to report the suspension/revocation or cancellation of one's driver's license, when the involved employee's job requires such licensing. **CLASS 5**

z. Suspension, revocation or cancellation of one's driver's license, when such license is a requirement of a particular job or the utilization of a state vehicle. **CLASS 6**

aa. Hazing. **CLASS 6**

bb. Failing to issue a warrant for a dangerous felon who has lapsed back into criminal behavior. **CLASS 6**

cc. Divulging criminal records or protected information of one person to another, except when necessary to conduct Department business. **CLASS 6**

dd. Undue familiarity or association with inmate/offender's family, friend or acquaintance. **CLASS 6**

ee. Close, personal, private contact or other inappropriate behavior with an inmate, ex-inmate or offender. **CLASS 6**

ff. Sleeping on duty or assuming a position of repose. **CLASS 6**

gg. Failing to properly activate an electronic monitoring device on an offender. **CLASS 7**

hh. Abandonment of inmate patient. **CLASS 7**

ii. Using or permitting the use of unnecessary force towards an inmate/offender or physical mistreatment of an inmate/offender. **CLASS 7**

jj. Intentional failure to accurately complete a Positive Attendance Report (PAR) or Employee Time Entry (ETE). **CLASS 7**

kk. Operating a State vehicle without a valid Driver License. **CLASS 7**

ll. Horseplay or hazing resulting in inattentiveness and/or causing the inattentiveness of others, damage, injury or death. **DISMISSAL**

mm. Failure to Discharge Duties - intentionally failing to discharge custodial responsibility if such failure results in an escape of an inmate or the serious physical injury or death of another person. (See A.R.S. 13-2513) **DISMISSAL**

nn. Sexual contact, oral sexual contact or sexual intercourse with an inmate or any offender under the supervision of the Department, a city or county. (See A.R.S. 13-1419) **DISMISSAL**

4. <u>UNAUTHORIZED ABSENCE OR ABSENCE WITHOUT LEAVE</u>

a. Unexcused tardiness. **CLASS 3**

b. Unauthorized absences: 1 Day = **CLASS 3**
2 Days = **CLASS 5**
3 Days or more = **CLASS 7**

c. Three or more consecutive workdays without authorization and without contact or known status. **CLASS 7**

5. <u>INSUBORDINATION</u>

a. Engaging in an unauthorized public appearance related to the Department business or practices. **CLASS 2**

b. Tobacco use while engaged in official functions where such use would be obtrusive, offensive or in violation of policy or law. **CLASS 3**

c. Failure to comply with any court order or judgment, orders, written instructions, and rules. **CLASS 3**

d. Gambling on State property or while on duty. **CLASS 3**

e. Violation of solicitation policy. **CLASS 3**

f. Failure to comply with grooming standards. **CLASS 3**

g. Refusing to perform assigned duties. **CLASS 3**

h. Failure to carry out a direct, lawful order (willful disregard of authority). **CLASS 3**

i. Conducting unauthorized business transactions with an offender. **CLASS 4**

j. Conduct unbecoming an employee of the Department not described elsewhere in this Department Order, rule or statute. **CLASS 4**

k. Improper use of identification/badge. **CLASS 5**

l. Violation of Standards of Conduct for State employees. **CLASS 6**

m. Unlawful or unauthorized possession of weapons on State property. (See A.R.S. 13-3102 or 13-3112) **CLASS 6**

n. Refusal to cooperate with Law Enforcement. **CLASS 6**

o. Refusal to undergo a search of person or property. **CLASS 6**

p. Refusal to submit to Reasonable Suspicion Drug/Alcohol Testing. **CLASS 6**

q. Failure to submit to a polygraph examination when so ordered by the Director or the Director's Designee. **CLASS 7**

r. Possessing, buying, introducing or selling contraband on State property. **CLASS 7**

s. Violation of A.R.S. 13-2505 – Promoting prison contraband. **DISMISSAL**

t. Sexual misconduct on State time and/or involving State property or equipment. **DISMISSAL**

