

# Delaware County Emergency Medical Service Standard Operating Guidelines

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Employee Discipline	August 1, 2007	All	1	9

Employees are required to conduct themselves in a highly self-disciplined manner, obeying the Delaware County Personnel Rules and Policies, Department Rules of Conduct, and Departmental Standard Operating Guidelines. In situations where employees do not adhere to these expectations, management will take the necessary action to correct the problem.

This procedure will guide Management in dealing with disciplinary problems when they encounter them. If Company Officers or Management Staff have any questions concerning employee discipline, they should be directed to the Chief.

## GENERAL INFORMATION

It is the policy of Delaware County EMS that supervisors administer discipline in a corrective, progressive, and lawful manner.

Any accusation of misconduct or complaint shall be investigated and discipline administered by the Captain on duty at the time of the incident. If there is a question of what member of the Management Staff should lead the investigation, the incident in question should be directed to the Chief.

Corrective discipline in the sense that the supervisor and employee come to an understanding about the causes and/or reasons for a employee's deficiencies, correct those deficiencies, and restore the employee to a productive and positive employment status.

Progressive discipline will typically begin with a verbal reprimand or warning and, when circumstances of separate or related incidents warrant, proceed to written reprimand(s), suspensions without pay, demotion, and finally to termination. An incident of misconduct may require any of these forms of disciplinary action whether or not a lesser form has preceded the action. This would depend upon the severity of the offense.

Lawful discipline and the procedure by which it is administered does not violate County Personnel Rules or Administrative Regulations, Departmental Rules of Conduct, any valid Memorandums of Understanding between the County and the Union, Standard Operating Guidelines, and/or the employee's constitutional rights.

The principal objective of disciplinary action is to improve (or correct) performance, efficiency and morale of the employee receiving discipline as well as that of the Department. Disciplinary investigations, during their process are confidential. The employee's immediate supervisor is responsible for maintaining this confidentiality. All media inquiries pertaining to disciplinary actions shall be directed to the Chief. Contents of a reprimand or separation notice, once placed in the employee's personnel file, are public record and subject to disclosure.

Supervisors should keep in mind that all disciplinary actions imposed are reviewed by their superiors, as well as being subject to the grievance process. It is mandatory that supervisors seek support from their

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superiors prior to initiating a disciplinary action, and feel comfortable that they can support their actions in a formal review or appeal process. Support from supervisors is extremely important when disciplinary action beyond a verbal reprimand is being considered. The Chief and Human Resources personnel, upon request of the supervisor, are available to provide staff support and guidance in any disciplinary action.

## EMPLOYEE ASSISTANCE PROGRAM

Occasionally supervisors will be approached by employees who are having personal problems and require some type of assistance. Many times just listening and helping the employees reason through the problem will be all that is needed. Other times, particularly with serious alcohol, drug, stress, marital or financial problems, and the employee may require professional assistance. This help is available through the County's Employee Assistance Program. Supervisors must be aware that when an employee's personal problems involve violations of County or Departmental Rules or Policies, disciplinary action may be necessary in addition to entering the Employee Assistance Program.

## UNION REPRESENTATIVE

Employees who are members of the IAEP bargaining unit have the right to Union representation in disciplinary actions if they so chose.

The presence of a Union Representative will require a non-unit supervisor to become involved. If the second level of supervision (or above) is directly involved in the disciplinary action and/or investigation of an employee represented by Local R7-11, the right of Union representation will be told directly to the employee. When an employee requests not to be represented by the Union in a disciplinary action and/or investigation, that request will be honored and documented.

## LEGAL REPRESENTATION

Supervisors MAY allow legal counsel for the employee in disciplinary actions resulting from alleged criminal activity. The legal counsel's function would be to advise the employee only, not to answer ANY questions for him/her.

## PROGRAMS FOR IMPROVING JOB PERFORMANCE

In most cases minor job performance problems can be resolved by the supervisor bringing the problem to the attention of the employee, and the employee making the proper modification in his/her performance. When a serious job performance problem is identified, the supervisor must decide whether to solve it through:

- Training
- Employee Assistance Program Services
- Non-Disciplinary Counseling or

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- Disciplinary Action

Each situation will be considered separately, and it will be the supervisor's responsibility to make a determination as to the best course of action to take to resolve the situation.

If the situation is determined to be a training problem, a program for improvement will be developed for the employee. This may best be accomplished through the use of an Employee Performance Appraisal Report. If a scheduled rating is used, the appropriate section or sections on the forms must be rated. If it is unscheduled, only the areas of the appropriate section or sections, which are unsatisfactory or require improvement, are rated.

