



NEW MEXICO CORRECTIONS DEPARTMENT

Secretary
Alisha Tafoya Lucero

| | | |
|--|---------------------------------------|---|
| CD-037800 Disciplinary Action for Classified Employees | Issued: 3/29/91 Effective: 3/29/91 | Reviewed: 3/30/20 Revised: 3/4/15 |
| Alisha Tafoya Lucero, Cabinet Secretary | | <i>Original Signed and Kept on File</i> |

AUTHORITY:

- A. NMSA 1978, Section 10-9-13(H), as amended.
- B. NMSA 1978, Section 33-1-6, as amended.
- C. State Personnel Board Rules 1.7.11 NMAC.

REFERENCES:

- A. ACA Standard 2-CO-1C-04, *Standards for Administration of correctional Agencies*, 2nd Edition.
- B. ACA Expected Practice 5-1C-4048, *Performance Based Expected Practices for Adult Correctional Institutions*, 5th Edition.
- C. ACA Standards 4-APPFS-3E-16 thru 4-APPFS-3E-18, *Performance Based Standards for Adult Probation and Parole Field Services*, 4th Edition.
- D. ACA Standards 2-CI-6D-5, *Standards for Correctional Industries*, 2nd Edition.
- E. The Collective Bargaining between AFSCME and the State of New Mexico, September 13, 2005.

PURPOSE: [4-APPFS-3E-17]

Establish guidelines for the proper use of disciplinary action within the Corrections Department for classified employees.

APPLICABILITY:

All classified employees within the New Mexico Corrections Department.

FORMS:

- A. **Contemplated Employee Disciplinary Action** form (*CD-037801.1*)
- B. **Disciplinary Action Preparation** form (*CD-037801.2*) (2 pages)
- C. **Attached Proposed Disciplinary Action** form (*CD-037801.3*) (3 pages)
- D. **Oral Reprimand Documentation** form (*CD-037801.4*)
- E. **Response to Notice of Contemplated Action** form (*CD-037801.5*)
- F. **Attendance Development Plan** form (*CD-037801.6*)
- G. **Development Plan (employee performance)** form (*CD-037801.7*) (2 pages)

ATTACHMENTS:

- A. **Probationary Employee Attachment** (*CD-037801.A*)
- B. **Employee in Career Status Attachment** (*CD-037801.B*) (2 pages)

- C. **Sample Letter of Reprimand** Attachment (*CD-037801.C*) (2 pages)
- D. **Sample Letter for a Suspension of an Employee in Career Status** Attachment (*CD-037801.D*) (2 pages)
- E. **Notice of Final Action (in career status)** Attachment (*CD-037801.E*) (2 pages)
- F. **Sample Letter for a Suspension of a Probationary Employee** Attachment (*CD-037801.F*) (2 pages)
- G. **Sample Letter for a Demotion of an Employee in Career Status (notice of contemplated action)** Attachment (*CD-037801.G*) (2 pages)
- H. **Sample Letter for Demotion of an Employee in Career Status (notice of final action)** Attachment (*CD-037801.H*) (3 pages)
- I. **Sample Letter for Demotion of a Probationary Employee** Attachment (*CD-037801.I*) (2 pages)
- J. **Sample Letter for the Dismissal of an Employee in Career Status (notice of contemplated action)** Attachment (*CD-037801.J*) (2 pages)
- K. **Sample Letter for the Dismissal of an Employee in Career Status (notice of final action)** Attachment (*CD-037801.K*)
- L. **Sample Letter for the Dismissal of a Probationary Employee** Attachment (*CD-037801.L*)
- M. **Sample Letter Requesting Administrative Leave** Attachment (*CD-037801.M*)

DEFINITIONS:

- A. Demotion: An employee's involuntary reduction in classification for disciplinary reasons to a position in a lower classification accompanied by a reduction in pay.
- B. Disciplinary Action: An action taken by a supervisor against an employee due to inadequate performance or unacceptable behavior or both.
- C. Dismissal: The involuntary separation from employment of an employee for disciplinary reasons.
- D. Formal Disciplinary Action: A suspension, demotion or dismissal.
- E. Informal Disciplinary Action: An oral reprimand or letter of reprimand.
- F. Oral Reprimand: A private face-to-face meeting with an employee when a work-related performance or behavior problem is identified and a proposed solution to the problem is discussed and documented.
- G. Progressive Discipline: Efforts to help employee correct deficiencies in work performance or behavior through a progression of disciplinary actions from the least to the most severe.
- H. Suspension: An involuntary leave of absence without pay for disciplinary reasons for a period not to exceed thirty (30) calendar days.

- I. Written Reprimand: Written correspondence to an employee from a supervisor, which identifies a work-related performance or behavior problem and which may identify specific actions to correct the problem.

