

SERENITY BEHAVIORAL HEALTH SYSTEMS

SUBJECT: **DISCIPLINARY/DISMISSAL ACTIONS, CLASSIFIED EMPLOYEES**
POLICY NUMBER: **HR-16.01**
EFFECTIVE DATE: **January 2009**
SUPERSEDES: **N/A**
LAST REVISION DATE: **July 2010**

POLICY:

It is the policy of Serenity Behavioral Health Systems (SBHS) to have a disciplinary procedure for classified employee's that is fair, prompt, and complies with the requirement of laws, Rules of the State Personnel Board and SBHS's policies. This policy is directed toward correcting inappropriate behavior or performance deficiencies unless the offense committed is one for which dismissal is the appropriate penalty. It is further designed to establish guidelines and procedures for managing discipline that are clear and understandable to both classified employees and supervisors.

GENERAL GUIDELINES:

- I. Supervisors have a responsibility to inform employees about job expectations and any relevant information (i.e., rules, policies, standards, etc.) that will assist employees in carrying out job duties. Employees have a responsibility to satisfactorily perform job duties and be familiar with the rules, policies and standards of the workplace. At a minimum, this should include an initial orientation and review of assignments at frequent intervals. It is especially important that changes in duties or standards be communicated as soon as practical.
- II. All rules, policies and standards should be consistently enforced. Consistency in enforcement does not mean that the penalty for violation must be precisely the same in every instance. The penalty may vary because of the severity of the offense, presence or absence of intent, the previous work record of the employee or other relevant factors. Similar situations should be handled in a similar manner.
- III. Supervisors and employees should be aware that it is not necessary or required that every disciplinary action be followed in every situation (i.e., oral reprimand, written reprimand, adverse action). Over a period of time, it may be appropriate to use several approaches, including disciplinary action, to address an employee's problem(s). Some situations, on the other hand, require immediate dismissal.
- IV. The basic guideline in each situation should always be to use the form of discipline that is most appropriate for the inappropriate behavior or performance deficiency.

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- V. Discipline should not be administered with the purpose of punishing the employee. The purpose of each action, with the exception of dismissal, should be to immediately correct the inappropriate behavior or performance deficiency.
- VI. Employees are responsible for reporting suspected criminal or administrative misconduct including fraud, waste, abuse and privacy violations relating to any SBHS program or operation. Employees who make false allegations and/or disclose information with willful disregard for its truth may be disciplined.
- VII. Employees are required to cooperate, fully and truthfully, and provide assistance, when appropriate, with any type of investigation regarding alleged criminal or administrative misconduct. This includes activities such as cooperating in interviews, answering questions related to the performance of official duties, producing requested documents, and polygraph or voice analysis examinations.

PRELIMINARY CONSIDERATIONS:

When a violation of a rule, policy or standard occurs, supervisors should:

- I. Research the facts and circumstances before deciding on the appropriate disciplinary action.
 - A. In a minor case, a one-time observation may be a sufficient basis for determining the type of disciplinary action that should be taken.
 - B. In a serious case, an extensive investigation may be necessary to determine the full extent of the offense before deciding on the type of disciplinary action.
- II. Determine the appropriate disciplinary action by considering several factors including but not limited to:
 - A. The seriousness of the offense;
 - B. Whether it was deliberate or unintentional;
 - C. The employee's work record of behavior and performance; and
 - D. Applicable rules, policies and standards.
- III. Take appropriate action promptly, observing the correct procedural requirements.

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CORRECTIVE MEASURES:

In addition or prior to taking disciplinary action against an employee, other corrective measures such as Attendance Plans, Unauthorized Leave Without Pay, Work Plans, Letters of Concern and Expectations, Written Warnings or Denial of Salary Increases may be appropriate to emphasize inappropriate behavior or performance deficiencies.