When utilizing the Employee Performance Appraisal Report to prepare a program for improvement, attachments must be included that clearly identify the employee's problem area(s). These attachments must include measurable objectives for improvement. The program must also indicate a reasonable time frame within which the objectives are to be met. At the completion of the evaluation period, if the employee's performance has been corrected, another Employee Appraisal Report should be completed indicating compliance with standards in all areas. If the employee's performance has not improved sufficiently, the situation should progress and be dealt with as a disciplinary problem.

## INVESTIGATIVE PROCESS

Any accusation of misconduct or complaint involving employees shall be thoroughly investigated before formal action is taken. The investigation is a fact finding process and Supervisors must be cautioned not to make judgments until a thorough internal investigation is concluded.

For accusations and complaints of serious on-duty misconduct, an investigative report must be completed. Accusation or complaints of misconduct or a criminal act will be assigned by the Chief to the Assistant Chief for investigation. Exceptions to this are some misdemeanor infractions of the law, which will be investigated by the appropriate supervisor. The Chief, with approval of the County Administrator, has the discretion to suspend the employee (with or without pay), or reassign an employee pending the outcome of the investigation.

When a supervisor prepares an investigative report, it must include the following information before it will be considered complete:

Summary of the Incident – this must answer the questions: Who? What? Where? Why? When? How?  
In a criminal situation, a copy of the Police Report will be requested as well.

Interviews Conducted - this must include the interviewee, rank and assignment, date, time, location, those present, and the information discussed. If possible, a signed statement by the interviewee should also be obtained. Audio recordings of any interviews should be transcribed when possible.

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When an accused employee is being interviewed, and the complaint is of a criminal nature, the employee shall be advised that:

- He/she has the right to Union representation.
- The questions asked will be narrowly and specifically related to employment issues.
- Failure to cooperate is an act of insubordination, and serves as a separate basis for disciplinary action, up to and including dismissal.

Employee History - this is a summary of commendations, performance ratings, and previous disciplinary actions concerning the employee. The Department Personnel file and the employee's Human Resources File shall be reviewed. If the investigation involves criminal activity, a "Background Check" may be requested through the Delaware County Human Resources Department

Conclusions - from the information available, the supervisor must make a determination of responsibility. Extenuating circumstances may be discussed in this section.

Recommendations - state the recommended disciplinary action or alternate course of action, if any.

Attachments - relevant documents that the supervisor feels should be a part of the investigative report.

The completed report shall be forwarded to the Chief. The investigative report is CONFIDENTIAL and for administrative use only. Care will be taken to maintain the confidentiality of the report.

Questions concerning legal issues pertaining to Administrative Investigations should be directed to the County's Director of Human Resources via the Chief.

Disciplinary Hearing – in instances where a disciplinary action may result in the loss of pay, loss of rank, suspension or termination, the employee is entitled to the opportunity to a disciplinary hearing. The employer shall provide, in writing, at least 24 hours notice as to when the hearing shall take place. The employee is entitled to have union representation present during this hearing. There are, however, legal issues that management should keep in mind when conducting disciplinary hearings:

- An employee may be compelled by the Supervisor to answer questions that are related to his/ her duties or fitness for duty. Failure to answer such questions completely and truthfully may form the basis for disciplinary action, including dismissal. An employee under investigation should be so advised prior to an administrative interview. In an investigation involving a criminal matter, the employee should be advised of the following:
  - He/she has the right to Union Representation.
  - The questions asked will be narrowly and specifically related to employment issues.

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- Statements will not be used against an employee in criminal proceedings. If a subpoena is received for any of the information contained in the investigation, Delaware County Prosecutor's Officer will use all legal resources available to quash the subpoena.
- Failure to cooperate is violation of these rules and serves as a separated basis for disciplinary action, up to and including termination.
  
- If an attorney is permitted, and the matter is of a criminal nature, the attorney's function is to advise the employee, not to answer for him/her.
- Station premises, lockers, desks, etc. furnished by the Department for the use of employees are subject to inspection and, if reasonable grounds for suspicion exist, may be searched by supervisors without a search warrant. Items found may be used in a disciplinary proceeding. In most cases, management will insist that Delaware County law enforcement officers are present.
- If reasonable grounds for suspicion exist, an employee may be required by supervisors to submit to a blood or urine test to determine whether he/she is under the influence of alcohol, drugs, or controlled substances while on duty. These tests must be performed under medical supervision according to the Delaware County Employee Handbook.