POLICY:

- A. The Corrections Department promotes the concept of progressive discipline and corrective action whenever appropriate. Individuals shall normally be dismissed only after efforts have been made to help that person correct any deficiencies in work performance or behavior. However, some misconduct is so severe as to not warrant progressive discipline and immediate dismissal is the only appropriate action. Furthermore, misconduct may justify the dismissal of a probationary employee. **[2-CI- 6D-5] [4-APPFS-3E-17][4-APPFS-3E-18]**
- B. Disciplinary actions shall be taken in a fair, timely and equitable manner for job-related reasons after appropriate investigations have been conducted and relevant facts have been considered.
- C. Previous disciplinary and counseling actions shall be considered, particularly when the previous disciplinary or counseling actions are of a similar nature.
- D. The judicious use of disciplinary action is a management responsibility, for which managers and supervisors will be held accountable. Disciplinary actions, though unpleasant, are a valuable management tool that can be used to ensure effective utilization of human resources.
- E. The delicate nature of disciplinary actions requires strict adherence to procedures, great attention to detail and thorough documentation. One should always assume that the disciplinary action will be challenged and that the Department will have to fully justify the appropriateness of the disciplinary action.
- F. Failure to follow proper disciplinary procedures may result in disciplinary action against the supervisor and chain of command involved.
- G. Any settlement or order requiring the payment of back wages is to be paid from the budgeted activity from which the disciplinary action arose.
- H. Employees on permanent status have the right to request and exhaust grievance and appeals procedures, including an open and formal hearing, prior to their termination or demotion or other adverse personnel action in accordance with applicable state/federal law or regulations to ensure fairness. **[4-APPFS-3E-16]**



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AUTHORITY:

Policy *CD-037800*

PROCEDURES: [2-CO-1C-04] [2-CI-6D-5] [4-APPFS-3E-17] [4-APPFS-3E-18]

A. The Disciplinary Process:

1. *Probationary Employees:*

Disciplinary action letters for probationary employees shall be processed in accordance with the procedure outlined on Attachment (*CD-037801.A*).

2. *Employees in Career Status:*

Disciplinary action letters for employees in career status shall be processed in accordance with the procedure outlined on Attachment (*CD-037801.B*) (2 pages).

B. Oral Reprimands, Letters of Direction, Counseling and/or Caution:

1. Oral reprimands shall be documented utilizing **Oral Reprimand Documentation** form (*CD-037801.4*). Letters of direction, counseling and/or caution shall be documented in memorandum form.
2. Oral reprimand documentation, letters of direction, counseling and/or caution shall be made part of the official personnel file. Employees shall be made aware that oral reprimands, letters of direction, counseling and/or caution will be placed in their official personnel file and a copy provided to the employee.
3. Oral reprimand documentation is generally to be retained only for one (1) year. After one (1) year, the employee may request to have the reprimand removed from the personnel file.
4. Letters of direction, counseling and/or caution are generally retained for six (6) months, except as allowed under (*CD-030600*). After six (6) months, the employee may request to have the documented counseling removed from the personnel file.

5. If an oral reprimand or letter of direction, counseling and/or caution is not removed from the personnel file upon request of the employee, documentation must be provided to the employee explaining why it was not removed. A copy of the explanation will be attached to the original documentation and kept in the personnel file.
6. Oral reprimands and any form of counseling should be conducted in a private location. Reprimanding employees in a public location is not an acceptable personnel practice.
7. Oral reprimands are the mildest form of disciplinary action.
8. Letters of direction, and corrective action counseling and/or caution are not considered disciplinary and are for counseling and corrective action purposes only; however, they may be used for the purpose of progressive discipline if similar conduct/deficiencies continue.

C. Written Reprimands:

1. Written reprimands shall closely resemble the sample format on Attachment (*CD-037801.C*) (2 pages). Written reprimands must be sent to the Central Office Labor Relations Bureau for approval prior to being served.
2. Written reprimands often follow an oral reprimand or letter of counseling/guidance /caution for a similar infraction and are considered more severe than an oral reprimand.
3. Written reprimands are considered informal disciplinary actions because they do not result in a formal personnel action that could be appealed to the State Personnel Office.
4. Written reprimands are placed in the employee's official personnel file. For this reason, employees shall be given a copy and shall be given the opportunity to grieve the written reprimand.
5. One (1) year after a written reprimand has been issued to an employee; the employee may submit a written request to the appointing authority to have the letter removed from the file. Provided that there has been no intervening discipline assessed against the employee, the letter shall be automatically removed from the employee's file. In the event that intervening discipline has been assessed against the employee, the determination of whether or not to remove the letter shall be at the discretion of the appointing authority. If the written reprimand was utilized to support progressive discipline in a formal disciplinary action, the reprimand will remain a permanent part of the personnel file.