- A. **Attendance Plan:** In cases where an employee does not meet attendance requirements (e.g., chronic tardiness, absenteeism or abuse of leave), a formal Attendance Plan may be implemented. An Attendance Plan outlines specific expectations required of the employee. Medical or other supporting documents may be required if an employee has demonstrated excessive or abusive use of accrued leave or leave without pay. If attendance standards are not met, disciplinary action may be taken.
- B. **Unauthorized Leave Without Pay:** An employee who is absent without approval of a supervisor may be placed on Unauthorized Leave Without Pay for the period of absence up to a maximum of fifteen (15) calendar days. This unauthorized absence may be used as a basis for disciplinary action.
- C. **Work Plan:** A Work Plan (frequently called a “Corrective Action Plan”) is a written statement of specific work expectations. The plan is designed to give the employee the opportunity to raise performance to an acceptable level. If performance standards are not met, disciplinary action may be taken.
- D. **Letter of Concerns and Expectations:** A Letter of Concern and Expectations may be issued to an employee to outline concerns with the employee’s current behavior and/or performance. The letter should indicate the improvement(s) expected.
- E. **Written Warning:** A Written Warning may be issued putting an employee on notice that the employee’s current behavior and/or performance is not acceptable. Expectations and timeframes should be outlined for improvement.
- F. **Denial of Salary Increase:** An employee who receives an annual performance evaluation rating “Did Not Meet Expectations” in either the “Overall Rating for Job & Individual Responsibilities” section or the “Overall Rating for Terms and Conditions” section of the Performance Management Form (PMF) will not receive a performance based salary increase. The employee is to be placed on an Attendance Plan, or Work Plan, whichever is appropriate.

SUSPENSIONS WITH PAY:

While it is not a disciplinary action, Suspension With Pay may often precede or accompany a disciplinary action. If it is deemed in the best interest of SBHS, an employee may be suspended with pay as follows:

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- A. During an investigation of alleged misconduct.
- B. During the period of notice of separation while on working test, reduction in force, or adverse action.
- C. During the period between the arrest and indictment of the employee on a criminal charge and the disposition of the charge.
- D. For alleged unfitness to perform assigned duties where the alleged unfitness creates the potential for harm to the employee, co-workers, or others. The following requirements pertain to alleged unfitness to perform assigned duties.
 - 1. During a period of Suspension With Pay for alleged unfitness to perform assigned duties, the employee may be directed under limited circumstances to undergo a medical, (physical and/or psychiatric) examination at the expense of SBHS.
 - 2. Prior to taking any action, the supervisor must discuss the circumstances with the appropriate authority (i.e., Human Resource Manager or Chief Executive Officer [CEO]) and receive approval from the CEO.
 - 3. The employee will be required to release the results of the medical and/or psychiatric examination to the supervisor. The results must be considered confidential and are to be shared with individuals only on a “need to know” basis.
 - 4. Upon receipt of the results, a determination will be made regarding appropriate action.
 - 5. This type of Suspension With Pay cannot exceed forty-five (45) calendar days.

TYPES OF ADVERSE ACTIONS:

Adverse Actions are Suspensions Without Pay, Disciplinary Salary Reduction, Demotion, and Dismissal.

An employee may be suspended without pay for disciplinary purposes or for pending criminal court action when such pending criminal court action may deter the employee’s effectiveness in employment.

- I. A suspension without pay for disciplinary purposes should be proportional to the offense and shall not exceed thirty (30) calendar days for any one offense, or for multiple offenses arising out of the same incident. The CEO may suspend an employee for disciplinary purposes because of:
 - A. Negligence or inefficiency in performing assigned duties

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- B. Inability or unfitness to perform assigned duties
 - C. Insubordination
 - D. Misconduct
 - E. Conduct reflecting discredit on SBHS
 - F. Commission of a felony or other crime involving moral turpitude
 - G. Chronic tardiness or absenteeism
 - H. Failure to report for or remain at work without justifiable cause
 - I. Failure to process performance appraisals in a timely manner
 - J. Political activity
- II. A suspension for pending criminal court action shall not exceed the period of time necessary for the disposition of the action.
- III. At the end of a period of suspension without pay for pending criminal action the employee shall be returned to duty or terminated in accordance with other sections of these rules. If the disposition of the criminal action does not include any penalty to the employee, the employee shall be reinstated.
- IV. The Rules of the State Personnel Board outline specific procedural requirements for adverse actions.
- V. Except in cases, which warrant immediate dismissal, the supervisor should review the circumstances of the incident or offense, history of corrective measures and/or disciplinary actions previously taken against the employee prior to proposing an adverse action.
- VI. The SBHS Human Resources Department must be consulted in advance to discuss and determine the appropriate adverse action.