6. DISCOURTEOUS TREATMENT OF THE PUBLIC (TO INCLUDE INMATES, OFFENDERS AND EMPLOYEES)

a. Conducting oneself in an offensive and/or discourteous manner. **CLASS 2**

b. Inappropriate verbal confrontation or exchange. **CLASS 3**

c. Use of abusive, profane, and/or insulting language. **CLASS 3**

d. Threat of physical violence against another person or their property. **CLASS 7**

e. Use of excessive or unlawful force. **CLASS 7**

f. Discriminating against or harassing another employee because of that person's race, color, sex, pregnancy, sexual orientation, religion, national origin, age, military or veteran status, political affiliation, disability or genetic information. **CLASS 7**

7. MISUSE OR UNAUTHORIZED USE OF STATE PROPERTY

a. Committing other traffic violations while driving a state owned vehicle, to include, but not limited to speeding. **CLASS 2**

b. Needless abuse, reckless use of, or loss or damage to State equipment or property through neglect or carelessness. **CLASS 2**

c. Involvement in a preventable accident with department vehicles and/or State owned vehicles. **CLASS 3**

d. Deliberate waste of materials or supplies. **CLASS 3**

e. Damage to State property (including vehicles), due to neglect or carelessness. **CLASS 4**

f. Unauthorized use of Department equipment or facilities. **CLASS 4**

g. Unauthorized use of Department equipment and/or facilities involving adverse Department publicity. **CLASS 6**

h. Intentional damage to State equipment. **CLASS 6**

i. Gaining unauthorized access to State records. **CLASS 6**

j. Removal of State documents from files without proper authorization. **CLASS 6**

k. Making unauthorized modifications to/or deletions from State records. **CLASS 6**

l. Unlawful removal or destruction of State records. **CLASS 6**

m. Unauthorized access and/or use of the Automated Information Management System (AIMS). **CLASS 6**

n. Reckless or improper use, handling, or display of firearms, chemical agents or other types of weaponry or other tools or equipment related to security. **CLASS 6**

o. Violation of A.R.S. 38-448, access to internet pornography prohibited. **CLASS 7**

8. BEING IMPAIRED BY ALCOHOL OR DRUGS WHILE ON DUTY

a. Smell of intoxicating beverage on breath while on duty. **CLASS 7**

b. In uniform but off duty, purchasing and/or drinking liquor or appearing intoxicated in public. **CLASS 7**

c. Knowingly consuming intoxicating beverages while on duty and/or during breaks which occur during normally scheduled business work hours. **CLASS 7**

d. Being under the influence of an intoxicant or other substance while on duty (31-203. Persons disqualified as officers or employees). **DISMISSAL**

e. Damaging State equipment while under the influence of alcoholic beverages. **DISMISSAL**

9. WILLFUL DISOBEDIENCE

a. Failure to supply name/employee number (if applicable), upon valid request. **CLASS 2**

b. Initiating and/or settling a civil action arising from on-duty activities without notifying the Director. **CLASS 3**

c. Withholding information that is pertinent to a significant personal or work related issue that warrants action or immediate attention or aid in a criminal or administrative investigation from a supervisor or other appropriate person. **CLASS 6**

10. ILLEGAL USE OR ILLEGAL POSSESSION OF A NARCOTIC OR HABIT-FORMING DRUG

a. Unauthorized possession or use of a medication prescribed for personal consumption or of a medication belonging to someone else. **CLASS 6**

b. Being under the influence of narcotics, other than a drug prescribed to the employee by a licensed physician, whether on or off duty. **CLASS 6**

c. Being impaired due to the influence of alcohol and/or prescription drugs while on duty. **DISMISSAL**

d. Unlawful possession and/or use of a narcotic and/or drug not legally prescribed by a licensed physician. **DISMISSAL**