D. Suspensions:

1. Letters of suspension shall closely resemble the sample formats on Attachment (*CD-037801.D*) (2 pages), Attachment (*CD-037801.E*) (2 pages), and Attachment (*CD-037801.F*) (2 pages) and shall be carried out in accordance with applicable State Personnel Board Rules.
2. Suspensions are the mildest form of formal disciplinary action.
3. Documentation that results in a suspension must become a permanent part of the official personnel file.
4. Suspensions shall be carried out promptly and at the administrative convenience of the Department.
5. Suspension letters shall be very specific as to when the employee is required to report back to duty.
6. Approving leave in conjunction with a suspension is an unacceptable personnel practice, and will not be allowed.
7. A suspension is a disciplinary action whereby the employee is not allowed to report to work for a specified number of days and is not paid for those days.

E. Demotion:

1. Letters of demotion shall closely resemble the sample formats on Attachment (*CD-037801.G*) (2 pages), Attachment (*CD-037801.H*) (3 pages) or Attachment (*CD-037801.I*) (2 pages) and shall be carried out in accordance with applicable State Personnel Board Rules.
2. Documentation that results in a demotion must become a permanent part of the official personnel file.
3. Demotions must be effective on the first day of a pay period.

F. Dismissal:

1. Letters of dismissal shall closely resemble the sample formats on Attachment (*CD-037801.J*) (2 pages), Attachment (*CD-037801.K*) or Attachment (*CD-037801.L*) and shall be carried out in accordance with applicable State Personnel Board Rules.
2. Dismissal is normally the last step of progressive discipline for an employee, or the result of conduct or behavior so egregious that progressive discipline would be inappropriate. Documentation that results in a dismissal must become a permanent part of the official personnel file.

3. Allowing individuals to voluntarily resign in lieu of dismissal is not the preferred practice but may be an acceptable practice under the proper circumstances. Care must be taken to ensure that the employee does not feel coerced to resign. Employees should be given twenty-four (24) hours to contemplate such a resignation. State Personnel Board rules require an employee be given an opportunity to rescind a resignation within seventy-two (72) hours of its submission.
4. Dismissed employees must be paid for all accrued Holiday compensatory time and annual leave (not in excess of 240 hours). Compensatory time will only be paid out to FLSA covered employees.

G. Rebuttal Opportunities:

1. Probationary employees who would like to rebut statements contained in formal disciplinary action letters shall follow the Employee Grievance procedure. Appropriate grievance procedure forms shall be completed and appropriate time frames shall be followed.
2. Employees in career status who would like to rebut the statements contained in formal disciplinary action letters shall have two opportunities to do so. They are as follows:
[4-APPFS-3E-16]
 - a. Each employee in career status shall be given an opportunity to provide a written response or an oral response to statements contained in the Notice of Contemplated Action. Each career status employee shall be informed of this opportunity by use of the **Response to Notice of Contemplated Action** form (*CD-037801.5*), which must accompany the Notice of Contemplated Action. The form must be returned within eleven (11) calendar days (fourteen (14) calendar days if mailed) of the date of service of the Notice of Contemplated Action. The opportunity to respond shall take place within eleven (11) calendar days of receipt of form (*CD-037801.5*), unless both employee and employer agree in writing to an extension.
 - b. Each career status employee shall be informed of the right to appeal the disciplinary action to the State Personnel Office within thirty (30) calendar days of the effective date of the discipline after the Notice of Final Action has been served. The employee must submit a copy of the Notice of Final Action with the employee's notice of appeal. Such notification shall take place with a written statement of the grounds for the appeal, and the Notice of Final Action.
 - c. Each bargaining unit employee shall be informed of the right to appeal the disciplinary action to the State Personnel Board (SPB) or make an irrevocable election to have the appeal decided by an arbitrator within thirty (30) days of the effective date of the discipline after the Notice of Final Action has been served. The employee must submit a copy of the NFA with a written statement of the grounds for the appeal. Such notification shall take place within the Notice of Final Action.

3. When in the interest of the agency, including for purposes of investigating violations of policy or for completing the disciplinary process, Wardens or Division Directors may grant up to five working days of administrative leave without having to obtain the approval of the Secretary of Corrections. Such leave should be granted only when the orderly functioning of the institution or the security of NMCD or its institutions or offices is threatened or when personal safety of individuals is jeopardized. Granting administrative leave should not be automatic. Alternatives to administrative leave (e.g., temporary work reassignments) should be used, if at all possible. When an employee is placed on administrative leave, the supervisor shall inform the employee verbally and in writing of any restrictions pertaining to entering NMCD facilities/offices or contacting NMCD employees.
4. The Secretary of Corrections may grant an additional fifteen (15) working days (not to exceed a total of one hundred and sixty (160) working hours) of administrative leave. Letters requesting administrative leave beyond five (5) days must closely resemble the sample format on Attachment (*CD-037801.M*). Administrative leave beyond five (5) working days must be approved in writing in advance by the Secretary.
5. In accordance with State Personnel Board Rule 7.11.12, administrative leave cannot exceed one hundred and sixty (160) working hours (usually twenty (20) work days), without the approval of the State Personnel Director.

