



The Maryland
Department of Juvenile Justice

Standards of Conduct and Disciplinary Process

Every child will become a self-sufficient productive adult.

August 31, 2000

TABLE OF CONTENTS

	PAGE
FOREWORD	v
1.0 DEFINITIONS	1
2.0 STANDARDS OF CONDUCT AND PERFORMANCE	3
2.1. Authority	3
2.2. Personal Conduct	4
2.3. Searches	5
2.4. Contraband	6
2.5. Parking and Securing Personal Vehicles	6
2.6. Employee Contacts With the Public and News Media	6
2.7. Registering of Address, Telephone Number and Name	7
2.8. Secondary Employment in Addition to State Employment	7
2.9. State Property	7
2.10. Performance of Duties	7
2.11. Insubordination	8
2.12. Prevention of Escapes and Disorders	8
2.13. Breach of Security	8
2.14. Aiding or Assisting in Escape or Attempted Escape	9
2.15. Control of Weapons, Keys, Tools, Drugs, Toxic and Dangerous Material	9
2.16. Safety and Fire Prevention and Control	9
2.17. Emergency Duty	9
2.18. Changing Post or Assignments	9
2.19. Reports	10
2.20. Acceptance of Rewards or Gifts From Any Person(s) or Corporation Engaged or Attempting to Engage in Business with the Department ..	10
2.21. Report for Duty	10
2.22. Personal Telephone Calls	11
2.23. Inviting Guests to an Institution or Facility	11
2.24. Attitude Towards and Treatment of Youth and Clients	12
2.25. Use of Force	12
2.26. Use of Firearms	13
2.27. Taking Delinquent Youth From a Juvenile Institution	13
2.28. Rewards or Gifts From Youth or Clients	13
2.29. Communication To and From Youth	13
2.30. Contacts Between Employees and Youth, Clients, and Their Friends or Family	13
2.31. Confidential Nature of Delinquent Youth, Offender or Juvenile History Files	14
2.32. Employee Personnel Files and Records	14
2.33. Appearance and Equipment	15

2.34.	Sexual Harassment and Other Discrimination	15
2.35.	Conducting Population Counts	15
3.0	ATTENDANCE REQUIREMENTS	15
3.1.	Employee Responsibilities	15
3.2.	Supervisors' Responsibilities	16
3.3.	Management of Unscheduled Leave Requests (Excluding Sick Leave)	16
3.3.1.	Shift Personnel	16
3.3.2.	Non Shift Personnel	16
3.3.3.	Shift and Non Shift Personnel	17
3.4.	Mitigating Circumstances	17
3.5.	Management of Overtime Coverage in Unscheduled Leave Situations	18
4.0	DISCIPLINARY SANCTIONS	18
4.1.	Principles of Work Performance	18
4.2.	Counseling and Training	19
4.3.	Types of Disciplinary Actions	19
4.3.1.	Written Reprimand	19
4.3.1.1.	Level One Reprimand	19
4.3.1.2.	Level Two Reprimand	19
4.3.2.	Forfeiture of Leave	20
4.3.3.	Suspension	20
4.3.4.	Demotion	20
4.3.5.	Rejection on Probation	20
4.3.6.	Discharge	20
4.3.7.	Denial of Annual Increment	20
4.3.8.	Unsatisfactory Report	20
4.4.	Progressive Discipline and Mitigating Circumstances	20
4.5.	Category of Infractions - Type of Discipline	21
4.5.1.	First Category Infractions	21
4.5.2.	Second Category Infractions	22
4.5.3.	Third Category Infractions	23
4.6.	Alcohol	24
4.6.1.	Violations at the Work Place	24
4.6.1.1.	Observation Process	24
4.6.1.2.	Testing Process	25
4.6.1.3.	Management of Test Results	25
	.01. Non-Sensitive Classes or Positions	25
	.02. Sensitive Classes or Positions	26
4.6.2.	Alcohol Violations Not at the Work Place	26
4.7.	Drugs	27
4.7.1.	CDS Violations at the Work Place	27
4.7.2.	CDS Violations Not at the Work Place	27

4.7.2.1.	Non-sensitive Classes or Positions	27
4.7.2.2.	Sensitive Classes or Positions	28
4.7.3.	CDS Violations - Other Circumstances Requiring Testing (Sensitive Employees Only)	28
4.7.3.1.	Random Testing (Sensitive Only)	28
4.7.3.2.	Promotional Testing (Sensitive Only)	29
4.7.3.3.	Employment Action Testing (Sensitive Only)	29
4.7.4.	Violations Involving Abuse of Legally Prescribed or Over the Counter Drugs	29
4.7.5.	General Provisions (All Classes and Positions Sensitive and Non-sensitive)	29
4.8.	Exception Information	30
5.0	IMPLEMENTATION OF CORRECTIVE AND DISCIPLINARY SANCTIONS	30
5.1.	Procedure	30
5.2.	Documented Counseling	31
5.3.	Training	31
5.4.	Referral to Employee Assistance Program (EAP)	32
5.5.	Leave Without Pay	32
5.6.	Restitution	32
5.7.	Written Reprimand	33
5.8.	Forfeiture of Leave	33
5.9.	Suspension	33
5.9.1.1.	Exempt employees	34
5.9.1.2.	Non-Exempt employees	34
5.9.1.3.	Exempt & Non-Exempt Employees	34
5.10.	Demotion	35
5.11.	Termination - Initial Appointment Probationary Employees	35
5.12.	Termination of an Employee in the Skilled or Professional Service	37
5.13.	Termination of an Employee in the Executive or Management Service or Under Special Appointment	37
5.14.	Denial of Annual Pay Increase	37
5.15.	Unsatisfactory Report	38
5.16.	Extension on Probation	38
6.0	APPEALS AND GRIEVANCES	39
6.1.	Appeal of an Adverse Action	39
6.2.	Types of Appeals	39
6.2.1.	Grievance Appeals	39
6.2.2.	Appeal of Disciplinary Actions	40
6.2.3.	Appeals by Employees in the Executive or Management Service or Under Special Appointment	40
6.2.4.	Discipline of Probationary Employees	41
6.3.	Witnesses and Representatives	41

7.0	INVESTIGATIONS AND CHILD ADVOCACY UNIT	42
7.1.	Organization and Functions	42
7.2	Authority for Conducting Investigations	43
7.3.	Incidents and Complaints Requiring Notification to the Investigations and Child Advocacy Unit	43
7.4.	ICAU Notification Requirements	45
7.5.	Investigative Reports	45
7.6.	Responsibilities of ICAU Personnel	46
7.7.	Responsibilities of the Area Directors, Superintendents or Directors of State Juvenile Facilities, and Program Administrators of Privately Operated Programs or Facilities.	46
7.8.	Responsibilities of Employees and Providers	48

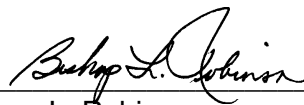
FOREWORD¹

The Department of Juvenile Justice is responsible for advancing the purposes of the juvenile justice system: to ensure that communities are safe, that delinquent youth are held accountable to victims and the community, and that delinquent youth develop into responsible and productive members of society. Developing a professional, disciplined, and effective work force to achieve these goals in a manner that merits public confidence and respect necessitates that all employees appreciate the relationship between their actions, both on the job and in their personal lives, and public opinion. A single employee's misconduct or ineffective performance reflects negatively on their immediate co-workers, other employees of the Department, other government agencies, and interferes with the Department's ability to accomplish its goals.

It is essential that all of the Department's employees understand and comply with the rules and procedures in these Standards of Conduct. Recognizing that it is impossible to anticipate and describe every situation employees may encounter in the performance of assigned duties, the fundamental purpose of this document is to provide guidelines to stimulate thoughtful, professional actions. In addition, the Standards of Conduct are intended to ensure fairness and parity in the handling of disciplinary matters, as well as the imposition and appeal of sanctions. The procedures and time frames are structured to protect the procedural rights of employees, as well as the integrity of the Department's programs and facilities. Whenever possible, disciplinary measures will be progressive and promote improved employee performance; however, the severity and frequency of infractions will be considered when imposing sanctions.

Consistent with the integrity of the Department, various investigative functions also are prescribed in this document, particularly the responsibilities of the Investigations and Child Advocacy Unit. Utilizing specialized resources, this Unit coordinates and supervises the investigation of suspected violations of certain rules, regulations, and criminal law. Their efforts may rule out any wrongdoing, or pave the way for appropriate administrative action. The responsibility of supervisors to investigate and take action appropriate to their authority is not diminished by the existence of the Investigations and Child Advocacy Unit.

The Department strives to protect the public safety, hold youth accountable, assist in their competency and character development, provide care, custody, and treatment to youth, comply with State and federal laws, and operate its programs and facilities consistent with the best management practices. These Standards of Conduct are part of a continuing effort to ensure that employees are informed about their responsibilities.



Bishop L. Robinson
Secretary

¹ This Foreword summarizes the spirit and content of the Standards of Conduct and is not part of the Policy.

1.0 DEFINITIONS

As used in this policy the following terms have the meanings indicated.

- 1.1. "Abuse of drugs or alcohol" means the use of an illegal drug; the intentional misuse of an over-the-counter drug if the misuse impairs the job performance of the State employee; the intentional use of any prescription drug in a manner inconsistent with its medically prescribed intended use or under circumstances where its use is not permitted, if it impairs the job performance of a State employee; the use of alcohol, if it impairs the job performance of the State employee.
- 1.2. "Agency Technical Representative (ATR)" means an individual designated by an appointing authority to ensure compliance with the employee drug and alcohol testing program.
- 1.3. "Appointing authority" means the Secretary and Deputy Secretary of Juvenile Justice and such other officials as specifically designated by the Secretary and registered with the Department of Budget and Management.
- 1.4. "Breath alcohol concentration (BAC)" means the grams of alcohol concentration per 210 liters of breath.
- 1.5. "Chemical test" means the test of an employee's breath to determine alcohol concentration.
- 1.6. "Contraband" means any item, material, substance, or other thing that is not authorized for employee or youth possession by an Area Director, Superintendent or director of a juvenile facility or is brought into a juvenile facility in a manner prohibited by the Area Director, Superintendent or director of the juvenile facility.
- 1.7. "Controlled dangerous substance (CDS)" means an illegal drug as defined in Art. 27, § 279 of the Annotated Code of Maryland, including, but not limited to marijuana or cannaboids, cocaine, opiates, phencyclidine (PCP) and amphetamines.
- 1.8. "Day " or "Days" means a calendar day or calendar days unless specifically provided otherwise.
- 1.9. "Department" means the Department of Juvenile Justice.
- 1.10. "Electronic Search" means a search conducted with an electronic device, e.g., hand scanner, metal detector, or wand.