11. CRIMINAL ACTIVITY/CONVICTION

a. Failure to report police contact; or being notified that one is the subject of a criminal investigation; or that a criminal investigation has been commenced, with the following exceptions: **CLASS 4**
- Routine traffic stops
- Road blocks/sobriety checkpoints
- Rendering assistance to law enforcement

b. Failure to report arrest by the end of shift or by the end of the following workday, but no later than 24 hours from time of arrest. **CLASS 4**

c. Failure to report final court adjudication action within 24 hours of the court decision on a pending serious criminal misdemeanor charge or DUI arrest. **CLASS 4**

d. Commission of a less serious misdemeanor (off duty). **CLASS 5**

e. Commission of, participation in, or involvement in a serious misdemeanor occurring off duty, including, but not limited to domestic violence arrest. **CLASS 7**

f. Commission of a misdemeanor DUI occurring off duty. **CLASS 7**

g. Commission of any misdemeanor stemming from duty activities. **CLASS 6**

h. Commission of and/or participation in a criminal and/or traffic felony offense occurring either on or off duty. **CLASS 6**

i. Failure to report first-hand knowledge of felony, and/or any misdemeanor activity occurring on duty, by other employee(s). **CLASS 6**

j. Conviction of a misdemeanor. **CLASS 7**

k. Commission of a felony offense. **CLASS 7**

l. Conviction of the misdemeanor crime of domestic violence. **DISMISSAL**

m. Failure to self-disclose domestic violence conviction. [18 U.S.C.A. '' 917, 922 (Federal Gun Control Act of 1968) as amended, effective October 1, 1996]. **DISMISSAL**

n. Commission of or conviction of a serious criminal misdemeanor and/or misdemeanor DUI occurring off duty. (Second offense) **DISMISSAL**

o. Accepting or borrowing from and/or giving or lending to an inmate/offender something of value or in excess of allowed limits. (Violation of A.R.S. 31-204, Interest of Employee in Contracts (a); Gifts to or from Prisoner (b). to include bartering or dealing with a prisoner. **DISMISSAL**

p. Conviction of a felony offense. **DISMISSAL**

Note: When the findings of a Departmental investigation indicate that an individual more likely than not committed the act, disciplinary action may be taken, independent of action taken by law enforcement, the county attorney, or the State.

12. IMPROPER POLITICAL ACTIVITY

a. Serving as an officer or chair of a committee of a partisan political club. **CLASS 2**

b. Being a member of any national, state or local committee of a political party. **CLASS 2**

c. Using any political endorsement in connection with any appointment to a position in the state service. **CLASS 2**

d. Using or promising to use any official authority or influence for the purpose of influencing the vote or political action of any person or for any consideration. **CLASS 2**

e. Failure to report and resign your position upon becoming a candidate for nomination or election to any paid public office. (Nomination does not occur until an employee files nomination papers and becomes a candidate under A.R.S. 41-772) **CLASS 3**

f. Holding any paid, elective public office. **CLASS 3**

g. Taking part in the management or affairs of any political party or in the management of any partisan or non-partisan campaign or recall effort. (See A.R.S. 41-772 for clarification on "Management"). **CLASS 3**

h. Holding such positions as deputy election registrars or positions on election boards, and in all other instances where such appointments are made as representatives of any political party. **CLASS 3**

i. Engaging in any authorized political activity, except for expressing an opinion, while on duty, while in uniform or at public expense. **CLASS 4**

j. Soliciting any employee or a member of the Personnel Board to engage or not engage in any authorized political activities with direct or indirect use of any threat, intimidation or coercion, including threats of discrimination, reprisal, force or any other adverse consequence including loss of any benefit, reward, promotion, advancement or compensation. **CLASS 7**

k. Subjecting any employee or a member of the Personnel Board engaging in authorized political activities to any direct or indirect discrimination, reprisal, force, coercion or intimidation or other adverse consequence including the loss of any benefit, reward, promotion, advancement or compensation. **CLASS 7**

l. Subjecting any employee or member of the Personnel Board who chooses not to engage in any authorized political activity to any direct or indirect discrimination, reprisal, force, coercion or intimidation or any other adverse consequence including the loss of any benefit, reward, promotion, advancement or compensation. **CLASS 7**

m. Advocating or having membership in an organization that advocates overthrow of the government of the United States, or the State, by force, violence or other unlawful means. **CLASS 7**

n. Renouncing of citizenship or allegiance to the United States or the State of Arizona; or the taking of an oath of allegiance or otherwise pledging allegiance to any foreign country or organization that advocates the violent overthrow of the government of the United States or the State of Arizona. **CLASS 7**