H. Disciplinary Letter Content:

1. Disciplinary action letters are legal documents that require great attention to detail. Letters must be clear and concise and provide the recipient with the essential facts that pertain to the disciplinary action.
2. Statements in disciplinary action letters should be factual and specific rather than general, personal, or superficial in nature.
3. Whenever possible, disciplinary action letters should cite specific policies, procedures, rules, statutes, etc., that have been violated. Care shall be taken to ensure that these policies are still in effect and that they apply to the specific circumstance.
4. Disciplinary action letters for formal disciplinary actions must be signed by the Department Secretary, Deputy Secretary, Division Director, Bureau Chief, Warden or Probation and Parole Regional Manager.

I. Service:

1. Formal disciplinary action letters shall be served in accordance with State Personnel Board Rule 1.7.1.10 NMAC.

2. Formal disciplinary action letters shall be hand-delivered whenever possible and the certified mail method of service should only be used in unusual cases when the Department has attempted to serve the notice personally but was not able to do so and cannot do so without undue burden. Also, when a letter is served by mail, the person receiving service shall have three (3) calendar days added to the response time contained in the letter.

J. Development Plans:

1. Development plans may be used in conjunction with either formal or informal disciplinary actions. Development plans are not considered disciplinary actions. The purpose of the development plan is to improve an employee's attendance and dependability and/or performance.
2. Development plans to improve an employee's attendance and dependability should closely resemble the sample format on form (*CD-037801.6*) (2 pages).
3. Development plans shall ordinarily be in effect for six (6) months and shall ordinarily be reviewed monthly with the employee in order to discuss and document compliance with the plan.
4. The development plan shall include a statement as to how often the supervisor and the employee will meet during the determined period to provide the employee with coaching and feedback.
5. Development plans to improve an employee's performance should closely resemble the sample format on form (*CD-037801.7*). Monthly reviews of an employee's compliance with the development plan shall be documented on page 2 of form (*CD-037801.7*).



NEW MEXICO CORRECTIONS DEPARTMENT

Cabinet Secretary
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Phone: 505.827.8645 Fax: 505.827.8533 cd.nm.gov

MEMORANDUM

TO: (Division Director or Warden)
FROM: (Bureau Chief or Deputy Warden)
DATE:
RE: (Employee)

I have reviewed all pertinent information and documentation attached hereto, with respect to Contemplated Employee Disciplinary Action regarding the above entitled Officer and based on recommendations submitted to my office by (person making recommendation).

- I AGREE** that (Facility or Division) should proceed with Formal Disciplinary Action.
- I DISAGREE** WITH THIS PROPOSAL AND HAVE ATTACHED NEWLY DEVELOPED FINDINGS AND RECOMMENDATIONS.

Signature

Date

.....
TO: (Labor Relations Manager)

FROM: (Division Director or Warden)

I have reviewed (Bureau Chief's or Deputy Warden's) recommendations and I:

- APPROVE** **DISAPPROVE**

Comments: _____

Signature

Date



NEW MEXICO CORRECTIONS DEPARTMENT

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CONFIDENTIAL MEMORANDUM

ATTORNEY-CLIENT PRIVILEGE ATTORNEY WORK PRODUCT

TO: Labor Relations Manager

FROM: Legal Services

SUBJECT: **DISCIPLINARY ACTION PREPARATION**

Please provide Legal Services with the following information on any proposed disciplinary action:

GENERAL INFORMATION:

NAME:

CLASSIFICATION:

HIRE DATE:

APPOINTMENT TO CLASS:

DATE OF LAST EVALUATION:

SCORE ON LAST EVALUATION:

EMPLOYEE DISCIPLINE HISTORY:

| | <u>DATE</u> | <u>INFRACTION</u> | <u>DISCIPLINE TAKEN</u> |
|----|-------------|-------------------|-------------------------|
| 1. | | | |
| 2. | | | |
| 3. | | | |
| 4. | | | |
| 5. | | | |

Please attach all Notices of Final Action, Letters of Reprimand or documentation of oral reprimands that will be used to support a progressive disciplinary sanction.

1. Is the specific incident that leads to this proposed discipline clearly written in the letter? Yes No

2. Are specific dates, times of infractions included in the letter? Yes No
3. Were there witnesses to the incident? Yes No
4. Were written or tape recorded/transcribed statements taken from these witnesses? Please attach all written statements or transcribed statements. Yes No
5. Are all applicable post orders, rules, policies, and procedures or contract provisions clearly identified in the letter? Please attach copies. Yes No
6. Are there any mitigating or aggravating circumstances? Yes No
7. If so, are they included in the letter of proposed discipline? If not, why not? Yes No
-
-
-

8. Is there any other documentation concerning the proposed discipline? Please attach copies. Yes No
9. Is the proposed discipline consistent with other disciplinary actions for similar infractions? If not, why not? Yes No
-
-
-