WRITTEN REPRIMANDS:

- I. A written reprimand may be issued to an employee due to significant or continuing inappropriate behavior or performance deficiencies. The Written Reprimand should contain similar information to the following:
- A. The date, time and/or place of the inappropriate behavior or performance deficiency;
 - B. Future expectations of the employee; and,
 - C. The consequences should the inappropriate behavior or performance deficiency continues.
- II. A written document that contains similar information as listed above, may be considered a Written Reprimand regardless of the title of the document.

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- III. In appropriate cases, a reprimand may be accompanied by a Work Plan or Attendance Plan in an effort to clearly inform the employee of how further disciplinary action or adverse action may be avoided.

SUSPENSION WITHOUT PAY:

The CEO along with the HR Manager will determine the length of suspension without pay on a case-by-case basis.

DISCIPLINARY SALARY REDUCTION:

- I. The CEO may reduce an employee's salary for disciplinary purposes because of:
- A. Negligence or inefficiency in performing assigned duties
 - B. Inability or unfitness to perform assigned duties
 - C. Insubordination
 - D. Misconduct
 - E. Conduct reflecting discredit on SBHS
 - F. Chronic tardiness or absenteeism
 - G. Commission of a felony or other crime involving moral turpitude
 - H. Failure to report for or remain at work without justifiable cause
 - I. Failure to process performance appraisals in a timely manner
 - J. Political activity

NOTE: Disciplinary Salary Reduction cannot be taken against FLSA exempt employees due to provisions of the Fair Labor Standards Act.

- II. Salary as a result of disciplinary salary reduction should be reduced by an amount equal to at least five percent (5%), and should normally be reduced by an amount equal to increments of 5% (e.g. 5%, 10%, 15% etc.).
- III. A disciplinary salary reduction may be permanent, indefinite or for a specified period of time conditional upon the employee's achievement of fully satisfactory performance and appropriate/acceptable behavior.
- IV. Employee's retain eligibility for the salary received prior to the disciplinary salary reduction upon approval by the CEO, the employee's salary may be restored on the first day of any pay period following the disciplinary salary reduction provided:
- A. The employee's behavior is fully satisfactory
 - B. The employee's performance is fully satisfactory
 - C. The employee has remained in the same position

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DEMOTION:

- I. The CEO may demote an employee because of:
 - A. Negligence or inefficiency in performing assigned duties
 - B. Inability or unfitness to perform assigned duties
 - C. Insubordination
 - D. Misconduct
 - E. Conduct reflecting discredit on SBHS
 - F. Commission of a felony or other crime involving moral turpitude
 - G. Chronic tardiness or absenteeism
 - H. Failure to report for or remain at work without justifiable cause
 - I. Failure to process performance appraisals in a timely manner
 - J. Political activity

- II. The salary of a classified employee with permanent status who is involuntarily demoted is to be reduced by an amount equal to at least five percent (5%). The salary cannot be less than the job minimum or exceed the pay grade maximum for the job to which the employee is demoted.

DISMISSAL:

- I. Employees may be dismissed when all other courses of action have been unsuccessful or when the situation is so serious that termination is necessary.

- II. The CEO may dismiss an employee because of:
 - A. Negligence or inefficiency in performing assigned duties
 - B. Inability or unfitness to perform assigned duties
 - C. Insubordination
 - D. Misconduct
 - E. Conduct reflecting discredit on SBHS
 - F. Commission of a felony or other crime involving moral turpitude
 - G. Chronic tardiness or absenteeism
 - H. Failure to report for or remain at work without justifiable cause
 - I. Failure to process performance appraisals in a timely manner
 - J. Political activity

NOTICE OF PROPOSED ADVERSE ACTION:

The CEO must give a classified employee who has obtained permanent status a written notice of any proposed adverse action at least fifteen (15) calendar days prior to the effective date of