13. <u>DISHONESTY</u>

a. Making a false or inaccurate statement or entry in any Departmental or state report, record, or application, or during a non-investigative interview or proceeding. **CLASS 7**

b. Falsifying official documents. **CLASS 7**

c. Knowingly submitting forged medical documentation. **CLASS 7**

d. Failing to answer truthfully when questioned and/or when information is requested during an investigation, hearing fact-finding or judicial proceeding. **CLASS 7**

e. Intentional untruthfulness. **CLASS 7**

f. Stealing, fraudulent activity or misappropriation of funds or property of the state or another employee. **DISMISSAL**

g. Making or attempting to make a personal profit from State transactions. **DISMISSAL**

h. Accepting or soliciting a bribe or gratuity. **DISMISSAL**

i. Receiving employment benefits through false pretenses. **DISMISSAL**

14. FRAUD IN SECURING EMPLOYMENT

a. Submitting an employment application, resume, cover letter and/or other supportive documents under false identity. **DISMISSAL**

b. Willful or negligent misrepresentation or omission on an application for employment, resume or other personnel forms. The falsification must deal with a material fact that would have adversely affected the employee's selection. **DISMISSAL**

c. Obtaining interview and/or test questions in advance. **DISMISSAL**

d. Permitting another person to take all or part of the State Service examination for the employee or for someone else or participating in such an examination for another person. **DISMISSAL**

SERIOUS MISDEMEANOR OFFENSES

Conviction of the following serious misdemeanor criminal offenses shall be addressed administratively and corrective disciplinary action initiated:

1. Crimes of violence against another person where physical force is used or threatened.

2. Offenses involving public sexual activity.

3. Offenses involving children.

4. Offenses involving the suspension/revocation/cancellation of one's driver's license, when the involved employee's job requires such licensing.

5. Any offense/crime where there is significant adverse publicity and/or public feedback.

CHART OF DISCIPLINARY SUSPENSIONS

POSITION	TYPE OF SUSPENSION	NUMBER OF HOURS	APPEAL PROCESS
Covered FLSA-Nonexempt	Without Pay	80 hours or less 40 hours or less for full authority peace officers	Grievance
Covered FLSA-Exempt	With Pay*	80 hours or less 40 hours or less for full authority peace officers	Grievance
	Without Pay	40 or 80 hours 40 hours or less for full authority peace officers 80 hours or less for full authority peace officers	Grievance Appeal
Uncovered FLSA-Nonexempt	Without Pay	Any Amount	None
Uncovered FLSA-Exempt	With Pay*	Any Amount	None
	Without Pay	40 or 80 hours	

* Suspensions with pay shall be considered "working" suspensions, unless determined to the contrary by the approving authority.