## SUSPECTED ON-DUTY SUBSTANCE ABUSE

Reporting for work under the influence of alcohol or drugs, or any substance which impairs any employee's mental or physical capacity, will not be tolerated. The unauthorized use, sale, purchase or possession of alcohol or controlled substances at the work place is prohibited, and shall be grounds for discipline up to and including immediate termination. When there exists a reasonable ground to believe that the employee is under the influence of alcohol or drugs, the supervisor may direct the employee to submit to a drug screening and/or blood alcohol test. Refusal to submit to such test will subject the employee to disciplinary action up to and including termination.

Any employee using medication or prescribed drugs which may impair job performance shall report this fact to his/her supervisor.

Supervisory Responsibilities - If a supervisor has reasonable grounds to believe that an employee is under the influence of alcohol or drugs when reporting for work or during the work shift, the supervisor has the obligation to verify the employee's condition and relieve the employee of his/her duties, and the emergency vehicle involved should be taken out of service. The employee must NOT be sent home at this point! The next level supervisor must be notified of the situation and must respond to the workplace. A union representative shall be contacted to respond in case the employee requests representation.

The possibility of liability to the County and to the supervisor exists if an employee who is under the influence of alcohol or drugs is allowed to remain working, to operate or drive vehicles, or to drive a private vehicle away from the workplace. An employee who is believed to be under the influence of alcohol or drugs must not be allowed to operate or drive a vehicle, including a private vehicle, until the condition of the employee has been determined.

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Observation - If a supervisor observes an employee who seems, in his or her opinion, to be under the influence of alcohol or drugs, he/she should, if practical, seek the opinion of at least one additional supervisor. Reasonable grounds should exist before requesting the employee to take a drug screening and/or blood alcohol test. Reasonable grounds would include a combination of various factors such as, but not limited to, slurred speech, blood-shot eyes, unusually dilated or constricted pupils, incoherence, unsteadiness on feet, smell of alcohol or marijuana emanating from the employee, inability to carry on a rational conversation, increasing carelessness, erratic behavior, inability to perform the job, other unexplained behavioral changes, etc. The supervisors shall document these observations in writing. A copy of this document will be provided to the employee upon request.

Referral for Testing - If the supervisor determines that reasonable suspicion of impairment exists, the employee shall be directed to accompany the supervisor to Grady Memorial Hospital, Occupational Health Office, between the hours of 8 a.m. to 5 p.m. After hours 5 p.m. to 8 a.m., employees will be taken to Grady Memorial Hospital's Emergency Department for a drug screening or blood alcohol test to determine fitness for duty. All required releases and/or forms will be filled out and signed by the employee at Grady before a sample is obtained. The employee should be informed that tests will be conducted on County time, paid for by the County, and are part of his/her job responsibilities.

The employee should be informed that refusal to take a drug screening and/or blood alcohol test or sign a release of information form will be considered insubordination, and may face disciplinary action up to and including termination.

A drug screening or blood alcohol test found to be positive would be verified by an additional test. Grady will ensure adequate chain-of-custody for sample collection and testing. Upon request, a separate sample will be provided to the employee for independent testing at his/her expense.

Test Results - Employees who test positive or refuse the test or release of information shall be considered unfit for work and will be relieved from duty at that time. The employee should not be allowed to drive to the hospital or home. Arrangements shall be made for the employee to be picked up from the workplace by a friend or family member. If the employee submits to the test and signs the release of information, he/she will be placed on paid leave from "County business" until the status of the tests and the circumstances surrounding the impairment are reviewed by the Chief and the Director of Emergency Services.

## DETERMINING THE PROPER DISCIPLINARY ACTION

After an incident or complaint has been thoroughly investigated and the need for disciplinary action determined, the supervisor must make a decision concerning the action that would be most effective. Factors to be considered in making this decision are:

- Seriousness of the offense.
- Employee's past disciplinary history with the Department.

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- Past practice of DCEMS in dealing with similar offenses (Supervisors may have to consult the County's Director of Human Resources for this information).

Consistency is critical to any disciplinary system. Although disciplinary action for the same offenses should be "similar," the final decision to determine the exact action will be made after considering the factors previously listed, and applying them to the particular situation.