- 1.11. "Employee" means any person (excluding a juvenile) receiving direct or indirect compensation for services performed for the Department.
- 1.12. "Escape" means the voluntary departure of a delinquent youth from his or her place of confinement or custody.
- 1.13. "Exempt employee" means an employee who is not eligible for cash overtime payment under the Federal Fair Labor Standards Act (FLSA), 29 U.S.C. § 201, *et seq.*
- 1.14. "Found Guilty" means a plea of guilt or *nolo contendere* or a determination of guilt in a court of law.
- 1.15. "Frisk search" means a search involving the patting down of an employee's outer clothing.
- 1.16. "Impaired" means the state or condition that renders an employee unable to properly carry out the duties of his or her classification. An impaired condition may result from the consumption of alcoholic beverages, the use of CDS or the improper use of prescription drugs.
- 1.17. "Juvenile" means an individual less than 21 years of age who is under the jurisdiction of the Juvenile Court.
- 1.18. "Lawful order" means any order or instruction, either oral or written, that an employee should reasonably believe to be in keeping with the performance of his or her duties.
- 1.19. "Non exempt employees" means employees who are eligible for cash overtime payment under the FLSA.
- 1.20. "Probation Before Judgment (PBJ)" means the staying of the entry of judgment and the placing of the defendant on probation after a finding of guilt.
- 1.21. "Property Search" means the search of an individual's personal belongings being brought onto State property.
- 1.22. "Reasonable suspicion" means:
 - 1.22.1. For drug testing: the existence of facts that give an appointing authority or designee a reasonable, objective basis to suspect that a drug test of an employee will produce evidence of illegal use of drugs.

- 1.22.2. For strip search: the existence of facts that give an appointing authority a reasonable, objective basis to suspect that an employee has unauthorized articles in his or her possession.
- 1.23. "Secretary" means the Secretary of Juvenile Justice unless specifically provided otherwise.
- 1.24. "Sensitive class or position" means a classification or position that has been designated sensitive by an employee's appointing authority.
- 1.25. "Strip search" means a search during which an employee is required to remove his or her clothing.
- 1.26. "Unscheduled leave" means leave not requested in advance.
- 1.27. "Work place" means any place where an employee is performing work for the State of Maryland.
- 1.28. "Youth" means an individual less than 21 years of age.

2.0 STANDARDS OF CONDUCT AND PERFORMANCE

2.1 Authority

2.1.1. The Secretary of Juvenile Justice promulgates and adopts the following policy for the operation and maintenance of the Department. These rules provide for the discipline and conduct of employees. Such rules may be altered, amended or abrogated by the Secretary. (Annotated Code of Maryland, Article 83C, § 2-104.)

2.1.2. To the extent that this policy is inconsistent or in conflict with any provision of the State Personnel and Pensions Article or the regulations of the Department of Budget and Management, the State Personnel and Pensions Article and the regulations of the Department of Budget and Management shall prevail. Effective October 1, 2000, the rules and regulations of the Maryland Correctional Training Commission shall govern in matters regarding the minimum qualifications and training requirements of Department employees whose employment responsibility is the investigation, custody, control, or supervision of minors, juvenile delinquents, or youthful offenders who are committed, detained, awaiting placement, adjudicated delinquent, or are otherwise under the supervision of the Department of Juvenile Justice.

2.2. Personal Conduct

2.2.1. Each employee shall conduct him or herself at all times, both on and off duty, in such a manner as to reflect most favorably on the Department. Any breach of the peace, neglect of duty, misconduct, or any conduct on the part of any employee of the Department, either within or outside of his or her place of employment, which tends to undermine the good order, efficiency, or discipline of the Department, or which reflects discredit upon the Department or any employee thereof, or which is prejudicial to the efficiency and discipline of the Department, even though these offenses may not be specifically enumerated or stated, shall be considered conduct unbecoming an employee of the Department, and subject the employee to disciplinary action.

2.2.2. Each employee shall maintain a professional working relationship with superiors, subordinates and coworkers. While loyalty and cooperation between employees is encouraged, relationships between coworkers, supervisors and subordinates that compromise the chain of command, result in the appearance of partiality, or otherwise undermine good order, discipline or authority are forbidden.

2.2.3. An employee acting in his or her official capacity may not use any coarse, profane, or insolent language, or take action towards other employees, supervisors, delinquent youth, offenders, clients or members of the public that is abusive or otherwise considered offensive to contemporary community standards, except as required as part of an approved treatment program.

2.2.4. No employee of the Department shall threaten, strike, or assault any other member of the Department. An employee who assists, abets, instigates, or invites any altercation between employees of the Department shall be held responsible along with those employees actually involved.

2.2.5. Any employee of the Department who, being present at or having knowledge of any grossly insubordinate or rebellious activity within the Department, shall use his or her utmost effort to suppress such action. Any employee having knowledge that such action is to take place shall give information to his or her appointing authority or designee without delay. Management respects labor groups' right to confidentiality during the course of regular business meetings. An employee is not required to disclose to his or her supervisor issues that have been discussed at such meetings. An employee shall not engage in any concerted work stoppage or job action.

2.2.6. An employee of the Department may not purchase, possess, or drink alcoholic beverages while on duty, or while off duty in uniform or partially identifiable uniform. An employee may not bring or permit to be brought any alcoholic beverage onto State property, or into any State building or vehicle. An appointing authority or his or her designee may make exceptions for religious or training purposes.

2.2.7. The illegal possession or use of any controlled dangerous substance or controlled paraphernalia while on or off duty is strictly prohibited.

2.2.8. An employee who reports to work or who, while working, is suspected of being under the influence of alcohol or an illegal controlled dangerous substance shall be immediately examined in accordance with procedures outlined in the Alcohol and Drugs sections of this policy. This examination may include the use of personnel trained in the use of alcoholizer and other chemical tests. Refusal to submit to such an examination shall be considered as evidence against the employee in disciplinary proceedings. There shall be reasonable suspicion prior to any action taken by a supervisor.

2.2.9. When controlled dangerous substances are legally prescribed, an employee shall provide his or her immediate supervisor, on the first day when reporting to work, with written medical certification that the employee is fit for duty.

2.2.10. An employee may not violate any State, federal or local law. An employee arrested or criminally charged shall notify or cause to be notified, in writing, his or her appointing authority via the immediate supervisor on his or her next scheduled work day, but in no case later than five (5) days following the employee's arrest or criminal summons. Upon adjudication of the criminal case, the employee shall notify or cause to be notified, in writing, his or her appointing authority, via the immediate supervisor, of the Court's disposition. This shall be done on the employee's next scheduled work day, but in no case later than five (5) days following such action.

2.2.11. Any employee, upon receipt of summons or oral notification of being called to testify in a criminal prosecution, shall report in writing, on his or her next scheduled work day but in no case later than five (5) days following receipt of such notification, the circumstances, date, time and court locations to the appointing authority, via the immediate supervisor.

2.3. Searches

2.3.1. An employee is subject to strip search upon entering a juvenile institution or facility. Reasonable suspicion shall be established by the appointing authority or designee prior to a strip search being authorized.

2.3.2. Any employee entering secure areas of an institution may be subject to a routine frisk search without reasonable suspicion.

2.3.3. An employee may be subject to a frisk search, property search (including the use of K-9) and electronic search while the employee is on duty or on State property in accordance with appropriate Department directives and facility orders, or when reasonable suspicion is present. No employee is permitted to bring into or take out of any juvenile facility any package, bag, parcel, luggage or container of any kind without

permission from the Superintendent or director or his or her authorized representative. When authorized, such articles are subject to inspection and shall be taken through main entrances only.

2.3.4. All lockers or other storage areas assigned to an employee may be searched. The Area Director, Superintendent or director may order random, unannounced searches of such areas to ensure the integrity of the institution, facility or work place.

2.4. Contraband

An employee may not possess or convey contraband into an institution or onto institutional property. An employee shall be responsible for knowing which items are considered contraband at his or her work place. If ever in doubt, the employee must seek clarification of the supervisor.

2.5. Parking and Securing Personal Vehicles

2.5.1. An employee who drives a personal or state-owned vehicle to work and parks it on State property shall make certain that the vehicle is locked and secured. At no time may a vehicle be left unattended on institutional property with the motor running or with keys accessible.

2.5.2. An employee may not under any circumstances have contraband in a personal or state-owned vehicle which is driven onto State property. Equipment necessary to the operation of the vehicle may not be considered contraband while in the vehicle. Any vehicle may be searched if there is reasonable suspicion that the vehicle contains contraband. An employee shall be responsible for knowing which items are contraband on the property of the employee's particular work place.

2.6. Employee Contacts With the Public and News Media

2.6.1. An employee shall treat the official business of the Department as confidential. Information regarding official business shall be disseminated only to those for whom it is intended in accordance with established Department procedures or to authorized persons as provided by law.

2.6.2. An employee whose duties involve contact with the public shall be courteous and conduct him or herself in a businesslike and dignified manner. Information presented to the public or news media shall be truthful, objective and in accordance with existing rules and regulations. Employees may not represent themselves as an official spokesperson for the Department unless specifically authorized by the Secretary or Secretary's designee.

2.7. Registering of Address, Telephone Number and Name

2.7.1. An employee shall provide his or her immediate supervisor and the personnel office with a current address and phone number where he or she may be reached.

2.7.2. A legal name change shall be reported to the personnel office.

2.7.3. An employee shall report changes in the above on his or her next scheduled workday.

2.8. Secondary Employment in Addition to State Employment

A full-time State employee may secure secondary employment provided that:

2.8.1. The hours of the secondary employment never conflict with the employee's duty hours in State service.

2.8.2. The secondary employment does not interfere in any manner with the satisfactory performance of the employee's duties in State service.

2.8.3. The employee obtains approval from the appointing authority prior to assuming secondary State employment.

2.8.4. The secondary employment does not create a conflict of interest.

2.9. State Property

No employee shall remove or knowingly allow the removal of State property from any facility of the Department without the written permission of the Area Director, Superintendent or director of a juvenile facility or authorized representative. This shall include all property within the facility or workplace or on the grounds regardless of its current state of use. Personal use of State property is forbidden. Each employee shall be responsible for the proper maintenance of State property and is expected to exercise reasonable care in preventing delinquent youth or others from damaging, stealing or destroying such property.

2.10. Performance of Duties

An employee of the Department shall be responsible for his or her own actions, as well as the proper performance of his or her duties. In carrying out the functions and

objectives of the Department, an employee shall perform all duties in a manner that will maintain the highest standards of efficiency. Examples of unsatisfactory performance include but are not limited to lack of knowledge, unwillingness or inability to perform assigned tasks, failure to conform to work standards established for the employee's classification or position, or failure to take appropriate action to ensure compliance with Department regulations.

2.11. Insubordination

2.11.1. An employee shall acknowledge the authority of a supervisor and promptly obey all lawful orders of a superior or person designated to supervise. An employee shall not violate a lawful order.

2.11.2. An employee without adequate justification may not issue an order that is contrary to an order, either oral or written, issued by a superior. An employee to whom conflicting orders are issued shall call immediate attention to such a conflict. If the conflict is not resolved, the employee shall obey the most recent order of a superior.

2.11.3. An employee shall transact all official business with employees senior in position or classification through the established chain of command unless otherwise directed by competent authority.