10. Is the letter of proposed discipline prepared in accordance with CD-037801 – Disciplinary Action/Employees in Career Status? If not, why not? Yes No
-
-
-

11. Should any other employee be considered for discipline as a result of this incident? If so, provide names and status of each action. Yes No
-
-
-



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CONFIDENTIAL MEMORANDUM

ATTORNEY-CLIENT PRIVILEGE ATTORNEY WORK PRODUCT

TO: Legal Services
FROM: Labor Relations Manager
SUBJECT: **ATTACHED PROPOSED DISCIPLINARY ACTION**

Please provide Legal Services with the following information: _____

Central Office Personnel Review: Date Received: _____

COMMENTS:

SIGNATURE: _____

Sent to Division Director on: _____



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CONFIDENTIAL MEMORANDUM

ATTORNEY-CLIENT PRIVILEGE ATTORNEY WORK PRODUCT

TO: Legal Services
FROM: Division Director
SUBJECT: **ATTACHED PROPOSED DISCIPLINARY ACTION**

Please provide Legal Services with the following information _____

Central Office Personnel Review: Date Received: _____

COMMENTS: _____

Division Director: _____ Date: _____

Date Forwarded to Legal Department: _____



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CONFIDENTIAL MEMORANDUM

ATTORNEY-CLIENT PRIVILEGE ATTORNEY WORK PRODUCT

TO: Labor Relations Manager

FROM: Legal Services

SUBJECT: **PROPOSED DISCIPLINARY ACTION ON** _____

COMMENTS: _____

Approved as written Approved with changes Disapproved

EXPLANATION: _____

SIGNATURE: _____
Date: _____

ORAL REPRIMAND DOCUMENTATION

Date: _____ Location: _____

Time: _____ Witnesses (if any): _____

On the above date, the following performance deficiency/behavior was discussed with

(Employee's Name)

Performance Deficiency/Behavior: (describe in detail)

Proposed Solution:

Supervisor's Signature

Date

Employee's Signature

Date

Other Comments: _____

XC: Personnel File

RESPONSE TO NOTICE OF CONTEMPLATED ACTION

June 1, 201_

Mr. Joe Supervisor, Warden
Rockland Correctional Center
Rockland, New Mexico 87000

Dear Mr. Supervisor:

The Notice of Contemplated Action that I have received states that I may request an informal hearing within eleven (11) calendar days of service. If this notice was served by mail, you will have three (3) additional days in which to file a response.

This form will serve as my official notice to you that: CHECK ONLY ONE AND SIGN:

- I WISH TO REQUEST AN ORAL RESPONSE TO THE CONTEMPLATED ACTION.
- I DO NOT WISH TO RESPOND TO THE NOTICE OF CONTEMPLATED ACTION, THEREBY WAIVING MY RIGHT TO RESPOND.
- I OFFER THE ATTACHED WRITTEN RESPONSE IN LIEU OF AN ORAL RESPONSE TO THE CONTEMPLATED ACTION.

Employee's Signature

Date

IMPORTANT NOTE: THIS FORM MUST BE RETURNED WITHIN ELEVEN (11) CALENDAR DAYS OF SERVICE OF THE NOTICE OF CONTEMPLATED ACTION OR FOURTEEN (14) CALENDAR DAYS IF SERVED BY MAIL.

This form must accompany all Notice of Contemplated Actions.

Date

Signature of Person Scheduling Oral Response

NEW MEXICO CORRECTIONS DEPARTMENT
Attendance Development Plan

This Attendance Development Plan is entered into on _____ (date) and will be in effect through _____ (date).

I, _____, understand that the purpose of this plan is to improve my attendance and dependability. I further understand that during the next _____ months, my supervisor will closely monitor my attendance and dependability and will review my compliance with the plan monthly.

During the term of this plan, I understand that I will be required to attend work on my regularly scheduled days. I also understand that I will be required to submit a doctor's excuse for all sick leave requested for myself or to care for a member of my family the next working day I return to work. I also understand that requests for annual leave or leave without pay must be approved in advance and in accordance with policy. If a doctor's excuse is not produced for each sick leave absence, or leave requested as stated, and immediately upon my return to work, I understand that I will be carried as absent without approved leave (AWOL) and may be subject to disciplinary action in accordance with policy. I also understand that I am required to follow proper call-in procedures. In addition, the following is also required:

I acknowledge that I have received a copy of the Attendance Development Plan and agree to follow the terms and conditions of this agreement. I understand that failure to comply with any portion of this plan shall be grounds for disciplinary action, up to and including dismissal.