COMMERCIAL DRIVER'S LICENSE (CDL) DISCIPLINARY ACTIONS

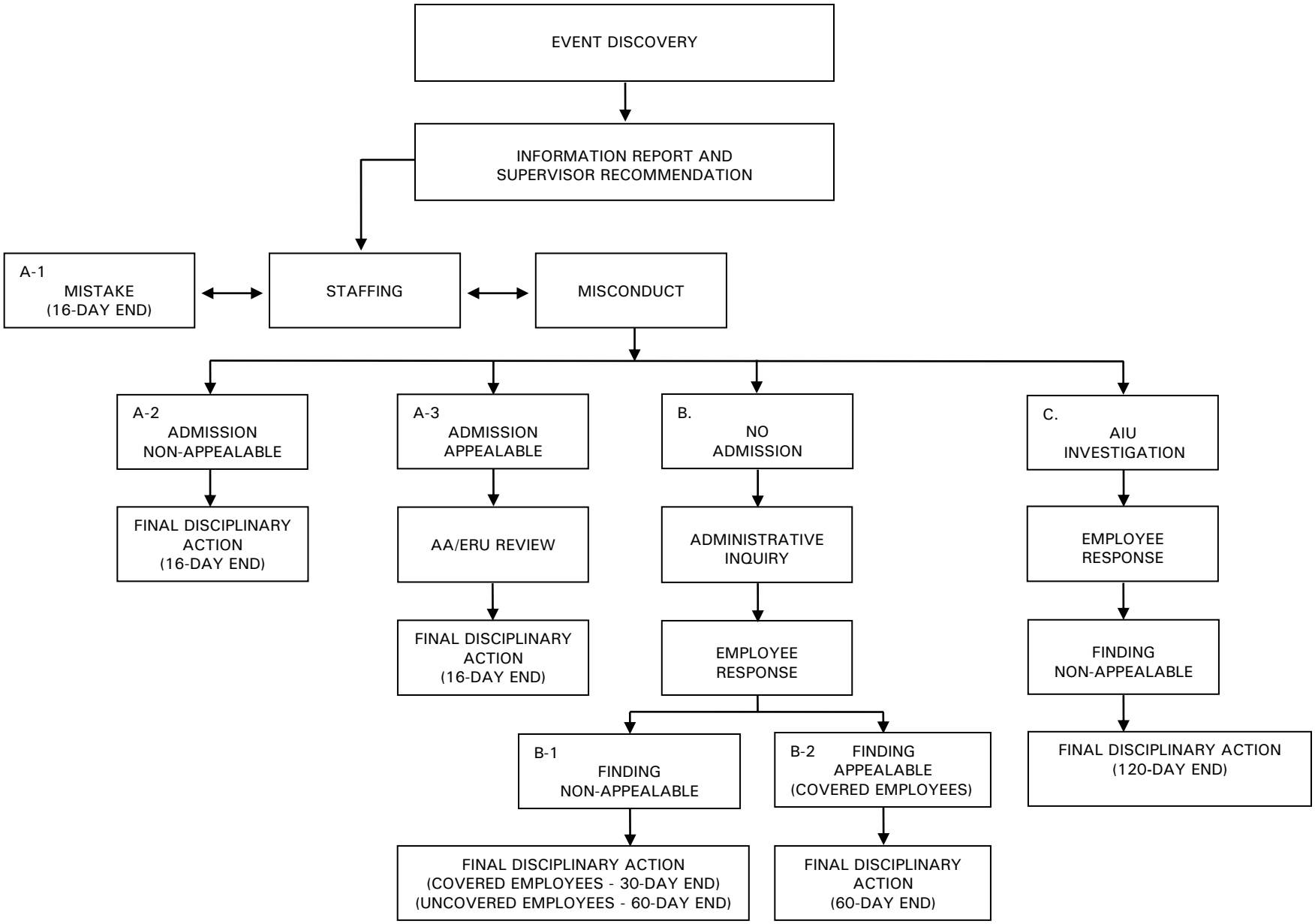
The following responses that result from specific types of behavior or performance are directed by Federal Rule or by Departmental policy.

EMPLOYEE ACTION	ADC RESPONSE
Refusal to submit to alcohol or drug test; failure to proceed to nearest test site in a timely manner; failure to provide adequate sample for testing.	Removal from performing safety sensitive functions. 1st Offense – Dismissal
Attempt to interfere, alter, substitute or in any way affect the outcome of the alcohol or drug test.	Removal from performing safety sensitive functions. 1st Offense – Dismissal
Test Positive for a controlled substance and the employee did not self-identify before the testing.	Removal from performing safety sensitive functions. 1st Offense – Dismissal
Alcohol test result of between 0.02 and 0.039 (inclusive).	Removal from performing safety sensitive functions for 24 hours from the time of testing. 1st Offense Alcohol Concentration .001 - .020 – Letter of Concern Alcohol Concentration .021 - .039 – 16-Hour Suspension Alcohol Concentration .040 - .099 – 40-Hour Suspension Alcohol Concentration .100 or above – Dismissal 2nd Offense - Dismissal
Confirmed determination that an employee tested at 0.04 or greater for alcohol.	Removal from performing safety sensitive functions. 1st Offense – 40 hour suspension to Dismissal 2nd Offense - Dismissal
Reporting to work within four hours of consuming alcohol (separate from alcohol level).	Removal from performing safety sensitive functions for 24 hours. Leave without pay will be charged. Referral to a collection site for testing. (Discipline – See alcohol test result of between 0.02 – 0.039)
Using alcohol or prohibited drugs in the eight hour period following an accident or before completing a post-accident alcohol or drug test.	Removal to a collection site for testing. (Discipline – See alcohol test result of between 0.02 – 0.039 and if test result is positive for controlled substances – Dismissal)

