



State of Nevada

A SUPERVISOR'S GUIDE
TO
PROHIBITIONS AND PENALTIES
FOR CLASSIFIED STAFF

NEVADA SYSTEM OF HIGHER EDUCATION

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INTRODUCTION

Authority for setting behavior and performance standards is derived from Nevada Revised Statute, Chapter 284 and the “Disciplinary Procedures, Adjustment of Grievances and Prohibitions and Offenses” sections of the State of Nevada Rules for State Personnel Administration. These regulations provide that each appointing authority shall determine and describe in writing those activities that are inconsistent, incompatible or in conflict with the employees’ duties and responsibilities. The regulations require that a copy of the list of such activities must be provided to each employee. We provide this list to employees by issuing the “Prohibitions and Penalties” as a supplement to the employee handbook.

This manual is intended as a guide to clarify existing rules. It cannot include all of the various infractions and violations that could conceivably develop. It is, however, comprehensive enough to cover the majority of situations that experience reveals are a source of concern. Since this manual typifies the range of offenses generally occurring, it shall serve as a useful guide for supervisory personnel.

The State Personnel Commission has approved these Prohibitions and Penalties effective September 10, 1999; therefore, this manual has the status of a rule supplement and as such has the same force and effect as the “Rules and Regulations for Personnel Administration”.

IT'S YOUR JOB AS A SUPERVISOR

One of your major contributions to the NSHE is the development of an environment that fosters cooperative and effective work relationships. The establishment of an environment that allows your employees as individuals and as a group to voluntarily put forth their best effort begins with you. The effectiveness of the NSHE's programs depends largely on how well you – and other supervisors – measure up to this responsibility.

Each employee represents a substantial investment by the NSHE in terms of recruitment and training. To protect this investment the NSHE, through you, must make every effort to help each employee become and remain an efficient, productive, and satisfied worker. This places on you the responsibility of seeing that each of your employees know:

- The policies and regulations that govern their work.
- The objectives of their job and the unit in which they work.
- The duties and responsibilities of their position.
- The accepted methods for performing these duties.
- The work performance standards for the job (NAC 284.468).
- How well they are meeting their own work performance standards.
- How they can improve their work and develop their knowledge, skills, and abilities.
- What is considered proper conduct on the job.
- What disciplinary action will occur for violations of regulations or misconduct.

WHAT IS DISCIPLINE?

Unfortunately, the term “discipline” has taken on a disagreeable and negative meaning in today’s society. There is a tendency to think of discipline entirely in its most limited sense: as an action taken against an employee who has been guilty of some violation of good behavior. This is sometimes called “corrective action”. While this is one use of the term, “discipline” also has a broader and more positive meaning.

The word “discipline” comes from the Latin word “disciplina” which means “instruction, teaching, and training”. Discipline, therefore, should be thought of in terms of instruction and training, rather than in terms of punishment and penalties. The conduct of well-disciplined employees is the result of training that motivates employees to accept and work in accordance with established standards. Acceptable conduct is the result of proper working habits established and maintained over a long period of time. Having proper working habits gradually leads to greater self-administered group discipline. In addition to preventing situations from developing that require “corrective action”, group behavior can also inspire an individual employee to excel in his/her performance.

The term *discipline*, as used in this guide, describes actions that correct and train employees to conform to the NSHE standards of performance and recognized standards of good conduct.

HOW TO DEVELOP PROPER BEHAVIOR

The following suggestions will help you as a supervisor to develop and maintain proper behavior in your staff. These suggestions are based on the belief that it is far more important for you to create and maintain good behavior than it is for you to develop a successful technique for handling corrective disciplinary cases. In other words, your emphasis and efforts should be on preventative rather than corrective action.

1. **Let employees know what is expected of them.** Every employee should be aware of the rules and regulations that govern his/her employment with the NSHE through the orientation process conducted by your Human Resources office, and through the employee's work performance standards.
2. **Set reasonable work objectives for your employees.** There is considerable truth in the statement that a supervisor can forget about corrective disciplinary actions if he sets reasonable work objectives for his employees and keeps them vitally interested in reaching these objectives. One approach is through work performance standards. The understanding of work performance standards by employees will go a long way toward preventing many instances of misconduct. When these standards of conduct have been followed long enough to become automatic, you will find that corrective disciplinary actions will take less of your time. This will give you time to develop, among your employees, the enthusiasm for the job and the satisfaction from the job that is so essential to full, long-term production.
3. **Create a favorable working atmosphere.** Create a working environment that will encourage your employees to do their best work. A good working environment involves not only physical conditions, but also personal and other intangible relationships. Remember that a word of commendation and praise for a job well done is just as essential to the maintenance of proper discipline as is the correction of an employee who has been guilty of misconduct.