Date: _____ Employee's Signature: _____

Date: _____ Supervisor's Signature: _____

Copy: Personnel File

NEW MEXICO CORRECTIONS DEPARTMENT
PERFORMANCE DEVELOPMENT PLAN
(Performance)

This Development Plan is entered into on _____ and will be in effect through _____.
(Date) (Date)

I, _____, understand that the purpose of this plan is to improve my performance. I further understand that during the next months, my supervisor will closely monitor my performance and will review my compliance with this plan monthly. In addition to monitoring my performance and reviewing my compliance with this plan, during each review, my supervisor will identify my performance deficiencies, if any, and provide me with guidance on how to correct my deficiencies in order to bring my performance up to an acceptable level.

Additional Conditions:

During the term of this Plan, I understand that I will be required to:

I acknowledge that I have received a copy of this *Development Plan* and agree to follow the terms and conditions of this Agreement.

I understand that failure to comply with any portion of this Plan shall be grounds for disciplinary action, up to and including dismissal.

Employee: _____ / _____
Print/Sign Date

Supervisor: _____ / _____
Print/Sign Date

cc: Personnel File

NEW MEXICO CORRECTIONS DEPARTMENT
PROBATIONARY EMPLOYEE

Step 1 - The Notice of Final Action letter is developed in draft form by the appropriate Labor Relations Manager the assistance of the supervisor(s) and/or investigator(s).

Step 2 –The Labor Relations Manager shall forward:

- A. The draft Notice of Final Action letter;
- B. The Corrections Department Disciplinary Action Preparation Checklist, form (CD-037801.1) (2 pages), form (CD-037801.2), form (CD-037801.3) and;
- C. All supporting documentation to the Labor Relations Manager, Training Department.

Step 3 - The CD review process shall include a review by the Labor Relations Manager and the Office of Legal Services.

Step 4 - The review draft documents will be returned to the originating Labor Relations Manager and by the Office of Legal Services.

Step 5 - The **Notice of Final Action** letter will be redone by the originating Labor Relations Manager, to incorporate comments generated by the CD review process.

Step 6 - The adjusted **Notice of Final Action** will be served on the individual. Probationers and employees in emergency or temporary status may be suspended, demoted or dismissed effective immediately with written notice and without right of appeal to the State Personnel Board.

Step 7 - A copy of the **Notice of Final Action** along with a personnel action form are forwarded to the Labor Relations Manager for entry into the Human Resource System.

NEW MEXICO CORRECTIONS DEPARTMENT

EMPLOYEE IN CAREER STATUS

Step 1 - The **Notice of Contemplated Action** letter is developed in draft form by the Labor Relations Manager with the assistance of the supervisor(s) and/or investigator(s).

Step 2 - The Labor Relations Manager shall forward:

- A. The draft **Notice of Contemplated Action** letter;
- B. The Corrections Department **Disciplinary Action Preparation Checklist**, form (CD-037801.1) (2 pages), form (CD-037801.2), form (CD-037801.3); and,
- C. All supporting documentation to the Office of Legal Services.

Step 3 - The CD review process shall include a review by the Labor Relations Manager and the Office of Legal Services.

Step 4 - The reviewed draft documents will be returned to the originating Labor Relations Manager and by the Office of Legal Services.

Step 5 - The **Notice of Contemplated Action** letter will be redone by the originating Labor Relations Manager to incorporate comments generated by the CD review process.

The form shall:

- A. Describe the conduct, actions, or omissions which form the basis for the contemplated action;
- B. Give a specific explanation of the evidence the agency has;
- C. Advise the employee of his/her right to inspect and obtain copies of documentary evidence relied upon; and,
- D. Specify what the contemplated action is; and state that the employee has eleven (11) calendar days (fourteen (14) calendar days if mailed) from service of the notice to respond in writing to the notice or to request an opportunity for oral response, using form (CD-037801.5).

Step 6 - The adjusted **Notice of Contemplated Action** will be served on the individual.

Step 7 - The oral response meeting shall take place within eleven (11) calendar days of the request by the employee, unless the employee and the Department agree in writing to an extension of time.

NEW MEXICO CORRECTIONS DEPARTMENT

EMPLOYEE IN CAREER STATUS

(Continued)

Step 8 - The **Notice of Final Action** letter shall be developed by the Labor Relations Manager and it should:

- A. Specify the final action to be taken;
- B. Describe the conduct, actions, or omissions which form the basis for the disciplinary action, which shall only include allegations specified in the notice of contemplated action;
- C. Provide a summary of any statements or other matters presented by the employee in the written or oral response and, if considered a mitigating factor, how they were considered in mitigation;
- D. Give an explanation of the evidence the agency has;
- E. Specify when the disciplinary action will be effective, which must be at least 24 hours from the time of service of the notice of final action; and,
- F. Inform the employee that the disciplinary action may be appealed in writing to the State Personnel Board within 30 calendar days of the effective date of the action, and that the employee must submit a copy of the **Notice of Final Action** with the employee's notice of appeal.
- G. If the employee is covered by the bargaining unit, inform the employee that the disciplinary action may be appealed in writing to the State Personnel Board or may make an irrevocable election to have the appeal decided by an arbitrator within thirty (30) calendar days of the effective date of the action and that the employee must submit a copy of the Notice of Final Action with the employee's notice of appeal.