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the adverse action except for an emergency situation. The notice of proposed adverse action must include the following:

- A. The effective date of the adverse action which must be at least fifteen (15) calendar days after the date notice of the proposed action is presented to or received by the employee, or properly delivered to the employee's last known address
- B. The specific charges or reasons for the adverse action
- C. A statement advising that the employee has a right to respond to the charges or reasons in writing, or appear before the CEO of SBHS at an agreed time during regular business hours within the response period
- D. A statement advising the employee that a failure to respond to the charges during the response period will result in the action being effective on the date specified without further notice
- E. A warning that failure to respond by the date set forth in the notice will result in a waiver of all further appeal rights including any appeal to the State Personnel Board

EMPLOYEE RESPONSE PROCEDURE:

The employee response procedure is created to protect the employee from erroneous or arbitrary adverse action. It is also created to afford SBHS an opportunity to re-evaluate its position on proposed adverse actions or forfeiture of position and to affirm or correct if necessary. The procedure does not require a full evidentiary hearing prior to the action. It requires only that the employee be given an opportunity to respond to the charges before the Program Manager of the program. The procedure must meet the following minimum requirements.

- A. The person to whom the response is to be made must be someone who has authority to countermand or delay the proposed action
- B. The employee must respond within ten (10) calendar days from the date the notice of proposed action is received. If there is no response by the employee by the date required in the notice of proposed action, the employee waives all further appeal rights. There can be no further appeal, including any appeal to the State Personnel Board
- C. The response may be made in writing, or in person, or both
- D. The employee may submit affidavits to support the response
- E. If the CEO determines that more than three (3) calendar days are needed to consider the employee's response to the proposed action, he/she may extend the period of consideration for a reasonable number of days by notifying the employee as to the length of the extension. The extension notice shall also state that the effective date of

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the proposed action shall be delayed the same number of days as the length of the period of extension for consideration.

- F. If the CEO to whom the response is made determines that charges in addition to, or substantially different from, those enumerated in the Notice of Proposed Adverse Action should be made, or that the adverse action should be more severe than the action specified in the Notice of Proposed Adverse Action or Forfeiture of Position, the CEO shall revoke the Notice by written notification to the employee. A new action, or other appropriate action, may then be instituted against the employee in accordance with these rules.
- G. Classified employees have the right to respond to a proposed adverse action to the Chief Executive Officer, by contacting his secretary at (706) 432-4891, 3421 Mike Padgett Highway, Augusta, Georgia 30906, within ten (10) calendar days from the date of notification of an adverse action. The response must be made during regular business hours of SBHS, which extend from 8:00 a.m. to 4:30 p.m. each Monday through Friday. Telephoning for an appointment is not a response.
- H. Classified employees also have the right to appeal a final determination of any adverse action to the State Personnel Board pursuant to Rule 24 by filing an appeal in writing with the Office of State Administrative Hearings, 235 Peachtree St. NE, Suite 700, Atlanta, Georgia 30303 within ten (10) calendar days from the effective date of the notice of final determination. The employee must complete OSAH Form 1 available from the Human Resources Department to the appeal.

DETERMINATION OF FINAL ACTION:

- I. The CEO shall issue a notice of determination of final action not later than three (3) calendar days after the date of response. The notice shall include:
 - A. The final action, i.e., dismissal, forfeiture of position, suspension, demotion, disciplinary reduction in salary or no action (employee's position upheld). The final adverse action may be different from, but not more severe than, the proposed action.
 - B. The specific charges for which the final action is taken.
 - C. The effective date of the final action (this date may not be any earlier than the effective date in the notice of proposed action.)
 - D. A statement advising that the employee may appeal this determination to the State Personnel Board by filing an appeal in writing with the Office of State Administrative Hearings within ten (10) calendar days from the date the employee receives written notice of the final action or decision or the effective date of the action or decision, whichever is later.
 - E. A statement reminding the employee that the ten (10) calendar day appeal period includes Saturdays, Sundays, and Holidays