Employees should feel free to offer suggestions for improvements in working methods and to bring grievances to you when they arise. You should realize that the existence of grievances among your employees is not necessarily a reflection on your skill as a supervisor. What really counts is the willingness of your employees to bring their grievances to you and your open-mindedness and fairness in handling the problems.

4. **Communicate continually with your employees.** Keeping the information flowing between you and your staff is critical to a successful working relationship and fosters a comfortable working environment. If disciplinary issues arise, they need to be brought to the employee's attention immediately to avoid future problems. If open communication has already been established, any potential disciplinary action will not be as difficult to address.

PROPER DISCIPLINE IS BEST FOR ALL

The vast majority of employees at the NSHE are competent, conscientious and efficient. In an organization the size of the NSHE, however, it is not surprising that there would be a few employees who willfully, thoughtlessly, or unwittingly violate the accepted standards of good behavior or who do not turn out a satisfactory day's work. Unfortunately, the actions of these employees reflect unfavorably on the NSHE.

If such instances are permitted to go without reprimand or correction, they will undermine the morale of other employees and lower confidence and respect of the public in all of our employees. Accordingly, it is in the best interest of all NSHE employees to see that inefficient or problem employees improve their performance or are separated from service.

You, as a supervisor, are charged with the responsibility for promptly taking corrective disciplinary action when it is appropriate for employees under your direction. It is also your responsibility to promptly bring instances that require such action to the attention of your Human Resources Department. The administration of prompt, fair, and effective corrective disciplinary action is just as essential to effective operations and good employee relations as is the commendation of employees for work well done.

If you, as a supervisor, take steps to correct behavior or take steps to terminate the service of uncooperative or incompetent employees, you will increase the respect you receive from your employees. You will also raise the prestige of all NSHE employees by demonstrating that merit is essential for continued employment.

WHEN OTHER METHODS FAIL

Proper discipline cannot be maintained and appropriate corrective disciplinary actions cannot be taken if you neglect your responsibility as a supervisor. Employees expect and want uniform adherence to recognized standards of conduct, and they respect the supervisor who maintains these standards.

When corrective disciplinary action seems necessary, you will want to keep in mind the following points:

1. Get all the facts and act promptly. It is important that corrective action be taken soon after an employee's action. This does not mean you should act before you have all the facts and have weighed them. It means you should act as soon as you have all the facts, have weighed the evidence, and have decided what to do on the basis of those facts. The longer the corrective action is delayed, the more unjustified and unfair it will seem to the employee and co-workers. Be sure you get the employee's perspective and objectively assess discrepancies before taking any action. Avoid the impression you have made up your mind prior to hearing the employee.
2. In deciding what corrective disciplinary action to take, or recommend you must:
 - Consider all the circumstances surrounding the situation.
 - Consider the seriousness of the employee's conduct in relation to the employee's particular job and employment with the NSHE.
 - Consider what the department has done to help prevent this type of behavior.
 - Consider the type of corrective disciplinary action for the type of offense involved. (Refer to Prohibitions and Penalties)
 - Consider the proposed disciplinary action in light of its training value, rather than strictly as a punishment or reprisal for the offense.
 - Consider what corrective disciplinary actions the department and your Human Resources Department have taken in similar instances.
 - Consider the employee's previous conduct.
 - Consider the probable cause of the employee's behavior.
 - Consider what corrective action will most likely eliminate the cause and prevent a reoccurrence.
 - Consider the employee's possible reaction to the corrective action.
3. Above all else, be fair and impartial in arriving at the corrective action you decide to take. Nothing will do more to undermine the morale of your employees and their confidence in you than the feeling that you are being arbitrary, unfair, or partial in your treatment of them. Be aware of the actions that really upset you personally as these feelings may affect your objectivity.