Step 9 - The **Notice of Final Action** letter shall be served on the individual:

- A. Within eleven (11) calendar days after the eleven (11) calendar day response period expires for the **Notice of Contemplated Action**, if the employee does not respond to the notice of contemplated action or waives his/her right to respond;
- B. No later than eleven (11) calendar days from the date of receipt of the response, if the employee has filed a written response or has been provided an opportunity for oral response. (No later than eleven (11) calendar days from date of the oral response meeting.)

Step 10 - A copy of the **Notice of Contemplated Action** and a copy of the **Notice of Final Action** are forwarded to the Labor Relations Manager for review prior to entry into PeopleSoft.

Sample Letter of Reprimand

May 29, 201_.

Ms. Jane Doe
1234 Generic Road
Santa Fe, New Mexico 87505

RE: LETTER OF REPRIMAND

Dear Ms. Doe:

You are hereby reprimanded for conduct unbecoming an officer for your actions on May 20, 200_.. After having received an oral reprimand for a similar activity on March 3, 200_., you again disregarded the Department's policy concerning employee conduct. Continued negligence in this regard will result in a more severe disciplinary action.

The following constitutes the factual basis for this reprimand:

On May 20, 201_., Captain Bill Brown heard you and Officer Jim Smith arguing in the Briefing Room.

When he walked into the room, he observed you push Officer Smith over a chair causing him to fall and hit his head which resulted in Officer Smith needing sutures.

When questioned by Major Renae Williams about the incident, you stated you were upset and lost your temper. Your conduct on this date is unprofessional and is in violation of *CD-032200*, which stipulates that employees shall conduct themselves in a manner that reflects the highest personal and professional ethics as an officer of the state.

For the next one hundred eighty (180) days, you will be placed on a development plan in which your supervisor will closely observe your behavior and your interactions with other officers and inmates. At the end of this period, you and your supervisor shall meet to discuss your behavior.

The Department has the following documentation to support this reprimand:

- 1.
- 2.
- 3.

Sample Letter of Reprimand

Ms. Jane Doe

One year from the date you receive this letter, you may petition to have the letter removed from your personnel file, provided there have been no intervening reprimands or other disciplinary actions.

You may file a written grievance with the Department in accordance with the Department's Employee Grievance Procedure. You have ten working days from the date you receive this letter in which to exercise this right.

(For employees covered under the bargaining unit, the following language shall be used.)

You may file a written grievance with the Department in accordance with Article 24, Section 4, of the Collective Bargaining Agreement through the negotiated union grievance procedure. You have thirty (30) calendar days from the date you receive this letter in which to exercise this right.

Sincerely,

Michael J. Richards / Warden

Employee Signature:
(Receipt Acknowledged)

Date:

Sample Letter
For A Suspension of an Employee
In Career Status

Mr. John Valdez
1000 Car Street
Santa Fe, New Mexico 87501

RE: **NOTICE OF CONTEMPLATED ACTION - SUSPENSION**

Dear Mr. Valdez:

This letter is to inform you of my intent to suspend you for five (5) working days from your position as Correctional Officer 1 with the New Mexico Corrections Department.

The following constitutes the factual basis for this contemplated action:

On April 19, 200_, you retaliated against Inmate Robert Bloom by attempting to spray him with the fire extinguisher when he threw liquid on you.

At approximately 12:30 p.m. on April 19, 201_, you entered Pod-T to pass out trays. When Inmate Robert Bloom told you to flush his toilet, you advised Inmate Bloom that you would do it as soon as you finished passing out the trays. When you finished passing out the trays in this Pod, you proceeded to open the pipe chase, at which time Inmate Bloom became abusive, and threw urine and milk on you.

You then left the Pod area, grabbed a fire extinguisher from the corridor and went back inside the Pod to Cell #150 where Inmate Bloom is housed and attempted to spray him with the fire extinguisher.

When questioned by Deputy Warden Robert West about the incident, you admitted your actions were wrong and stated that you have been under stress lately and that you had lost your temper.

Your actions on April 19, 201_, jeopardized your safety, as well as the safety and security of the institution. Your actions were unprofessional and are in violation of Corrections Department Policy 032200.A.1.b, and A.2.d. This action is in accordance with SPB Rule 17.3.

The Department has the following evidence supporting this contemplated action: written statements from Deputy Warden Robert West; Captains Michael Ortiz, Ralph Baca; Lieutenant Marcos Tapia; Officers Ray Gonzales, Gilbert Jones and John Romero.

Sample Letter
For A Suspension of an Employee
In Career Status

Mr. John Valdez

Under current State Personnel Board Rules, you have the right to inspect and obtain copies of the above-mentioned documentary evidence upon request.