## SUPERVISORY COUNSELING

Verbal Counseling - This is the most often used and least severe of the formal group of corrective actions. It is, simply stated, a verbal warning. When properly administered, it serves to notify employees that certain behaviors or performance deficiencies need changing and/or improving, or that discipline will take place. The supervisor should keep notes of the counseling session for future reference and guidance. Notes or records should be placed in the supervisor's file.

Written Counseling - A supervisor may elect to document a corrective action with a memo of counseling. This memo of counseling may be placed in Employee Personnel File, and the discretion of the Chief.

## THE WRITTEN REPRIMAND

Supervisors may elect to use formal written reprimands to document a repeat offense of a minor infraction, or a more serious single infraction for which suspension, demotion or dismissal is not appropriate. The form used for issuing a formal written reprimand is:

Delaware County EMS Disciplinary Action Form

When the supervisor decides to issue a formal written reprimand he/she will prepare a Disciplinary Action Form. The distribution of the document is to include a copy for the Employee at the conclusion of the disciplinary meeting, a copy for the Supervisor's file, and a copy for inclusion in the employee's Departmental personnel file.

## PREPARATION OF MEMOS OF COUNSELING AND WRITTEN REPRIMANDS

A memo of counseling documenting a verbal reprimand or formal Written Reprimand are both addressed from the supervisor to the employee. These documents should be written as if the employee were being told the information in a conversation with the supervisor. The following must be included in these documents.

- The date of preparation.
- A description of the incident.
- The rule(s) and/or policy violation.

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- An explanation or what is expected of the employee in the future, written as a clearly stated objective.
- The disposition of the document.
- A review date for possible removal from his/her Personnel File in accordance with the Departmental SOG's and the Labor Agreement.
- The signature of both the supervisor and the employee, as an indication that the employee understands (not necessarily that he/she agrees with) the contents of the document and has received a copy.

If the employee refuses to sign a formal disciplinary action, the supervisor must obtain a witness' signature on the document indicating that refusal. The document is then forwarded as previously described. An employee's refusal to sign may be considered grounds for separate disciplinary action.

If, as a result of the disciplinary action, a formal grievance is filed, the Department will be represented in the grievance hearing by the appropriate Division Head or a designated representative. A date for review or a time at which the employee may request the removal of the document from the Personnel File may be indicated.

## SUSPENSION, DEMOTION OR DISMISSAL

Suspensions, demotions and dismissals are utilized as punitive, yet corrective measures taken for numerous repeated incidents of rule infractions or a single major infraction by an employee. It is the responsibility of the supervisor to stabilize a situation in which immediate action is necessary. This may require relieving the employee from duty (with or without pay, at the discretion of the Board of Commissioners) until a decision is made concerning the official action to be taken. Supervisors should not commit themselves to a particular form of disciplinary action prematurely.

The Chief will make a recommendation to the County Board of Commissioners, which is whom will make the final decision concerning suspensions, demotions or dismissal. This will ensure the consistency of serious discipline administered throughout the Department. When the final decision is made concerning the proper course of action, a Disciplinary Action Form will be prepared by the Command Staff, and disciplinary action will be administered.

## DISCIPLINE FOLLOW-UP

It is an objective of the Department that all disciplinary actions improve the performance of the employee. This will serve to complete the disciplinary process by providing a follow-up, insuring continuity and providing an opportunity to evaluate the success of disciplinary actions.

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## RESPONSIBILITIES

All disciplinary actions will be reviewed by the Assistant Chief approximately 90 days after the date of the occurrence. If a shorter time period is needed, the initial reporting officer should indicate it. On a monthly basis the Assistant Chief will review the disciplinary follow-up file to determine:

1. If a follow-up is required.
2. Who will conduct the follow-up interview (if necessary).

When the Assistant Chief determines a follow-up interview is needed, a copy of the incident will be forwarded to the intended interviewer in an envelope marked "confidential."

After the interview is completed, the copy of the incident will be returned to the Assistant Chief in an envelope marked "confidential."

Standard follow-up actions will be:

1. Probationary employees will be referred to the Captain to which they are assigned, who in concert with the Training Officer will conduct follow-up interviews (if necessary).
2. On-duty infractions below standard job performance and minor incidents will be referred to the employee's Captain, who with the immediate Supervisor will do the required investigation and follow-up interview (if necessary).
3. Off-duty infractions will be reviewed by the Assistant Chief, who will determine which person or persons shall conduct the follow-up.

Issuing Authority:



DCEMS Chief Rob Farmer

08/01/2007

Date