2.11.4. An employee shall cooperate with a superior or other person designated to conduct an investigative procedure. An employee shall answer all questions truthfully and to the full extent of his or her knowledge.

2.12. Prevention of Escapes and Disorders

An employee shall take all reasonable means to prevent escapes or disorders. An employee having information about an unusual institutional or facility occurrence, an escape, disturbance, violation of an institutional directive or Department regulation, or any other matter affecting the security or safety of an institution or facility shall *immediately* report the information orally to his or her immediate supervisor and submit a written report as soon as possible. Such information shall be reported even if there is any doubt regarding its validity.

2.13. Breach of Security

An employee may not take any action or fail to take any action when the action or failure to act causes a breach of security or a potential breach of security by jeopardizing:

2.13.1. the physical security or integrity of an institution, or the physical security or integrity of any part or area of an institution or

2.13.2. the safety or security of any employee, delinquent youth, offender, client, visitor or member of the public.

2.14. Aiding or Assisting in Escape or Attempted Escape

Any employee aiding or assisting in the escape or attempted escape of any offender or person detained or under the custody of any institution or facility of the Department shall be subject to immediate termination and to prosecution under the provisions of Article 27, § 137 of the Annotated Code of Maryland.

2.15. Control of Weapons, Keys, Tools, Drugs, Toxic and Dangerous Material

An employee shall exercise extreme caution at all times to adequately control weapons, keys, tools, drugs, toxic and dangerous material and to prevent delinquent youth from gaining access to them. An employee who loses or is unable to account for any of these items shall report that information to the Superintendent or director or designee immediately.

2.16. Safety and Fire Prevention and Control

An employee shall become familiar with and comply with Department safety and fire prevention and control procedures. An employee shall be constantly alert to detect and immediately correct or report unsafe conditions or fire hazards.

2.17. Emergency Duty

During institutional emergencies or where there is critical need, a juvenile facility employee shall be subject to twenty-four hour call to duty.

2.18. Changing Post or Assignments

An employee of a juvenile institution or facility may not leave his or her assigned post or exchange assigned duties unless properly and officially relieved, or authority has been granted by the immediate supervisor or designated officer-in-charge.

2.19. Reports

2.19.1. An employee may not make any false oral or written statement or misrepresent any material fact, under any circumstance, with the intent to mislead any person or tribunal. Reports submitted by employees shall be clear, concise, factual and accurate. There is a distinction between two kinds of reports:

2.19.1.1. A false report is one that is intentionally untrue, deceptive or made with the intent to deceive the person to whom it was directed.

2.19.1.2. An inaccurate report is one that is untrue by mistake or accident and made in good faith.

2.19.2. An employee shall not create, alter or be a party to the creation or alteration of any documentation that is submitted to obtain wages or benefits under fraudulent circumstances.

2.20. Acceptance of Rewards or Gifts From Any Person(s) or Corporation Engaged or Attempting to Engage in Business with the Department

2.20.1. An employee may not be directly or indirectly involved as a party of interest in any contract, purchase or sale made by the Department, or by its authority, or accept any reward or gift, or any promise of any reward or gift directly or indirectly from any person interested in any contract, purchase or sale made by the Department.

2.20.2. An employee shall make a report through the chain of command to the appointing authority of all offenses coming to his or her knowledge regarding the acceptance of rewards or gifts. Failure or neglect to do so is a breach of duty.

2.20.3. An employee shall be subject to the provisions of the State Ethics Law as found in Title 15 of the State Government Article of the Annotated Code of Maryland. Any violation of the State Ethics laws, regulations or opinions adopted or promulgated pursuant thereto by the State Ethics Commission may result in disciplinary action under State Personnel and Pensions Article as well as under Title 15 of the State Government Article.

2.21. Report for Duty

2.21.1. An employee shall report to work or assigned duties at the prescribed time to ensure safe and efficient operations. An employee who will be late or absent shall contact his or her supervisor as established in Section 3.0, Attendance Requirements.

2.21.2. No employee of the Department shall feign his or her own, or a family member's illness in an attempt to avoid his or her duties and responsibilities.

2.22. Personal Telephone Calls

Employees shall:

- only.
- 2.22.1.1. Limit telephone calls to emergency and important matters
 - 2.22.1.2. Avoid unnecessary calls.
 - 2.22.1.3. Keep length of calls to a minimum.

2.22.2. Authorized use of telephone systems

2.22.2.1. The use of State telephone systems (including calls from car phones) shall be limited to the conduct of official business.

2.22.2.2. The use of State telephone systems for personal or emergency calls may be authorized if:

.01 It does not adversely affect the performance of duties by the employee.

.02 It is of reasonable duration and frequency.

.03 It reasonably could not have been made at another time.

2.22.2.3. Authorized personal long distance calls (regardless of calling area) that must be made or received during working hours may be made if the call is:

.01 Charged to the employee's home phone number or other non-State number (third party call).

.02 Made to a toll free number.

.03 Charged to the called party (collect call).

.04 Charged to a personal telephone credit card.

2.22.3. Prohibitions. The practices set forth in this section are prohibited. Willful violations of this policy may result in administration action, including suspension or dismissal.

2.22.3.1. Use of any State-owned or leased equipment or facilities for other than official business.

2.22.3.2. Listening-in or recording of telephone conversations, except as specified by appropriate legal authority.

2.22.3.3. Charging the cost of any call to the State as a "Third Party Call", *i.e.* calls from one location to another location and billed to a third number. Employees who must make this type of call should acquire a calling card.

2.22.3.4. Calls to numbers that provide entertainment or other services on a "pay for call" (audiotex) basis.

2.23. Inviting Guests to an Institution or Facility

An employee may not invite guests or visitors to any juvenile institution or facility without the prior written approval of the Superintendent or director or designee. An

employee may not invite guests or visitors to other offices or work places of the Department without the specific approval of the employee's supervisor.

2.24. Attitude Towards and Treatment of Youth and Clients

2.24.1. An employee shall be fair, firm and impartial in relationships with youth and other clients. The employee shall maintain a humane, objective and professional interest in the welfare of youth and clients in order to contribute to the success of the Department's programs.

2.24.2. Every employee has a responsibility to ensure a safe and humane environment for youth and to respect the individual rights of youth and other clients.

2.24.3. An employee may not engage in any form of physical, sexual, or verbal abuse of youth. If an employee has reason to believe that any such abuse has occurred, he or she shall immediately report that information to the appropriate authorities and Department officials in conformity with applicable Department policy. See Secretary's Directive N^o 2.

2.25. Use of Force

2.25.1. An employee may not strike or use physical force on a delinquent youth, offender, client, or any other person, except in self defense, defense of another employee, member of the public, youth, or client, to prevent an escape or serious disturbance, to protect a youth from harming him or herself or others, to prevent serious property damage, to prevent the commission of a crime, or otherwise in conformity with the Department's Use of Force Policy, No. 02.09.13 (2/18/2000).

2.25.2. An employee may only use the minimum force necessary to take the individual into custody or gain control of the situation. Force may never be used as a form of punishment.

2.25.3. An employee shall complete a report regarding any use of force situation as required in Department directives. Under no circumstances may a supervisor waive an employee's responsibility to complete the report.

2.25.4. Every employee has an affirmative obligation to report any suspected violation of the child abuse or use of force policies of the Department to his or her supervisors or other superiors and to the appropriate law enforcement and child protective services agencies. See Secretary's Directive N^o 2.

2.25.5. This policy shall be construed in harmony with related directives such as Secretary's Directive N^o 2.

2.26. Use of Firearms

The possession or use of firearms by an employee of the Department while on duty is strictly prohibited.

2.27. Taking Delinquent Youth From a Juvenile Institution

An employee may not escort or take any delinquent youth away from a facility without legal authority or the authority of the appointing authority or designee. The employee assigned to delinquent youth escort duty shall take youth only to and from authorized destinations as directed by the appointing authority or designee. An employee may not permit youth to leave their places of assignment or to make unauthorized stops. Youth must be in sight and under the control of employees at all times, except when temporarily maintained in a holding facility. Youth must be searched each time they are removed from a holding facility.

2.28. Rewards or Gifts From Youth or Clients

2.28.1. An employee may not accept any reward, loan or gift, or any promise of reward, loan or gift, from any delinquent youth, offender or client of the Department, or from anyone on behalf of any delinquent youth, offender or client, or receive any devise or bequest, or any promise of devise or bequest, from any delinquent youth, client or any person on behalf of the delinquent youth, offender or client, or from the estate of a delinquent youth, offender or client.

2.28.2. An employee may not request, demand or accept personal services from delinquent youth, offenders or clients.

2.28.3. All attempts of any of the above actions must be reported in writing immediately to the employee's supervisor.

2.29. Communication To and From Youth

An employee may not take any letter, message, or communication of any type, written or oral, from or intended for a delinquent youth, except as required in the daily performance of business.

2.30. Contacts Between Employees and Youth, Clients, and Their Friends or Family

2.30.1. An employee may not visit the homes of youth, offenders or clients, relatives of youth, offenders or clients, or known friends of youth, offenders or clients for

any purpose other than official Department business. Such contacts shall be handled in an objective and professional manner.

2.30.2. An employee may not contact or visit delinquent youth, regardless of whether the employee is on or off duty, for any purpose other than official Departmental business. The exception to this shall be for an employee who is related to a delinquent youth. Any request for permission to visit relatives in juvenile facilities shall be approved by both the employee's appointing authority or designee and by the appointing authority or designee of the institution or facility where the relative is committed.

2.30.3. An employee may not become socially, personally or intimately involved in relationships with youth, offenders or clients of the Department. This includes communication through written correspondence, telecommunications and social interactions.

2.30.4. An employee may not allow youth to visit with him or her for any purpose while off duty.

2.31. Confidential Nature of Delinquent Youth, Offender or Juvenile History Files

2.31.1. Utmost care is essential in the handling of delinquent youth, offender or juvenile records, as they are confidential. Should questions arise concerning inquiries from outside sources, the appointing authority or designee shall be consulted.

2.31.2. Employees may not remove delinquent youth, client, offender or juvenile files or documents from any institution, facility, or work place of the Department without permission of the Area Director, Superintendent or director or designee.

2.32. Employee Personnel Files and Records

2.32.1. No member of the Department shall have access to personnel files, materials or other official or confidential personnel records except as permitted by § 10-611, *et seq.* of the State Government Article of the Annotated Code of Maryland, or policies of the Department of Budget and Management or of the Department of Juvenile Justice.

2.32.2. Unless otherwise provided above, access to personnel files shall be limited to personnel staff, management employees in the chain of command above the employee, personnel specifically designated to conduct investigations requiring the review of personnel files, the employee and those designated by the employee to have access to the file.

2.32.3. No employee shall transmit any official document, file or report of the Department without proper authority.

2.33. Appearance and Equipment

2.33.1. An employee shall set a positive example in his or her overall appearance and grooming.

2.33.2. An employee designated to wear a uniform shall wear only the uniforms, badges, insignia of rank and equipment as prescribed in Department procedures.