SUGGESTED GUIDE ON CORRECTIVE DISCIPLINARY ACTIONS

Various kinds and degrees of corrective disciplinary actions are suggested in this guide as an aid toward securing greater uniformity and more appropriate actions in disciplinary matters. Because the NSHE is a large complex organization, it is impossible to develop any “magic formula” that will automatically determine the proper corrective disciplinary action to be taken in every situation. Each situation must be considered on its own merits and circumstances.

The suggested range of actions indicated for a specific offense should not be interpreted to mean that a disciplinary action is necessarily unreasonable if it falls outside the minimum and maximum limits of the range indicated (as outlined in the Prohibitions and Penalties). The circumstances surrounding a particular situation may well justify a more or less severe action than those included within the range indicated. Nothing in this guide should be construed as constituting a waiver of the NSHE’s prerogative to administer corrective disciplinary action in any order that may be warranted.

Types of Corrective Disciplinary Actions

It is expected that all corrective disciplinary actions have been preceded by ongoing communication between the supervisor and the employee in an effort to correct the situation, unless of course there was no way of anticipating the employee’s offense from his/her previous conduct. It is also expected there are up-to-date Work Performance Standards in place and those standards have been communicated to the employee prior to any action taking place.

1. **Oral Warning/Verbal Counseling by the supervisor(s) who regularly directs the employee’s daily activities.** Before the meeting, thoroughly investigate the incident by gathering all the facts about the offense and evaluating them. Include in your investigation and subsequent discussion what rule was violated, who was involved, when and where it occurred, who witnessed the incident and what the employee’s past record is. During the meeting be sure to allow enough time for a thorough discussion of the incident. Listen to the employee and evaluate his/her explanation. If the employee denies there is a problem, explain your concern and reiterate to the employee specifically what you expect from him/her. Make sure the employee understands your expectations and ask the employee what he/she will do specifically to solve the problem. Explain that this is an oral warning, that he/she will receive a personal copy of the notes from the meeting, and that you are confident the problem will not occur again. After the meeting write a note summarizing the oral warning, give a copy to the employee, and keep a copy for yourself in the office file of the employee. If you need to take further action the notes will be valuable to show a history of problem performance and corrective action. Follow up on the employee’s performance and give feedback on improvements. If the employee does not improve, initiate another oral warning or proceed to a written reprimand.

2. **Written Reprimand by the employee's supervisor(s) whose responsibilities include taking formal corrective disciplinary actions.**

(This supervisor may or may not be the same person as mentioned in the oral warning section.) Written reprimands must be on the standardized form (NPD-52). In the body of the statement, be sure to include the following:

- the date of the incident (or knowledge of)
- the specific rule(s) violated or the performance problem that occurred
- reference the previous oral discussion(s) or any other counseling the employee received about appropriate performance
- a statement outlining the specific improvement in performance and behavior and a time limit in which the improvement must occur
- a statement regarding progressive disciplinary procedures/guidelines if the performance/behavior does not improve.

Discuss all of these points with the employee in a private setting, allowing plenty of time for the employee to respond. Evaluate the employee's explanation taking into consideration previous oral warnings. If the employee denies there is a problem, explain your concern and tell the employee specifically what you expect from him/her. Also explain that a copy of the written reprimand will go in the employee's permanent personnel record. After the formal discussion, follow up to see that the employee has improved his/her performance/behavior. Provide positive feedback to the employee for any improvement. If performance/behavior has not improved, consult with the appropriate Human Resources Department for further action. If the employee refuses to sign the form, state this fact on the form and obtain the signature of a witness.

**If actions 3, 4, or 5 are recommended for a permanent classified employee, the pre-disciplinary hearing guidelines must be followed (NAC 284.656). Employees so affected will have a right to a disciplinary hearing prior to action being taken. The Human Resources Department coordinates all pre-disciplinary hearings.*