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- II. During a notice period of adverse action or forfeiture of position, an employee is expected to perform assigned duties without disrupting fellow employees or SBHS's activities. Any action by the employee to the contrary will be considered an emergency situation as defined below.
- III. The CEO may take immediate adverse action against any employee in any of the following circumstances if:
 - A. It is likely that the employee has committed a felony or other crime involving moral turpitude; or,
 - B. The retention of the employee in active duty status may result in damage to property or may be disruptive, detrimental or injurious to the employee, fellow workers, and persons under the employee's charge or the general public.
- IV. The notice of adverse action under this section is the final determination of adverse action and must include the same items required above. It must also include a statement explaining the emergency situation that caused this section to be invoked.
- V. If on appeal to the State Personnel Board it is determined that the adverse action was correct but there was no emergency situation, the Board may take appropriate steps necessary to remedy the situation. In the case of a dismissal, this may include back pay for the normal notice period.
- VI. This Rule may be invoked only with the approval of the CEO.
- VII. The provisions of this section must not be used to circumvent the notice requirement of this rule. If SBHS is found to have abused this section, the Board may suspend future application of this section by SBHS.

RECOMMENDATION FOR RE-EMPLOYMENT:

Circumstances surrounding dismissal should be reviewed to determine whether it is appropriate to enter a recommendation that employees not be re-employed by SBHS in the future.

- A. In some circumstances, employees who are dismissed from employment are not to be re-employed. (See SBHS HR Policies HR-41.00 Criminal History Record Checks, HR-28.01 Drug Free Work Place Program and HR-28.02 Alcohol and Drug Testing Programs for mandatory disqualifications from re-employment.)
- B. Each circumstance, other than those requiring mandatory disqualification from re-employment, is to be reviewed on a case-by-case basis.
- C. If it is determined appropriate to enter a recommendation that an employee not be re-employed, "No Rehire" is to be selected on the Request For Personnel/Payroll Action form.

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- D. Documentation of the reason(s) supporting the request for “No Re-hire” must be available upon request.

NOTE: Questions regarding the reasons for entering a “No Rehire” code should be discussed with the Human Resource Manager.

INVOLUNTARY SEPARATION BASED ON RETIREMENT LAW:

- I. Employees, who first established membership in the Employees’ Retirement System (ERS) prior to April 1, 1972, and who has a minimum of eighteen (18) years of service with the State, have involuntary separation rights under the Retirement System Law.
- II. Specific procedures provided in law must be followed in order to separate an employee with involuntary separation rights.
- III. Because of the legal requirements associated with separations under this law, any time a long term (18 years or more) employee is being considered for separation, a thorough review should be conducted to determine if the employee first established membership in the Employees’ Retirement System prior to April 1, 1972.
- IV. When possible, prior to separating an employee under this law, the employee should be warned, in writing, that further inappropriate behavior or performance deficiencies could result in separation and possible loss of retirement benefits.
- V. In all cases, employees who meet or who may meet the qualifying requirements listed above must not be separated without prior consultation with the Human Resource Manager.

APPEALS:

The Rules of the State Personnel Board outline the basis on which an employee may file an appeal to the Board.

DISMISSAL / TERMINATION SETTLEMENT AGREEMENT:

If an employee is dismissed/terminated and, as a condition of a settlement agreement, the personnel file is to be partially purged, the following procedures must be followed:

- A. The Human Resource Manager shall ensure that the employee’s personnel file and any associated work history records are clearly designated with a notation that the file and records have been purged as a condition of a settlement agreement.

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- B. Such notification shall be disclosed to any subsequent governmental entity seeking information on the former employee's work history for the sole purpose of making a hiring decision.

REFERENCES:

- I. O. C. G. A. 47-2-2 and 47-2-123 (Involuntary Separation Retirement Law) Rules of the State Personnel Board PL 104-191: 104th Congress
- II. Rules of The State Personnel Board – Rule 24

APPROVAL SECTION:

Chief Executive Officer

Date

Committee Chairperson

Date

RESCISSION SECTION:

Chief Executive Officer

Date

REVIEW SECTION:

Committee Chairperson

Date

Committee Chairperson

Date

Committee Chairperson

Date