2.33.3. An employee designated to wear a uniform while on duty shall wear the prescribed uniform and be properly equipped, unless otherwise directed.

2.33.4. An employee shall be responsible for all equipment issued to him or her and where it is established that any part thereof is lost or damaged through negligence, the employee shall be obligated to replace it at his or her own expense.

2.33.5. Any employee terminated from State service shall be required to return to his or her supervisor all Department equipment or uniforms issued to or assigned for his or her use.

2.34. Sexual Harassment and Other Discrimination

An employee found to have engaged in discrimination on the basis of race, color, religion, national origin, political affiliation, disability, age or sex (including sexual harassment) will be subject to disciplinary action up to and including termination depending on the degree of the infraction.

2.35. Conducting Population Counts

An employee assigned to conduct a count of any delinquent youth population shall ensure that the recorded count accurately reflects the number and identity of delinquent youth in the assigned area at the time the count is conducted.

3.0 ATTENDANCE REQUIREMENTS

3.1. Employee Responsibilities

3.1.1. An employee shall report for duty at a prescribed time on those days specified in the work schedule unless he or she has been approved leave.

3.1.2. In situations where an employee does not have leave approved and will not be reporting for duty as required, he or she shall contact his or her supervisor with a request for unscheduled leave.

3.1.3. For absences that exceed one day, the employee shall call in daily until a date of return is established, in accordance with the guidelines below.

3.2. Supervisors' Responsibilities

3.2.1. Each supervisor shall advise his or her subordinates of the responsibility to call when they are unable to report to work at the scheduled time. The supervisor shall establish himself or herself as primary contact and provide the name of another person who can be reached in his or her absence.

3.2.2. The supervisor receiving an employee's telephone call shall evaluate the request and shall determine whether or not the request can be granted based on the reason for the request and the operational needs of the Department.

3.2.3. Decisions to approve or disapprove leave shall be made in keeping with the nature of the employee's position and the conditions outlined below.

3.3. Management of Unscheduled Leave Requests (Excluding Sick Leave)

3.3.1. Shift Personnel

3.3.1.1. Shift personnel must obtain prior approval for use of annual, compensatory or personal leave. However, such leave may be denied only if the immediate supervisor determines that the employee's shift is below minimum staffing levels.

3.3.1.2. Shift personnel who will be late or absent for their scheduled shifts are required to telephone their supervisors between sixty (60) minutes and thirty (30) minutes prior to their normal reporting time unless otherwise directed by the Superintendent or director or designee.

3.3.2. Non Shift Personnel

3.3.2.1. An employee whose unit is open only during a specific period of time each day and who will be late or absent shall notify his or her supervisor during the first half hour of the unit's normal workday.

3.3.2.2. An employee may use up to six days of personal leave each calendar year in increments of at least one half day without obtaining prior approval,

provided that the employee notifies the immediate supervisor not later than thirty (30) minutes after the employee's normal reporting or starting time of his or her intended use of each period of personal leave.

3.3.3. Shift and Non Shift Personnel

3.3.3.1. Lateness shall be defined and handled in terms of the specific conditions in which the tardiness occurs.

3.3.3.2. An employee shall be considered late if:

.01 An employee calls as required and arrives at work within one hour of the start of his or her shift.

.02 An employee does not call but arrives at work within 30 minutes of the start of his or her shift.

3.3.3.3. An employee shall be considered grossly late if:

.01 An employee calls as required and arrives at work later than one hour after the start of his or her shift; or

.02 An employee does not call and arrives later than 30 minutes after the start of his or her shift.

3.3.3.4. An employee shall be charged with a failure to report if he or she does not call or does not report to work.

3.3.3.5. An employee who is late, grossly late or who fails to report shall be charged with LWOP (leave without pay) for the time missed from work and shall be subject to the appropriate level of discipline.

3.4. Mitigating Circumstances

3.4.1. In situations where it is determined that the employee's lateness, gross lateness or failure to report was due to circumstances beyond the employee's control, was unexpected and unanticipated, and appropriate documentation is submitted, the employee may not be charged with an occurrence and no disciplinary action shall be taken. Likewise, employees may be allowed to charge the absence to accumulated leave rather than LWOP.

3.4.2. If the circumstances do not warrant accepting the excuse, it shall be counted as an occurrence of lateness, gross lateness or failure to report and appropriate action shall be taken.

3.4.3. A file shall be kept that includes an explanation and all documentation for situations associated with mitigating circumstances. The appointing authority or designee shall review the documentation periodically to ensure consistency.

3.5. Management of Overtime Coverage in Unscheduled Leave Situations

If the unscheduled absence of an employee requires that another employee be paid overtime to replace the absent employee, one of the following procedures listed in order of priority shall be implemented. Documentation is required when exercising these options.

3.5.1. A volunteer from the shift where the vacancy occurred, who is on his or her regularly scheduled off day, shall be called in to cover the full eight (8) hour shift.

3.5.2. A volunteer from the shift going off duty shall be held over for the next eight (8) hour shift.

3.5.3. A volunteer from the shift going off duty shall be held over for four (4) hours, and one volunteer shall be called in four (4) hours early from the following shift.

3.5.4. Two (2) employees shall be designated to work by seniority to cover this shift, with one (1) employee being held over for four (4) hours from the shift going off duty and one (1) employee being called in four (4) hours early from the following shift, or an employee shall be designated by seniority to be held over for the next eight (8) hour shift.

4.0 DISCIPLINARY SANCTIONS

4.1. Principles of Work Performance

The following principles of work performance and supervision are adopted:

4.1.1. An employee shall meet established performance standards.

4.1.2. Conditions or circumstances that will prevent an employee from performing effectively or from completing his or her assigned tasks shall be reported to supervision as soon as they become known by the employee.

4.1.3. An employee shall bring to the attention of his or her supervisor any unclear instructions or procedures.

4.1.4. Supervisors shall assist their employees in understanding their work assignments, the Standards of Conduct and Performance, and the goals, objectives and performance standards of their positions.

4.1.5. A supervisor shall be aware of inadequate or unsatisfactory work performance or behavior on the part of employees and attempt to correct the performance or behavior immediately. Supervisors shall ensure that each employee under their supervision receives required performance evaluations, including mid-year and end-of-year performance appraisals, in a timely manner.

4.2. Counseling and Training

Efforts to improve employee behavior may include counseling or remedial training. Counseling may range from a private, informal discussion to a written documented statement outlining those aspects of the employee's performance or behavior that needs modification. While it is hoped that most problems can be resolved through such a process, counseling is not a prerequisite to taking formal disciplinary action, particularly in dealing with the most serious infractions.

Issuing a counseling memorandum is an instructional communication and is not a disciplinary action. Within 5 days after receiving a counseling memorandum, an employee may submit to the employer a written response to the memorandum. The response shall be placed in the employee's personnel file and attached to any record of the memorandum. An employee may not take any other action in response to a counseling memorandum.

In a situation where the employee may possibly benefit from outside counseling, referral may be made to the Employee Assistance Program (EAP). Such a referral shall be made as an effort to assist the employee and not as a measure of discipline.

A referral for remedial training shall be made when the employee's unsatisfactory performance is due to lack of knowledge, information or skills.

4.3. Types of Disciplinary Actions

4.3.1. Written Reprimand - a formal written statement that specifies a violation and warns the employee of the consequences of future infractions. The following actions represent levels of progressive discipline.

4.3.1.1. Level One Reprimand - a reprimand signed by the immediate or intermediate supervisor with the approval of the appointing authority or designee.

4.3.1.2. Level Two Reprimand - a reprimand issued and signed by the appointing authority or designee. This constitutes a more severe warning.

4.3.2. Forfeiture of Leave - the forfeiture of up to 15 work days (120 hours) of an employee's accrued annual leave.

4.3.3. Suspension - the act of relieving an employee of his or her job responsibilities for a specific period of time without pay.

4.3.4. Demotion - the act of assigning an employee the duties and responsibilities and compensation of a lower classification and pay grade.

4.3.5. Rejection on Probation - the termination of employment during the probationary period.

4.3.6. Discharge - the termination of employment, at a time other than during a probationary period, with or without prejudice.

4.3.7. Denial of Annual Increment - the act of keeping an employee at his or her present salary, when advancement to the next salary step would normally have occurred.

4.3.8. Unsatisfactory Report - a report filed with the Department of Budget and Management that specifies both the reason for an employee's termination from State service and the agencies in which future employment is prohibited.

4.4. Progressive Discipline and Mitigating Circumstances

Progressive discipline shall be utilized, where appropriate. Similarly situated employees will be treated similarly regarding the application of discipline; however, when in the judgment of the appointing authority or designee mitigating circumstances exist and can be substantially documented, specific corrective action may be reduced or not invoked. Consideration should be given to the employee's (1) overall employment history, (2) attendance record, (3) disciplinary record, (4) work habits, and (5) relations with fellow employees and supervisors. Written documentation shall be maintained reflecting why a particular level of discipline is an appropriate exercise of discretion. Mitigating circumstances may also include those conditions which indicate that the employee is not wholly at fault.

After 24 months without any further disciplinary action, the record of any prior disciplinary action, up to and including suspensions of five (5) days, shall be expunged at the employee's request. After 12 months, letters of reprimand and counseling memorandum shall not be used in assessing discipline if there has been no further disciplinary action.

4.5. Category of Infractions - Type of Discipline

Unacceptable behavior is divided into three categories according to severity. The behaviors listed in the three groups are only examples. Other behaviors that occur may be grouped and disciplined according to other regulations, policies, directives or procedures. A probationary employee may be rejected or extended on probation for disciplinary reasons of any category level, and such action may also be taken for other than disciplinary reasons.

4.5.1. First Category Infractions

4.5.1.1. The least severe types of infractions that require corrective action include:

- .01. Use of coarse, obscene, profane or insolent language
- .02. Failure to notify a supervisor and the personnel officer of change of address, name or telephone number
- .03. Failure to request approval for secondary State employment
- .04. Misuse of State property
- .05. Inadequate or unsatisfactory job performance
- .06. Failure to follow the chain of command
- .07. Violations of safety rules involving no threat to life
- .08. Failure to report knowledge of a first or second category infraction
- .09. Violation of State Ethics Law
- .10. Misuse of telephones
- .11. Inviting guests to an institution or facility
- .12. Inattentiveness or negligence in the performance of duties by an employee not directly responsible for the custody or supervision of delinquent youth
- .13. Gross lateness
- .14. Failure to maintain required contacts with supervisor when away from assigned office location
- .15. Lateness*
- .16. Failure to maintain proper appearance*
- .17. Failure to adequately maintain equipment*
- .18. Being unjustifiably offensive in the employee's conduct toward fellow employees, wards of the State, or the public
- .19. Engaging in a business, trade, or occupation, which conflicts with the employee's position, or which prevents the employee from satisfactorily performing the duties of the employee's position
- .20. Causing damage to public property or wasting public supplies through negligence, recklessness, or willful conduct
- .21. Knowingly assisting another in conduct that is a violation of State Personnel and Pensions Article, Annotated Code of Maryland, the regulations in this chapter, or any other law agency policy

.22. Using leave contrary to law or policy
.23. Committing another act, not otherwise specified, when there is a connection between the employee's activities and an identifiable detriment to the State.