- *3. **Suspension** without pay requires form NPD-41. If a written reprimand is not effective, or if the seriousness of the offense warrants, an employee may be suspended without pay for a period not to exceed 30 calendar days (refer to Prohibitions and Penalties). The appropriate Human Resources Department must review all disciplinary action involving a recommendation of suspension **prior** to the action. When meeting with the employee, describe the performance problem and review past discussions. Make sure the employee understands the purpose for the meeting and ask the employee to respond. Explain what disciplinary action you must take and why you believe you must take it. Explain specifically the performance/behavior you expect from the employee and ask the employee to commit to meet your expectations. Emphasize your belief that the employee can improve. After the meeting, follow up on the employee's performance making sure to praise the employee for any improvement. If the employee has not improved, consult with the appropriate Human Resources Department for further steps. If the employee refuses to sign the form, state this fact on the form and obtain the signature of a witness.
- *4. **Demotion** to a lower class requires NPD-41 form. Refer to the Prohibitions and Penalties for offenses that may result in demotion. If the employee refuses to sign the form, state this fact on the form and obtain the signature of a witness. Please consult your Human Resources Department prior to taking any action.
- *5. **Dismissal** from service requires NPD-41 form. Refer to the Prohibitions and Penalties for offenses that may result in dismissal. If the employee refuses to sign the form, state this fact on the form and obtain the signature of a witness. Please consult your Human Resources Department prior to taking any action.

NOTE: The Human Resources Department must review all disciplinary actions involving a recommendation of suspension, demotion, or dismissal of a regular employee prior to the action.

WHEN IT IS NECESSARY TO DISMISS AN EMPLOYEE

(The following is provided as general information only.)

The “Dismissal Meeting”

Dismissing an employee is one of the most difficult responsibilities of a supervisor. So it is important that managers and supervisors give careful consideration to how employees are dismissed to avoid possible legal liability and to minimize the disruption terminations can have on an employer’s operations. By following proper procedures, a manager can help ensure that dismissals are carried out in a manner that complies with federal and state laws, maintains workplace security and safety, and protects departmental property.

As a general rule, it is inadvisable to dismiss an employee on Friday. The employee dismissed on a Friday will usually be distraught over the dismissal during the weekend. Since most businesses are closed on weekends, the employee will not utilize the weekend to search for another job, but rather will let a sense of injustice fester. This leads to the former employee contemplating legal action. Moreover, dismissing an employee at the end of the day is equally inadvisable. The goal in dismissals is to do everything to minimize the risk of a lawsuit. By dismissing an employee at the end of the day, the employee believes, that he/she has been used by the employer up until the last minute.

Where to hold the “Dismissal Meeting”

When deciding where to hold the “dismissal meeting,” one fact should be paramount in the employer’s mind: to lessen the employee’s discomfort, including any potential embarrassment or humiliation, and to increase the chance that the employee will quickly regain his or her composure and not fall apart. As a general rule, the interview should be private, held in a conference room or in some other area. Avoid the normal work area. Two employer representatives should be present during the dismissal meeting. Notification of dismissal should come from the employee’s manager or immediate supervisor. The “dismissal meeting” should cover such information as:

- How and why the employee is being dismissed;
- When the dismissal will be effective;
- Collecting departmental property (such as keys, credit cards, cell phones, pagers, etc.); and
- What benefits, including unemployment and health insurance (COBRA), will be available to the individual.

Conducting the meeting

Supervisors should maintain a businesslike tone. When conducting the meeting, stay away from small talk. It is absolutely imperative that the employee be informed of the decision within the first few minutes. The decision must be explained briefly and clearly. Tell the truth. This is more easily stated than done. Do not gloss over the dismissal reasons.

- Refrain from blaming others. Managers and supervisors should not attribute the decision to others in the department. Do not say: "I'm sorry, Frank, but John has decided you have to be let go" or even worse, "I'm sorry, you know if it was up to me, you wouldn't be terminated."
- Stick to the facts.
- Make the dismissal announcement objective.
- Avoid assumptions or subjective inferences.
- Avoid accusing an employee of improprieties in the dismissal announcement unless the employer can absolutely prove it.

The failure to tell an employee the truth about the reason for his or her dismissal can be fatal to an employer's case should there be a lawsuit.

Supervisors must state clearly that this is a final decision. Often times an employee will buffer himself or herself from traumatic news by failing to hear or failing to understand the news. The supervisor must make it very clear that the employee is dismissed. Although, as a supervisor you may feel sympathetic, especially when the employee's reaction is emotional, the supervisor should merely listen and avoid getting into a prolonged discussion with the employee.

Dealing with Arguments, Threats and Emotional Reactions.

Employee reactions can run the gamut from anger to tears to dead calm. Loss of a job comes as a severe shock, even when the employee expected and had ample warning through the progressive discipline process.

The supervisor should never argue with the employee in an attempt to justify the decision. Supervisors should be courteous, confident, firm and unwavering. A supervisor should never apologize for the decision.