Performing safety sensitive functions when using any over-the-counter medication or prescribed drug that affects the employee's ability to safely operate a vehicle.	Removal from performing safety sensitive functions until cleared in writing by a licensed physician. 1st Offense – Verbal Warning 2nd Offense – Written Reprimand 3rd Offense – Suspension (Discipline – See alcohol test result of between 0.02 – 0.039)
During any Department work time, use, sell, purchase, or have in possession alcohol or drugs that may cause impairment (does not include possession of use of over-the-counter medications or legally prescribed drugs).	Removal from performing safety sensitive functions. 1st Offense – Dismissal
Refusal to enter or failure to successfully complete a required rehabilitation program.	1st Offense – Dismissal
Involvement in an accident and tests positive for drug/alcohol usage.	1st Offense – Controlled Substance - Dismissal 1st Offense – Alcohol Concentration: .001 - .020 – Letter of Concern .021 - .039 – 16-Hour Suspension .040 - .099 – 40-Hour Suspension .100 or above – Dismissal
Suspension of an employee's driver license due to a "driving under the influence" arrest.	1st Offense – Suspension or Dismissal 2nd Offense - Dismissal
Failure to report a conviction of drug-related Statute violation within five days of conviction.	1st Offense – Suspension or Dismissal 2nd Offense - Dismissal

ATTACHMENT G-1
DEPARTMENT ORDER 601

DECISION TREE



AUGUST 28, 2014

A. CASES REQUIRING NO ADMINISTRATIVE INVESTIGATION

Day **Mistake or Misconduct with Admission**

1. Incident (initiation based upon approving authority becoming aware of incident or when the employee becomes the principal of the investigation)

A-1: Non-Appealable Disciplinary Action: *Mistake*

- If all necessary information is available and the employee admits to the behavior, but it is determined to be a mistake, no formal action required (possible training, performance appraisal entries, oral redirection).

A-2: Non-Appealable Disciplinary Action: *Misconduct*

- If all necessary information is available and the employee admits to the behavior, final disciplinary is issued.

A-3: Appealable Disciplinary Action

- If all necessary information is available and the employee admits to the behavior, allow for 15 calendar days of approving authority / Employee Relations Unit review.

16. Final Disciplinary Action completed / AAG copied.

B. CASES REQUIRING ADMINISTRATIVE INQUIRY

Day **Misconduct without Admission**

1. Incident (initiation based upon approving authority becoming aware of incident or when the employee becomes the principal of the investigation)

B-1: Non-Appealable Disciplinary Action – (covered and uncovered employees)

5. Administrative Inquiry issued.
13. Employee response received.
30. Administrative Inquiry complete (all necessary information is available). Final disciplinary issued.
60. For uncovered employees only - Employee Relations Unit completes review. Final disciplinary action issued.

B-2: Appealable Disciplinary Action – (covered employees)

5. Administrative Inquiry issued.
13. Employee response received.
30. Administrative Inquiry complete (all necessary information is available).
45. Approving authority and Employee Relations Unit review complete. Final disciplinary issued.
60. Employee Relations Unit completes review. Final disciplinary action issued.

C. CASES REQUIRING ADMINISTRATIVE INQUIRY & ADMINISTRATIVE INVESTIGATION

Day

1. Incident (initiation based upon approving authority becoming aware of incident or when the employee becomes the principal of the investigation)
5. Administrative Inquiry issued.
13. Employee response received.
30. Administrative Inquiry complete. Administrative Investigation begins.
60. Investigation complete.
75. Approving authority and Second Level review complete.

100. Employee Relations / Division Director or Assistant Director review complete. (AAG consultation, if necessary)
109. Approving authority issues Notice of Charges.
113. Employee response to Notice of Charges.
120. Final Disciplinary Action served to employee.