4.5.1.2. First category infractions shall result in discipline or other action according to the following schedule and shall be progressive based on prior disciplinary occurrences.

- .01. First Offense: Documented Counseling or Training
- .02. Second Offense: Level 1 Reprimand
- .03. Third Offense: Level 2 Reprimand and Forfeiture of Leave
- .04. Fourth Offense: 5 day suspension
- .05. Fifth Offense: Termination, or, if appropriate, demotion

4.5.1.3. Infractions .15 - .17 denoted with an * shall be documented and treated as a first category infraction after the third occasion.

4.5.2. Second Category Infractions

4.5.2.1. A more serious category of infraction requiring more stringent discipline includes:

- .01. Failure to report arrest or conviction
- .02. Failure to report receipt of criminal summons
- .03. Transporting in or out of an institution or facility any unauthorized package, bag, parcel, luggage or container
- .04. Possession of contraband other than that described under third category infractions
- .05. Providing youth with tobacco products
- .06. Leaving personal vehicle on grounds with motor running or keys accessible or unlocked
- .07. Possession of contraband in personal vehicle
- .08. Unauthorized representation of the Department before public or news media
- .09. Gross Misuse of State property
- .10. Violating a lawful order or failing to obey a lawful order given by a supervisor, or engaging in conduct, violating a lawful order, or failing to obey a lawful order which amounts to insubordination
- .11. Failure to exercise caution in control of weapons, keys, tools, drugs, toxic and dangerous materials
- .12. Failure to report when summoned in an emergency situation
- .13. Leaving or exchanging assigned posts
- .14. Willfully making false official statement or report
- .15. Directing cruel or harsh treatment *not resulting in harm* towards youth or clients

- .16. Failure to report for duty
- .17. Inattentiveness or negligence in the performance of duty by an employee directly responsible for the custody or supervision of delinquent youth population
- .18. Providing an inaccurate count of the delinquent youth population
- .19. Failure to report knowledge of a third category infraction
- .20. Unauthorized access to youth, client, offender or juvenile records and information.
- .21. Intentional misconduct, without justification, which causes damage to property, or threatens the safety of the work place
- .22. Being guilty of conduct that has brought, or, if publicized, would bring the State into disrepute
- .23. Stealing State property with a value of \$300 or less
- .24. Engaging in conduct involving dishonesty, fraud, deceit, misrepresentation, or illegality
- .25. Engaging in discrimination prohibited by law

4.5.2.2. Second category infractions shall result in discipline according to the following schedule and shall be progressive based upon prior disciplinary occurrences.

- .01. First Offense: Level 1 Reprimand
- .02. Second Offense: Level 2 Reprimand and Forfeiture of Leave
- .03. Third Offense: 5 day suspension
- .04. Fourth Offense: Termination, or, if applicable, demotion

4.5.2.3. An employee with a First Category infraction who proceeds to commits a Second Category infraction shall be disciplined at that step in the Second Category that represents the next level of progressive discipline. Example: An employee who has received a Level 2 Reprimand under the First Category for his or her third First Category offense would receive a five day suspension upon committing a Second Category offense.

4.5.3. Third Category Infractions

4.5.3.1. Third category infractions are cause for automatic termination of employment and include:

- .01. Intentional conduct, without justification, that:
 - (a) injures another person;
 - (b) causes substantial damage to property; or
 - (c) seriously threatens the safety of the workplace
- .02. Theft of State property of a value greater than \$300
- .03. Illegal sale, use, or possession of drugs on the job
- .04. Conviction of a CDS offense

- .05. Conviction of a felony
- .06. Accepting for personal use any fee, gift, or other valuable thing in connection with or during the course of State employment, if given to the employee by any person with the hope or expectation of receiving a favor or better treatment than that accorded to other persons
- .07. Violation of the Fair Election Practices Act
- .08. Using, threatening, or attempting to use political influence or the influence of any State employee or officer in securing promotion, transfer, leave of absence, or increased pay
- .09. Wantonly careless conduct or unwarrantable excessive force in the treatment or care of an individual who is a client, patient, prisoner, or any other individual who is in the care or custody of this State
- .10. Striking, threatening, or assaulting fellow employees
- .11. Physical or sexual abuse of a youth or client
- .12. Refusal to submit to a lawfully ordered strip, frisk, property or electronic search
- .13. Possession of contraband including, but not limited to, firearms, ammunition, other lethal weapons, or drugs, alcohol, or escape paraphernalia on State property
- .14. Breach of security resulting in escape or the immediate possibility of escape
- .15. Aiding or assisting in escape or attempted escape
- .16. Participation in any job action or work stoppage
- .17. Submission of fraudulent documentation to obtain wages or benefits
- .18. Unprofessional personal relationships or contacts with youth or clients
- .19. Unauthorized access and dissemination of youth, client, or juvenile records or information.

4.5.3.2. Third category infractions shall result in termination from State service or, if appropriate, demotion.

4.6. Alcohol

4.6.1. Violations at the Work Place

An employee shall not report to work impaired by alcohol. The possession or consumption of alcohol at the work place is forbidden.

4.6.1.1. Observation Process

.01. When a supervisor has reason to believe that an employee is impaired due to alcohol consumption, he/she shall observe the employee carefully and

document the symptoms or behaviors on the Department of Juvenile Justice Suspected Substance Use Observation Record.

.02. The supervisor shall request that another supervisor in the area observe the employee. In situations where it is impossible for another supervisor to observe the employee, the observations of a co-worker shall be recorded. The names of all observers must be recorded on the Suspected Substance Use Observation Record.

4.6.1.2. Testing Process

.01. When the supervisor's observations lead to the conclusion that the employee is impaired, the supervisor shall ensure that the employee is given the alcoholizer test or another authorized preliminary test, if such tests and qualified operators are reasonably available.

.02. When the results of the preliminary test indicate that the employee has not consumed alcohol, the supervisor shall counsel the employee to determine the reason for the observed behavior. A Counseling Record Form shall be completed. Disciplinary sanctions may be implemented, if warranted.

.03. When no preliminary test is available or when the preliminary test indicates that the employee has consumed alcohol, the supervisor shall issue the employee a written order to submit to an alcohol test and shall arrange to have the employee transported to a designated testing site.

.04. At the designated testing site the employee will be administered a chemical test to determine breath alcohol concentration (BAC).

4.6.1.3. Management of Test Results

The nature of the employee's position (non-sensitive or sensitive) and the degree of impairment shall determine what action is to be taken.

.01. Non-Sensitive Classes or Positions

(a) An employee who registers a BAC at or above .07 on the chemical test shall:

(1) On the first occasion, be referred to EAP and be suspended for five days.

(2) On the second occasion, be terminated from State service.

(b) An employee in a non sensitive class or position who registers at a BAC below .07 but above .01 on the chemical test shall be counseled by his

or her supervisor. A counseling record shall be completed. Disciplinary sanctions may be implemented, if warranted.

.02. Sensitive Classes or Positions

(a) An employee in a sensitive class who registers a BAC at or above .04 on the chemical test shall:

(1) On the first occasion, be suspended for fifteen days and be required to successfully participate in an alcohol treatment program designated by the EAP. Failure to do so shall result in termination from State service.

(2) On the second occasion, be terminated from State service.

(b) An employee in a sensitive class or position who registers at a BAC below .04 but at or above .01 on the chemical test shall be counseled by his or her supervisor. A counseling record shall be completed. Disciplinary sanctions may be implemented, if warranted.

4.6.2. Alcohol Violations Not at the Work Place

4.6.2.1. All Classes and Positions

.01. An employee who is found guilty of an alcohol related offense not at the work place shall:

(a) On the first occasion, be referred to the EAP and be subject to any other appropriate disciplinary actions.

(b) On the second occasion, be suspended for a minimum of five working days, be referred to the EAP, be required to participate successfully in a treatment program designated by the EAP, and be subject to other appropriate disciplinary actions, up to and including termination from State service.

(c) On the third occasion, be terminated from State service.

4.6.2.2. An employee not in the work place who is found drinking alcohol off duty in uniform and in public shall be disciplined in accordance with Section 4.5.2.2.

4.6.2.3. General Provisions (All classes and positions sensitive and non-sensitive)

.01. When an employee is unconscious or otherwise incapable of taking a breath test or who has sustained injuries requiring transportation to a medical facility, he or she may be subject to a blood test to determine blood alcohol concentration.

.02. An employee who refuses to be tested shall be treated as testing at the .07 level if they are nonsensitive or at the .04 level if they are sensitive.

.03. Violations of the alcohol policy shall remain a matter of record. Subsequent violations shall be handled in accordance with the next level of prescribed discipline regardless of the amount of time that has elapsed.

4.7. Drugs

All institutions, facilities and offices of the Department of Juvenile Justice are drugfree work places. As a condition of employment, an employee shall refrain from using illegal drugs and abusing legally prescribed or over-the-counter drugs on and off duty. The following policy shall be construed in harmony with COMAR 17.04.09, and in the event of any conflict, that regulation shall prevail.

4.7.1. CDS Violations at the Work Place

4.7.1.1. Reporting to work under the influence of CDS or being in possession of or using CDS at the work place is forbidden. When there is reasonable suspicion, (sensitive and non sensitive employees) or a triggering incident has occurred (sensitive employees only) the supervisor shall complete the Suspected Substance Use Observation Record and contact the ICAU or the designated ATR.

4.7.1.2. The ICAU OR ATR shall report to the worksite to arrange for a drug test. The employee shall be given two forms: Written Order to Submit to a Urine Test and CDS Test Order.

4.7.1.3. The ICAU or ATR shall direct the employee to the designated testing site.

4.7.1.4. An employee who tests positive for CDS shall be terminated from State service.

4.7.2. CDS Violations Not at the Work Place

4.7.2.1. Non-sensitive Classes or Positions

.01. An employee who is arrested for a CDS violation shall report the arrest to his or her appointing authority the next scheduled work day or within one week, whichever is earlier, and shall be subject to disciplinary action based on a review of his or her case. Failure to report an arrest shall result in disciplinary action up to and including termination.

.02. An employee who (i) is found guilty of a CDS violation prior to 10/1/95, or (ii) is convicted of a CDS violation thereafter, or (iii) receives a PBJ disposition and for which there is a demonstrable relationship between the offense and job duties, shall:

(a) On the first occasion, be suspended for a minimum of 15 working days, be referred to the EAP, be required to participate successfully in a treatment program designated by the EAP, and be subject to other appropriate disciplinary actions up to and including termination from State service.

(b) On the second occasion, be terminated from State service.

4.7.2.2. Sensitive Classes or Positions

.01. An employee who is arrested for a CDS violation shall report the arrest to his or her appointing authority the next scheduled work day or within one week, whichever is earlier, and shall be subject to disciplinary action based on a review of his or her case. Failure to report an arrest shall result in termination.