The employee who tries to get the supervisor to change the dismissal decision by asking what he or she can do to get the job back must be told that it is too late for this job, but can be advised on work behaviors the employee should try to improve for the next job.

An employee may bring up personal or financial issues and how losing his or her job will devastate the family. The supervisor should refrain from a "you should have thought of that before" but can point out that the employee had ample warning through the progressive discipline process.

If the employee begins crying, the supervisor should not attempt to get him or her to stop, but allow time for the employee to recover. The supervisor should show concern, perhaps offer a tissue or a glass of water, but not apologize.

If the employee reacts by shouting and cursing, the supervisor should state emphatically that the interview will not continue until the individual calms down. Above all, the supervisor should not respond in kind but retain a normal tone of voice.

Dismissed employees often make threats that they have no intention of carrying out. If an employee threatens to go to a lawyer, a supervisor should not respond, or should merely make a neutral comment such as, "That is entirely your own decision." Of course if threats include violence or other illegal acts, supervisors may wish to call a witness. If violence appears imminent, the supervisor should immediately call security or campus police.

Rejecting Probationary Employees

During a probationary period, an employee may be rejected for any lawful reason. Federal and State Laws prohibit discrimination in employment on account of:

- Race, color, ancestry, and ethnic characteristics
- Gender
- Religion
- National origin
- Pregnancy
- Disability
- Age

If you, as a supervisor, are considering rejecting an employee during the probationary period, please contact your Human Resources Department prior to any action.

Pay and Benefits

Inform the employee to call his/her benefits office to arrange for continued insurance through COBRA. Inform the employee that his/her final paycheck will be received through the normal payroll cycle. The employer is not required to issue a special check upon termination of employment (NRS 608.020, 608.030 and 608.050 does not apply to State of Nevada when the state is acting as employer.). If an employee is eligible for an annual leave payoff, he/she can expect payment in the next regular pay cycle following receipt of the complete record in the Human Resources Department.

The Federal Unemployment Tax Act regulates unemployment insurance. Unemployment benefits are financed by a tax on a certain portion of wages paid to employees. Generally the amount an individual is entitled to receive is 50 percent of weekly earnings up to a maximum amount prescribed by state law. Benefits typically continue for 26 weeks. In periods of high unemployment, however, extended benefits are normally available. There is an initial waiting period in most states before benefits begin, typically one week.

In order to be eligible for benefits, an employee generally must have lost a job through no fault of his or her own and must be ready, willing, and able to work. Workers who are fired for gross misconduct are generally not eligible for benefits. Dismissed employees may contact their nearest unemployment office to apply for unemployment compensation.

Public Employees Retirement Program (PERS)

The Human Resources Departments are responsible for any notifications that must be made to PERS. Inform the employee that he/she may contact PERS directly for information pertaining to his/her own retirement account.

TRAINING REQUIRED FOR SUPERVISORS OF CLASSIFIED EMPLOYEES

Supervisors of classified employees are required to attend training to familiarize themselves with the unique terms and conditions associated with state employment. These requirements are mandated by the Nevada Administrative Code (NAC) 284.498 and, in the case of sexual harassment training, by the NSHE Board of Regents. The required training includes:

Sexual Harassment Training
Performance Evaluations
Equal Employment Opportunity
Interviewing and Hiring
Alcohol and Drug Testing
Progressive Disciplinary Procedures
Handling Grievances

Performance Evaluations

Training concerning the preparation of a report on performance must be completed before a supervisor can evaluate a classified employee. A supervisor may be certified in one of two ways:

- An Employee Appraisal Training tape provided by your Human Resources Department. This training tape has been approved and certified by the Department of Personnel in lieu of the state training class.
- "Employee Appraisal for Supervisors" offered through the State of Nevada Department of Personnel Training office.

Sexual Harassment Training

The NSHE Board of Regents has mandated "Sexual Harassment" training for all supervisors, managers, search committee members and tenure review committees. This training is offered on each NSHE Campus through their diversity offices, affirmative action offices, or human resources offices.

*The appointing authority may accept in lieu of the training required, supervisory training taken by a supervisor during the two years preceding his/her appointment.

Please note: The information provided in this section are courses required by the Nevada Administrative Code and the NSHE Board of Regents. Each NSHE campus may have additional requirements. Please contact your Human Resources Department for further information.