

# IDAHO STATE POLICE PROCEDURE

## 03.13 PROGRESSIVE DISCIPLINE AND DISCIPLINARY DUE PROCESS

### A. General

Corrective and disciplinary actions are processes intended to correct unsatisfactory performance or unwanted behavior at the earliest possible opportunity. The intent of corrective or disciplinary action is to correct, not punish an employee. Although punishment may be the final result of a corrective or disciplinary action, the intended purpose is to provide the employee with all the tools and information needed to become successful in the job.

Permanent classified employees are entitled to due process ([IDAPA 15.04.01.200.06](#)) before the Director makes any decision to impose discipline. Due process requires that the employee receive notice of the contemplated action and be given an opportunity to respond before a decision is made. Due process does not apply to unsatisfactory performance during entrance and promotional probation.

All employees, supervisors, managers and administrators are strongly encouraged to resolve conflicts, whether disciplinary or non-disciplinary, at the lowest management level possible. Agreement to referral for counseling or training may be used to address employee behavior issues, but are not required. As with the problem-solving process, mediation is always an alternative during disciplinary due process actions.

Corrective or disciplinary action will be fair, reasonable, and appropriate for the offense. The underlying principle of a sound progressive corrective and disciplinary action is to use the least severe action necessary to correct unsatisfactory performance or unwanted behavior, and to progress to more severe actions if the performance or behavior issues persist.

Any written corrective or disciplinary action taken against an employee shall be documented in the employee's next annual performance review.

Once a corrective or disciplinary action has been documented on an employee's annual performance review, that particular corrective or disciplinary action shall not be mentioned in any subsequent annual performance review unless the issue in question is a recurring issue.

Factors that will be considered in determining the nature and severity of corrective or disciplinary action are:

- The nature of the unsatisfactory performance or unwanted behavior, and the seriousness with which it affected the operations of the area in which the employee works
- The level of authority and responsibility of the employee
- The employee's work record including past performance, length of service, and previous corrective and/or disciplinary actions
- Previous efforts made to help the employee succeed

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### B. Progressive Corrective Action

1. For new or existing performance or behavior issues that have not yet risen to a level requiring formal discipline, supervisors will use some form of corrective action to address the issue with the employee.
2. The employee will also be notified that failure to correct the performance or behavior issue may result in further corrective or disciplinary action being taken, up to and including dismissal.
3. The Following are the types of corrective action, in order of severity:
  - a. Verbal Coaching: Typically used the first time an issue is being addressed. A two-way discussion between the immediate supervisor and employee will ensue to clarify the issue and exactly what is expected of the employee in the future.
  - b. Written Counseling: Typically used the second time an issue is addressed, or for issues generally seen as too serious to warrant additional instruction. Both the problem and the needed correction must be described in specific and objective terms. Utilize the [EHF 03.07-01 Counseling Record](#)
  - c. Letter of Reprimand: Typically used the third time an issue is addressed, or for issues clearly too serious for either Coaching or Counseling. When a supervisor anticipates issuing a letter of reprimand to influence or change an employee's behavior, the supervisor contacts the major/manager to ensure that the letter of reprimand is consistent with past agency actions given similar circumstances.
    - 1) Letters of reprimand are written in plain English and clearly describe the behavior being addressed.
    - 2) All letters of reprimand must contain:
      - i. an explanation of any violation of rule, statute, conduct expectations or procedure;
      - ii. an explanation of why the performance failed to meet the standards required for the position;
      - iii. a statement that if the action or behavior is not corrected and reoccurs, further and more severe discipline will likely follow; and
      - iv. a statement that the letter can be contested through the process described in ISP procedure [03.10 Problem Solving and Due Process](#).

### C. Disciplinary Due Process

1. Application of the disciplinary due process guidelines begins when an employee receives an [EHF 03 13-01 Notice of Contemplated Disciplinary Action](#):
  - a. the Notice includes the for-cause reason and corresponding legal citation which supports disciplinary action against a permanent classified employee as defined in [Idaho Code Section 67-5309\(n\)](#) and Division of Human Resources (DHR) [Rule 190](#);
  - b. the Notice provides an explanation of the information or evidence pertinent to the contemplated action;

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- c. the Notice includes a time period of 10 working days, within which the employee may respond:
  - 1) all timelines are subject to scheduled vacations, sick leave or other authorized leave, and official business travel;
  - 2) the response time may be extended by written agreement between the employee and the Director.
2. The completed [EH 03 13-01 Notice of Contemplated Disciplinary Action](#) (NOCA) is sent to the employee through the ISP Office of Professional Standards (OPS) Coordinator. The NOCA may be served in person or sent by certified mail. The OPS Coordinator provides served copies to the ISP Director's Office, the ISP Legal Services Office (Legal), ISP OPS, and ISP's Human Resource Officer (HRO) concurrently.
  - a. The OPS Coordinator initiates the [EH 03 01-009 NOCA Tracking](#) form. The form is forwarded to the Directors Office with a copy of the served NOCA, and any other relevant documentation.
3. A permanent classified employee who receives an [EHF 03 13-01 Notice of Contemplated Disciplinary Action](#) is entitled to an opportunity to respond in person or in writing:
  - a. the time period for the response may only be extended if both the Director and the employee agree in writing to an extension;
  - b. the employee may accept the opportunity and respond within the time period, reject the opportunity by failing to respond, waive a response, or resign in writing in lieu of disciplinary action;
  - c. if the employee fails to respond, a decision is made based upon the information available at the time.
4. The employee has the right to be represented by a person of his or her choosing during the opportunity to respond.
5. The Director makes the final decision after the employee has responded, failed to respond or waived the opportunity to respond in writing.
6. The Director notifies the employee of the decision no later than 10 working days after the employee has responded, failed to respond or waived the opportunity to respond in writing:
  - a. the decision and the completed [EHF 03 01-009 NOCA Tracking](#) form is sent or hand delivered to the OPS Coordinator.
  - b. The OPS Coordinator or his designee forwards the final decision to the employee in person, via email, or by certified mail. If applicable, an attorney may accept service on behalf of the employee.
  - c. The OPS Coordinator provides served copies of the final decision and the completed [EHF 03 01-009 NOCA Tracking](#) form to the ISP Director's Office, the ISP Legal Services Office (Legal), ISP OPS, and ISP's Human Resource Officer (HRO)

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- concurrently. ISP's HRO forwards a copy of the served NOCA and the final decision to the Administrator of the DHR.
- d. the -disciplinary due process procedure ends when the employee receives- the Director's final decision;
  - e. if a disciplinary sanction is imposed, the employee may appeal the decision to the Idaho Personnel Commission pursuant to [Idaho Code § 67-5316](#).

Letters of reprimand and NOCAs are processed and stored as outlined in ISP Procedure [03.08 Personnel Records](#).