.02. An employee who is convicted of a CDS violation shall be terminated from State service.

.03. An employee who receives a PBJ disposition and for whom there is a demonstrable relationship between the offense and his or her job duties shall be terminated from State service.

4.7.3. CDS Violations - Other Circumstances Requiring Testing (Sensitive Employees Only)

In addition to reasonable suspicion and incident triggered testing, sensitive employees shall also be subject to testing under the following circumstances.

4.7.3.1. Random Testing (Sensitive Only)

.01. An employee who tests positive for CDS through random testing shall be suspended for fifteen days and shall meet the following conditions in order to return to duty or remain in his or her position.

(a) Accept a referral to EAP during the suspension period and enroll in a rehabilitation program of at least six months duration.

(b) Participate in periodic testing throughout the duration of the rehabilitation program.

(c) Submit at the conclusion of the rehabilitation program a certification from the attending physician, a certified chemical dependency counselor, a licensed certified social worker or a licensed psychologist associated with the rehabilitation program, stating under oath that the employee has successfully participated in a drug

abuse rehabilitation program of at least six months duration and has not tested positive for drugs at any point during the rehabilitation program.

(d) Participate in random testing for as long as they are in a sensitive classification or position.

4.7.3.2. Promotional Testing (Sensitive Only)

.01. An employee who tests positive for CDS through the promotional testing process shall be suspended for 15 days and shall meet the conditions specified in 4.7.3.1.01.

.02. The employee shall be rejected for the promotion at that time.

.03. The employee shall be eligible to be considered for a promotion after one year provided that he or she completes a six month rehabilitation program and meets all other eligibility requirements at that time.

4.7.3.3. Employment Action Testing (Sensitive Only)

.01. An employee who tests positive for CDS as a result of demotion, horizontal change, transfer (including transfer from one facility to another) or reclassification shall be suspended for fifteen days and shall meet the conditions specified in 4.7.3.1.01.

4.7.4. Violations Involving Abuse of Legally Prescribed or Over the Counter Drugs

An employee who abuses a legally prescribed or over the counter drug at the work place shall:

4.7.4.1. On the first occasion, be suspended for five working days and be required to participate successfully in a drug treatment program designated by the EAP.

4.7.4.2. On the second occasion, be terminated from State service.

4.7.5. General Provisions (All Classes and Positions Sensitive and Non-sensitive)

4.7.5.1. Failure to complete a required rehabilitation program shall result in termination.

4.7.5.2. A second positive test, under any circumstances, shall result in termination.

4.7.5.3. An employee who refuses to be tested shall be treated as testing positive and terminated from State service.

4.7.5.4. Violations of the drug policy shall remain a matter of record. Subsequent violations shall be handled in accordance with the next level of prescribed discipline regardless of the amount of time that has elapsed.

4.8. Exception Information

4.8.1. An appointing authority may approve or impose any reasonable disciplinary action regardless of the provisions of subsections 4.5, 4.6, or 4.7, except those provisions required by Executive Order.

4.8.2. Any arrest or conviction not listed above may also result in disciplinary action or termination from State service.

5.0 IMPLEMENTATION OF CORRECTIVE AND DISCIPLINARY SANCTIONS

Each category of infraction is associated with different types of discipline or corrective action. Discipline must be imposed no later than 30 days after the appointing authority or designee acquires knowledge of the misconduct for which the disciplinary action is imposed. A disciplinary suspension must begin within five (5) work days after the close of the employee's next shift after the appointing authority or designee acquires knowledge of the alleged infraction. Even when diligent investigations are ongoing, every effort should be made to impose discipline within 30 days, as failure to adhere to these time limits may jeopardize otherwise valid discipline. Once it has been determined that disciplinary or corrective action is necessary, the appropriate procedures shall be implemented as follows:

5.1. Procedure

Before taking any of the disciplinary actions in Subsections 5.7 - 5.15, below, an appointing authority or designee shall:

- 5.1.1. Investigate the alleged misconduct
- 5.1.2. Meet with the employee
- 5.1.3. Consider any mitigating circumstances
- 5.1.4. Determine the appropriate disciplinary action, if any, to be imposed;

and

5.1.5. Give the employee a written notice of the disciplinary action to be taken and the employee's appeal rights.

5.2. Documented Counseling

A supervisor shall:

5.2.1. Meet with the employee and explain that the purpose of counseling is to inform the employee about work performance or a behavior problem which, if not corrected, could lead to a disciplinary action.

5.2.2. Review the issues that resulted in the counseling and discuss methods of resolving them with the employee.

5.2.3. Clarify to the employee the supervisor's expectations and establish goals and objectives if necessary.

5.2.4. Inform the employee how his or her performance shall be monitored, explaining what shall happen if the employee does not correct the problem area.

5.2.5. Complete the Counseling Record Form, ask the employee to sign, and give the employee the original copy.

5.2.6. Submit a copy of the Counseling Record Form to the personnel office for the employee's file.

5.3. Training

A supervisor may order additional training for an employee by taking the following steps:

5.3.1. Meet with the employee and discuss the problem area.

5.3.2. Explain how training can help the employee to improve performance.

5.3.3. Determine what type of Department sponsored training would be appropriate.

5.3.4. Provide the employee with written notification of and instructions for obtaining the type of training.

5.3.5. Submit a copy of the written notification regarding training to the personnel office for the employee's file.

5.4. Referral to Employee Assistance Program (EAP)

5.4.1. A supervisor shall take the following steps to refer an employee to EAP:

5.4.1.1. Contact the facility, area, or headquarters EAP Coordinator and complete the relevant sections of the EAP Supervisory Referral Form MS 561.

5.4.1.2. Meet with the employee and discuss the employee's behavior, emphasizing the benefits to the employee of attending the EAP initial interview.

5.4.1.3. Ask the employee to sign the Referral Form and forward the form to the EAP Coordinator.

5.4.2. The personnel office shall complete the Referral Form and submit it to the EAP. A copy shall be placed in the employee's EAP file and a copy shall be provided to the employee. A copy may not be placed in the employee's personnel file.

5.4.3. In a crisis situation, the Personnel Officer shall contact EAP for assistance in scheduling an immediate appointment.

5.4.4. Referral to EAP may not be considered a substitute for corrective action for a violation of the requirements stated in this policy.

5.4.5. The employee may decline the referral. This shall be documented on the Referral Form, which shall be sent to the Personnel Officer for the employee's EAP file.

5.5. Leave Without Pay

5.5.1. Placing an employee on leave without pay, when the employee is absent without approval is not a disciplinary action.

5.5.2. An employee who is placed on leave without pay when the employee is absent without approval may also be subject to disciplinary action for the unapproved absence.

5.6. Restitution

5.6.1. Requiring an employee to make restitution to the State for loss or damage to State property due to the employee's negligence is not a disciplinary action.

5.6.2. An employee is not required to pay restitution exceeding 3% of the employee's annual base pay.

5.6.3. An employee ordered to make restitution may also be subject to civil or criminal prosecution.

5.7. Written Reprimand

In issuing a reprimand the following steps shall be taken:

5.7.1. The official issuing the reprimand shall explain the reason for the reprimand and what modifications are necessary in the employee's behavior.

5.7.2. The employee shall be advised of the consequences of any future infraction.

5.7.3. A reprimand shall be issued within 30 days of when the appointing authority or designee acquires knowledge of the alleged infraction. The Notice of Disciplinary Action shall be completed and the employee shall be required to sign it. If the employee refuses or is unable to sign, that fact shall be documented.

5.7.4. A copy of the reprimand shall be submitted to be included in the employee's personnel file and the employee shall be presented with the original.

5.8. Forfeiture of Leave

5.8.1. The appointing authority or designee may require the forfeiture of up to fifteen (15) days (120 hours) of an employee's accrued annual leave in conjunction with a Level 2 reprimand.

5.8.2. Forfeited annual leave shall be transferred to the State Employee's Leave Bank.

5.8.3. An employee whose annual leave is forfeited and transferred does not become a member of the Leave Bank as a result of that disciplinary action.

5.9. Suspension

5.9.1. The appointing authority or designee shall discuss with the employee the reason(s) for the suspension. In situations where the employee is not available at the work site, notification may be made by telephone. If a meeting is not held, the appointing authority or designee shall document the reasons a meeting was not

possible. An employee's status of exempt or non-exempt shall be considered in implementing a suspension.

5.9.1.1. Exempt employees

.01. A disciplinary suspension shall begin within five work days after the close of the employee's next shift after the appointing authority or designee acquires knowledge of the alleged infraction. Sundays, Saturdays, State holidays, and employee leave days are excluded from calculating the five work day period for imposing a suspension.

.02. A suspension shall be for a full work week or multiples of a work week only. A work week begins on Wednesday and ends the following Tuesday. A suspension shall start on a Wednesday at the beginning of an employee's shift.

5.9.1.2. Non-Exempt employees

.01. A disciplinary suspension shall begin within five work days after the close of the employee's next shift after the appointing authority or designee acquires knowledge of the alleged infraction. Sundays, Saturdays, State holidays, and employee leave days are excluded from calculating the five-workday period for imposing a suspension.

.02. An employee who has been suspended may not be permitted to work overtime during the ten working days following the last day of the suspension, unless approval to do so is granted in writing by the appointing authority or designee. Approval may only be granted when not allowing the employee to work overtime would be detrimental to the security of a facility. Documentation of the reasons for granting approval shall be maintained at the facility.

.03. A suspension may be for all or any part of the employee's normal working day. Where a specific or minimal length of suspension is required, the suspension shall last for at least the number of hours equal to the employee's normal working day for the number of days the employee is required to be suspended.

5.9.1.3. Exempt & Non-Exempt Employees

.01. Suspensions shall fall on consecutive days. A suspension may not be interrupted by the employee's work time. In situations where a scheduled weekly leave day would interrupt the suspension period, the length of the suspension shall be adjusted. The adjusted suspension period shall include the appropriate number of days with loss of pay, which corresponds to the penalty schedule for the infraction.

.02. Any time spent by an employee awaiting or participating in a conference initiated by management shall be considered work time and be compensated.

.03. During a suspension, any time the employee spends in court or in administrative hearings as a part of his or her job shall be compensated, but may not be considered as an interruption of the suspension.

.04. The personnel office of a facility or area shall complete and submit a Notice of Disciplinary Action and a Personnel Transaction Form MS 310 to DJJ Personnel, along with relevant reports.

5.10. Demotion

The appointing authority or designee may demote an employee by taking the following steps:

5.10.1. The appointing authority or designee shall meet with the employee and explain why the employee is being demoted.

5.10.2. The appointing authority shall submit to DJJ Personnel the following information:

5.10.2.1. Specific reasons for the demotion;

5.10.2.2. The position and rate of compensation to which the employee is to be demoted;

5.10.2.3. A statement informing the employee of the appropriate appeal procedure.

5.10.3. The appointing authority shall prepare a Notice of Disciplinary Action and an MS 310 Form to implement the demotion and submit them to DJJ Personnel.

5.11. Termination - Initial Appointment Probationary Employees

5.11.1. To reject an employee who is serving an initial probationary period, the following steps shall be taken:

5.11.1.1. The employee's supervisor should advise the appointing authority or designee thirty days before the end of the employee's probationary period that he or she is recommending a termination of the probationary employee's initial appointment.

5.11.1.2. The employee shall be advised of his or her rejection by the appointing authority or designee at least ten (10) days before the effective date of the

termination. The employee shall be advised of the rejection, the reasons therefore, and his or her right to appeal.

5.11.1.3. The notice of rejection shall be submitted on the Notice of Termination - Initial Appointment Probationary Employees Form with the last day on payroll being no less than ten (10) days after the forms are presented to the employee. If the employee is available, he or she shall be given and asked to sign the Probationary Evaluation Form OHR-PA-3 at the time he or she is notified of the rejection. If the employee is not available, the Form shall be mailed to the employee's last known address via registered mail.

5.11.1.4. In situations where the employee routinely has contact with delinquent youth, he or she shall be assigned duties of a less sensitive nature during the ten (10) days after the rejection notice has been given.

5.11.1.5. When the rejection of an employee is for a reason specified in Section 4.5.3.1.01-.19, the employee need not be given ten (10) days notice. In such cases, the forms shall reflect that the ten (10) days notice was not given for the aforementioned reasons.

5.11.1.6. The Unsatisfactory Report MS 106 shall be completed and submitted with the MS 310, the Probationary Evaluation Form, and Notice of Termination Initial Appointment Probationary Employee Form to the DJJ Personnel Office. All pertinent documentation shall be attached.

5.11.2. In a case involving an employee serving another type of probationary period, the following additional procedures shall be implemented:

5.11.2.1. The employee's personnel file shall be reviewed by the appointing authority or designee to assure that there is appropriate documentation for the action.

5.11.2.2. The employee, if promotional, shall be returned to his or her former position, assuming it is vacant. The personnel officer shall contact the previous employing Department to determine the status of the position before the employee is informed of the demotion. If the employee's former position is not vacant, the appointing authority or designee shall demote the employee to a position comparable to the employee's former position.

5.11.2.3. The notice of rejection shall be submitted on the Probationary Evaluation Form 30 days prior to the effective date.

5.11.2.4. The MS 310 and Probationary Evaluation Form shall be submitted to DJJ Personnel.

5.11.2.5. The requirements of this subsection do not apply to probationary employees in the management service.

5.12. Termination of an Employee in the Skilled or Professional Service

5.12.1. The appointing authority or designee shall meet with an employee before making a recommendation to the Secretary to terminate the employee. If a meeting is not held, the appointing authority or designee shall document the reasons a meeting was not possible.

5.12.2. When an employee is to be terminated, the employee shall be notified in writing. If immediate personal delivery is not possible, such notice shall be immediately sent Certified Mail - Return Receipt Requested to the employee's last known address.

5.12.3. The Notice of Termination shall be completed by the Personnel Office and forwarded by the appointing authority to the Secretary for approval. A completed MS 106 Form shall accompany the Notice of Termination.

5.13. Termination of an Employee in the Executive or Management Service or Under Special Appointment

5.13.1. The Secretary shall provide the employee with a written notice of termination at least two weeks before the effective date of termination. The notice shall state the effective date of the termination and shall inform the employee of the appropriate appeal procedure.

5.13.2. A copy of the written notice shall be forwarded to the Personnel Office for the employee's file.

5.13.3. Any public statements regarding the termination of an employee in the executive or management services, or under special appointment, or related inquiries, shall be referred to and coordinated by the Department's Public Information Officer.

5.14. Denial of Annual Pay Increase

5.14.1. The appointing authority or designee shall meet with the employee and discuss the reasons for the denial of the annual pay increase.

5.14.2. The Personnel Office shall submit the completed Notice of Disciplinary Action, Notice of Denial of Increment for Reasons of Performance, and MS

310 to the Department of Budget and Management in accordance with applicable time requirements.

5.15. Unsatisfactory Report

5.15.1. Form MS 106 shall be completed by the institution, facility or area whenever an employee leaves employment after unsatisfactory service.

5.15.2. Forms MS 310 and MS 106 shall be forwarded to the DJJ Personnel Office.

5.16. Extension on Probation

5.16.1. At the sole discretion of the appointing authority or designee, an employee's probationary period may be extended if:

5.16.1.1. The appointing authority decides that additional time is necessary to allow the employee to demonstrate proficiency in the performance of the employee's assigned duties and responsibilities;

5.16.1.2. In the appointing authority's judgment, the period of the employee's absence on approved leave is sufficient to prevent the appointing authority from making a reasonable decision regarding the proficiency of the employee's performance; or

5.16.1.3. The employee requests to extend the probationary period.

5.16.2. Except as provided in subsection 5.16.2.1 of this subsection, an employee's probationary period may be extended under subsection 5.16.1.1 of this section up to one additional 6-month period.

5.16.2.1. For an employee appointed to a skilled service position below grade 7, an employee's probationary period may be extended under subsection 5.16.1.1 of this section up to one additional 3-month period.

5.16.3. The supervisor shall meet with the employee before the employee's initial probationary period ends and discuss the reason for the extension of probation.

5.16.4. The supervisor shall explain what the employee needs to do to successfully complete probation and that the employee shall continue to receive monthly evaluations.

5.16.5. The employee shall sign the Probationary Evaluation Form and receive a copy.

6.0 APPEALS AND GRIEVANCES

6.1. Appeal of an Adverse Action

6.1.1. An employee has the right to appeal an adverse action that is taken against him or her. There are several types of appeals described in this section.

6.1.2. An appeal may be initiated by completing the Universal Appeal and Grievance Form.

6.1.3. The appointing authority and the employee may agree to: hold in abeyance a disciplinary action for a period not to exceed 18 months in order to permit the employee to improve conduct or performance; impose a lesser disciplinary action as a final and binding action; or waive or extend any time limits stated in this policy.

6.1.4. A failure to decide an appeal is a denial decision from which an appeal may be made.

6.1.5. If an employee fails to appeal a decision, the employee is deemed to have accepted the decision.

6.2. Types of Appeals

6.2.1. Grievance Appeals

6.2.1.1. An employee may file a grievance appeal with regard to the interpretation and application of State personnel rules, regulations or policies over which management has control.

6.2.1.2. In accordance with Title 12 of the State Personnel and Pensions Article, the grievance procedure consists of the following steps:

.01. Before initiating a grievance procedure, an employee shall present the matter orally to the employee's supervisor for informal discussion.

.02. A grievance procedure must be initiated by an employee within twenty (20) days after:

(a) the occurrence of the alleged act that is the basis of the grievance; or

(b) the employee first knew or reasonably should have known of the alleged act that is the basis of the grievance.

.03. Step One. The employee shall initiate a grievance appeal by filing a grievance in writing to the appointing authority or designee. A conference with the employee or the employee's designated representative shall be held by the appointing authority or designee within ten (10) days after receipt of the written grievance. The appointing authority or designee shall render a written decision within ten (10) days after the conference.

.04. Step Two. The employee may file a written appeal of the Step One decision to the Secretary's designee, who shall hold a conference with the employee or the employee's designated representative on behalf of the Secretary. The conference shall be held within ten (10) days after receipt of the written appeal. A written decision shall be issued within ten (10) days after the conference.

.05. Step Three. Within ten (10) days after receiving the Step Two decision, the employee may appeal, in writing, to the Secretary of Budget and Management, who shall hold settlement discussions. If the grievance is not settled, the Secretary of Budget and Management shall refer the grievance to the Office of Administrative Hearings.

6.2.2. Appeal of Disciplinary Actions

6.2.2.1. In accordance with State Personnel and Pensions Article, § 11-109, within 15 days after notice of a disciplinary action, the employee may appeal to the Secretary of Juvenile Justice.

6.2.2.2. The appeal shall state the issues of fact and law that the employee believes would warrant rescinding the discipline.

6.2.2.3. The Secretary or designee may confer with the employee before making a decision.

6.2.2.4. Within 15 days after receiving an appeal, the Secretary or designee shall issue a written decision.

6.2.2.5. Within 10 days after receiving the decision of the Secretary or designee, an employee or an employee's representative may appeal to the Secretary of Budget and Management who may mediate a settlement or refer the appeal to the Office of Administrative Hearings.

6.2.3. Appeals by Employees in the Executive or Management Service or Under Special Appointment

6.2.3.1. The appointing authority or designee may take any of the disciplinary actions specified in Section 4.3 against an employee in the Management Service, the Executive Service, or under Special Appointment.

6.2.3.2. In accordance with State Personnel and Pensions Article, § 11-305, and COMAR 17.04.05.05, an employee in the Executive or Management Service or under Special Appointment, serves at the pleasure of the appointing authority and may be terminated or disciplined for any reason that is not illegal or unconstitutional, solely in the discretion of the appointing authority.

6.2.3.3. An employee who is terminated or disciplined may, pursuant to State Personnel and Pensions Article, § 11-113, submit a written appeal to the Secretary within fifteen days after receipt of the notice of termination or discipline. The appeal is limited to the legal and constitutional bases for the termination.

6.2.4. Discipline of Probationary Employees

Probationary employees may appeal discipline only in accordance with State Personnel & Pensions Article, §11-109 and COMAR 17.04.03.17F.

6.3. Witnesses and Representatives

6.3.1. An employee may choose any person to assist or represent him or her at any step in the grievance process and shall notify the Department of that choice. Representatives who are employees of the Department shall not lose any pay for investigating, processing, or presenting a grievance.

6.3.2. An employee representing another employee must request approval for any release time from his or her normally scheduled shift by submitting written notice to his or her supervisor at least two weeks prior to the conference or hearing date. Such notice shall contain the location and time of the conference or hearing and the step in the grievance process.

6.3.3. Upon request, an employee shall have the right to union representation at any investigatory interview, mitigation conference, or disciplinary hearing, if the employee is the subject of the investigation or disciplinary hearing. It is not the employer's responsibility to inform an employee of any right to union representation. The employee shall be provided with at least one hour's notice of the scheduled meeting, interview, or mitigation conference. This notice may be verbal. The inability or failure to contact a representative, the unavailability of a representative, or the failure of a representative to appear shall not constitute grounds for postponing the interview, conference, or meeting.

6.3.4. Employees are required to give prompt, accurate answers to any and all questions concerning matters of official interest put to him or her. The role of the

union representative is to assist in the clarification of questions and otherwise advise the employee of his or her statutory, regulatory, or other legal rights. Under no circumstances may the union representative dominate the meeting or interfere with the employer's investigative process. A union representative may not instruct an employee to refuse any questions concerning matters of official interest. A union representative may not unilaterally end the conference, meeting, or interview. A union representative who engages in inappropriate conduct may be subject to discipline based on that conduct.

6.3.5. The right to union representation does not apply to: any discussion related to employee performance or a performance review; any criminal investigation; the execution of a matter of record, incident report, or other report describing an event or occurrence by an employee at the direction of management; the reporting of any arrest, protective order, conviction or other disposition; an investigation in which the employee is not the subject of the interview; and the administration of any drug or alcohol test, physical examination, or other non-verbal examination. The right to union representation does not include the right to an attorney or to legal representation.

6.3.6. The appointing authority may be represented at any time in the grievance process and may designate a representative for this purpose.

6.3.7. Employees or their representatives may request witnesses for step 1 and 2 conferences. Their availability will be determined by operational need.

6.3.8. Area Directors, Superintendents or directors shall ensure the presence of properly subpoenaed witnesses at scheduled OAH hearings. All time necessary for required witnesses to appear at scheduled conferences or hearings is considered work time and shall be compensated accordingly.

7.0 INVESTIGATIONS AND CHILD ADVOCACY UNIT (ICAU)

The Investigations section of the ICAU shall be responsible for the investigation and/or referral when appropriate, of all allegations of employee or vendor misconduct to include background and security inquiries, misdemeanors and felonies, administrative violations, and special investigations requested by the Secretary or other appropriate legal authority.

7.1. Organization and Functions

7.1.1. The ICAU will be comprised of trained investigators and child advocates.

7.1.2. The ICAU shall be headed by a Director.

7.1.3. Personnel assigned to the ICAU shall report directly to the Director who shall report to the Secretary of Juvenile Justice or the Secretary's designee.

7.1.4. Personnel assigned from other Departments or other agencies are ultimately accountable to their agency heads. This accountability is in all matters that relate to the performance of their official duties within the ICAU.

7.1.5. The Investigations and Child Advocacy Unit shall be accessible 24 hours a day, seven days a week via telephone during regular business hours, and when the office is closed or unattended, through an On-Call Investigator.

7.2 Authority for Conducting Investigations

7.2.1. The ICAU's authority for conducting investigations is at the direction of the Secretary.

7.2.2. The ICAU shall make an evaluation of all complaints received and refer investigations to the appropriate investigative body. The Director has authority to assign complaints of alleged administrative violations to Area Directors, Superintendents or Directors of State juvenile facilities, or Program Administrators of privately operated programs or facilities.

7.2.3. The ICAU shall have sole authority and responsibility for the investigations conducted by the unit.

7.2.4. Lawful requests by the ICAU for assistance, access, and items necessary for conducting investigations shall be handled as if the Secretary made the request.

7.2.5. The ICAU shall assume investigation of complaints assigned to the Area Directors, Superintendents or Directors of State juvenile facilities, or Program Administrators of privately operated programs or facilities, upon direction of the ICAU Director, Secretary or Secretary's designee.

7.3. Incidents and Complaints Requiring Notification to the Investigations and Child Advocacy Unit

Infractions of a minor nature are the responsibility of the Area Directors, Superintendents or Directors of State juvenile facilities, or Program Administrators of privately operated programs or facilities, who are expected to take appropriate administrative action. The ICAU must be notified of all Emergency and Critical incidents as identified under Department Policy, and other infractions and incidents as may be required. Those infractions or incidents that shall be reported to the ICAU include:

- 7.3.1. Admission to the hospital or non-routine, off-grounds medical care of a youth or on-duty staff;
- 7.3.2. Allegations of child abuse or excessive use of force;
- 7.3.3. Arrest of a youth or when law enforcement officials come on the grounds of a facility or program;
- 7.3.4. AWOL of youth
- 7.3.5. Community disturbance by youth;
- 7.3.6. Criminal arrest of an employee or volunteer of the State or a vendor;
- 7.3.7. Death, or life-threatening injury or illness of a youth;
- 7.3.8. Deaths and attempted suicides of employees;
- 7.3.9. Escapes and attempted escapes from any juvenile facility;
- 7.3.10. Incidents or emergencies which have the potential to develop into a major disturbance or attract media attention;
- 7.3.11. Physical plant problem that renders a facility uninhabitable;
- 7.3.12. Possession of a firearm or other deadly weapon at any DJJ office or juvenile facility;
- 7.3.13. Riot or disturbance resulting in bodily harm, property damage or notification of the police;
- 7.3.14. Sexual harassment;
- 7.3.15. Sexual misconduct while on duty;
- 7.3.16. Sexual contact that is inappropriate between youth;
- 7.3.17. Suicide attempt, gesture or ideation by youth;
- 7.3.18. Trafficking or possession of contraband, illegal substances or paraphernalia within State or privately operated facilities or programs
- 7.3.19. Unfit for duty due to consumption of alcohol or a controlled dangerous substance, including the illegal use of a prescription drug;

7.3.20. Unofficial associations by employees with delinquent youth, former clients of the Department or their families; and

7.3.21. Violations of the criminal laws of the United States or State of Maryland involving employees, youth, clients, and others, as well as property owned, leased, occupied or controlled by the Department. Included are those sections of the Transportation Article that are related to the operation of a motor vehicle while under the influence of alcohol or a controlled dangerous substance;

7.4. ICAU Notification Requirements

7.4.1. Superintendents or Directors of State juvenile facilities, or Program Administrators of privately operated programs or facilities will verbally report the incident to the appropriate Assistant Secretary/Area Director's Office between 8:00 a.m. and 5:00 p.m. weekdays; and the On-Call Administrator between 5:01 p.m. and 7:59 a.m. weekdays, all day Saturday, Sunday, declared State emergencies and holidays. If the incident involves a possible crime in progress, the appropriate law enforcement agency shall first be immediately notified.

7.4.2. The Assistant Secretary/Area Director or the On-Call Administrator shall immediately report the Emergency Incident verbally to the Investigations and Child Advocacy Unit between 8:00 a.m. and 5:00 p.m. weekdays and the On-Call Investigator between 5:01 p.m. and 7:59 a.m. weekdays, all day Saturday, Sunday, declared State emergencies and holidays.

7.4.3. Superintendents or Directors of State juvenile facilities, or Program Administrators of privately operated programs or facilities, will follow-up the verbal report of an Emergency Incident with an Incident Report Form (DJJ-00-01), and DJJ-00-02 when applicable, which **must** be faxed to the ICAU within one (1) hour. Reports of Critical Incidents will be faxed within two (2) hours.

7.4.4. Anonymous complaints shall be forwarded in the same manner as above.

7.5. Investigative Reports

7.5.1. All investigative reports shall contain complete information regarding the complaint and a clear chronological account of investigative action and findings. Original supporting documents and evidence necessary to reach a conclusion shall be included in the case file.

7.5.2. Administrative Investigation Reports shall conform to a report format designed by the ICAU Director and approved by the Secretary or designee. The format is a standard to be used by the ICAU, as well as the Superintendents or Directors of State juvenile facilities, or Program , Superintendents, or directors of State juvenile facilities.

7.5.3. The ICAU is the repository for all investigative reports assigned through the ICAU complaint control ledgers, regardless of the investigative body. Reports will be maintained in accordance with approved filing and retention schedules.

7.6. Responsibilities of ICAU Personnel

7.6.1. The Director shall report to the Secretary or designee regarding the operation and administration of the ICAU.

7.6.2. The Director shall be responsible to provide direction and supervision to all unit personnel.

7.6.3. The Director is responsible for the conduct of all investigations assigned to the ICAU.

7.6.4. The Director shall ensure that a record is completed and maintained on personnel investigated for administrative violations.

7.6.5. The Director will coordinate with the Secretary or designee, the Public Information Officer, and the Attorney General's Office before public release of information regarding investigations assigned to the ICAU.

7.6.6. The Director is responsible for contact with officials, other agencies, and appropriate government bodies regarding the operation of the ICAU.

7.7. Responsibilities of the Area Directors, Superintendents or Directors of State Juvenile Facilities, and Program Administrators of Privately Operated programs or facilities.

7.7.1. The Area Directors, Superintendents or Directors of State juvenile facilities, and Program Administrators of privately operated programs or facilities, shall cooperate and give the ICAU complete charge of an investigation assigned to the ICAU. This also applies to investigations initially handled by the Area Director, Superintendent, or director and later assumed by the ICAU.

7.7.2. The Area Directors, Superintendents or Directors of State juvenile facilities, and Program Administrators of privately operated programs or facilities, shall provide unimpeded access to all areas of the institution, facility or workplace.

7.7.3. The Area Directors, Superintendents or Directors of State juvenile facilities, and Program Administrators of privately operated programs or facilities, shall ensure employees cooperate with investigations.

7.7.4. The Area Directors, Superintendents or Directors of State juvenile facilities, and Program Administrators of privately operated programs or facilities, shall designate and assign appropriate staff as institutional investigators and intelligence coordinators who shall also act as ICAU liaison officers.

7.7.5. During investigations, the Area Directors, Superintendents or Directors of State juvenile facilities, and Program Administrators of privately operated programs or facilities, shall coordinate interviews with employees and youth.

7.7.6. The Area Directors, Superintendents or Directors of State juvenile facilities, and Program Administrators of privately operated programs or facilities, shall provide records, documents and information requested by an ICAU investigator.

7.7.7. The Area Directors, Superintendents or Directors of State juvenile facilities, and Program Administrators of privately operated programs or facilities, shall ensure that a completed Disciplinary Action Record is completed on all personnel investigated for administrative violations. This form shall be forwarded to the assigned investigator.

7.7.8. The Area Directors, Superintendents or Directors of State juvenile facilities, and Program Administrators of privately operated programs or facilities, shall ensure that confidentiality is maintained on all reports, records and documents relating to an investigation. This applies to disclosure of material requested by an investigator, as well as that provided to the Area Directors, Superintendents or Directors of State juvenile facilities, and Program Administrators of privately operated programs or facilities as a result of an investigation.

7.7.9. The Area Directors, Superintendents or Directors of State juvenile facilities, and Program Administrators of privately operated programs or facilities, shall provide office space, telephone access, and other necessary assistance to an investigator during an investigation.

7.7.10. The Area Directors, Superintendents or Directors of State juvenile facilities, and Program Administrators of privately operated programs or facilities, or designee, shall secure and preserve the scene of an incident until released to the ICAU or directed to do otherwise by the ICAU.

7.7.11. The Area Directors, Superintendents or Directors of State juvenile facilities, and Program Administrators of privately operated programs or facilities, are responsible for investigations assigned to their institutions, facilities or workplaces. Completed investigations upon approval of the Area Directors, Superintendents or Directors of State juvenile facilities, or Program Administrators of privately operated programs or facilities, are to be forwarded to the ICAU for filing and retention.

7.8. Responsibilities of Employees and Providers

7.8.1. Any employee or provider who is alleged to have committed an infraction or who is directly involved in an incident as outlined in Section 7.3. shall cooperate fully with ICAU personnel during the investigative process.

7.8.2. Any employee or provider who is a witness or a party to the commission of an infraction or an incident as outlined in Section 7.3. shall cooperate fully with ICAU personnel during the investigative process.

7.8.3. Any employee or provider shall cooperate fully and truthfully respond to all questions and requests for information made by ICAU in accordance with Sections 2.11.4 and 2.19.1 of this policy.