Current State Personnel Board rules afford you the right to respond in writing to this notice, or to request an opportunity to provide an oral response. If you wish to request an opportunity to provide an oral response, you must submit the enclosed form to our institution personnel officer. Your written response or request to provide an oral response must be made within eleven (11) calendar days from the service of this notice. If this notice is served by mail, you will have three additional calendar days in which to file a response. If you fail to submit a written response or the enclosed form requesting an opportunity to provide an oral response within the eleven (11) calendar day period (or fourteen (14) day period if served by mail), you will have waived your right to respond to this Notice of Contemplated Action.

If you request an opportunity to provide an oral response to this Notice of Contemplated Action, a meeting will be scheduled within eleven (11) calendar days from the date your request is received. Current State Personnel Board rules allow you the right to be represented by anyone you choose. Failure to attend the scheduled meeting will be considered a waiver of your right to provide an oral response. The purpose of the oral response is not to provide an evidentiary hearing but is an opportunity for you to present your side of the story.

Sincerely,

John W. Doe / Warden

Enclosure

Employee Signature:
(Receipt Acknowledged)

Date:

Time:

Sample Letter
For A Suspension of an Employee
In Career Status

Mr. John Valdez
1000 Car Street
Santa Fe, New Mexico 87501

RE: **NOTICE OF FINAL ACTION - SUSPENSION**

Dear Mr. Valdez:

This letter is to inform you of my decision to suspend you for five (5) working days from your position as Correctional Officer 1 with the New Mexico Corrections Department. The specific dates of suspension are April 30, May 1, 2, 3, & 4, 201_. You are to return to your position at 7:30 a.m. on May 5, 201_.

The following constitutes the factual basis for this action:

On April 19, 201_, you retaliated against Inmate Robert Bloom by attempting to spray him with the fire extinguisher when he threw liquid on you.

At approximately 12:30 p.m. on April 19, 200_, you entered Pod-T to pass out trays when Inmate Robert Bloom told you to flush his toilet. You advised Inmate Bloom that you would do it as soon as you finished passing out the trays. When you finished passing out the trays in this Pod, you proceeded to open the pipe chase when Inmate Below became abusive towards you and then threw urine and milk on you.

You then left the Pod area, grabbed a fire extinguisher from the corridor and went back inside the Pod to Cell #150 where Inmate Bloom is housed and attempted to spray him with the fire extinguisher.

When questioned by Deputy Warden Robert West about the incident, you admitted your actions were wrong and stated that you have been under stress lately and that you had lost your temper.

Your actions on April 19, 201_, jeopardized your safety, as well as the safety and security of the institution. Your actions were unprofessional and are in violation of Corrections Department Policy 032200.A.1.b, and A.2.d. This action is in accordance with SPB Rule 17.3.

The Department has the following evidence supporting this action: written statements from Deputy Warden Robert West; Captains Michael Ortiz, Ralph Baca; Lieutenant Marcos Tapia; Officers Ray Gonzales, Gilbert Jones and John Romero.

Sample Letter
For A Suspension of an Employee
In Career Status

Mr. John Valdez

On April 24, 201_, an oral response hearing was conducted by Deputy Warden Robert West and Major Bill Smith. I have taken your response into consideration and have decided to proceed with the proposed action.

Under current State Personnel Board rules, you have the right to appeal the decision in writing to the State Personnel Board, 2600 Cerrillos Road, Santa Fe, New Mexico 87505-0127, within 30 days from April 30, 201_. If you appeal this action, a copy of this notice must accompany your appeal.

(For employees covered by the bargaining unit)

Pursuant to 1.7.11.13 C (4) (b) NMAC, you may appeal this decision to (state the discipline taken) to the State Personnel Board (SPB) with a written statement of the grounds for the appeal delivered to the State Personnel Office, or you may make an irrevocable election to have the appeal decided by an arbitrator, but not both. Not later than thirty (30) calendar days from the effective date of this final action, a notice of appeal and irrevocable election must be made in writing and files with the State Personnel Director at the State Personnel Office, P.O. Box 26127, 2600 Cerrillos Rd, Santa Fe, NM 87505. Your appeal notice must indicate whether you are choosing to have the State Personnel Board or an arbitrator decide the appeal and must be accompanied with a copy of the final disciplinary action.

Sincerely,

John W. Doe / Warden

Enclosure

Employee Signature:
(Receipt Acknowledged)

Date:

Time:

Sample Letter For A Suspension of
A Probationary Employee

Mr. Pablo Ortiz
719 Columbia Street
Santa Fe, New Mexico 87501

RE: **Disciplinary Action Probationary Employee**

Dear Mr. Ortiz:

This letter is to inform you of my decision to suspend you for two (2) working days from your position as Correctional Officer Cadet with the New Mexico Corrections Department. The specific dates of suspension are April 26, and April 27, 200_. You are to return to your position at 7:30 a.m. on April 28, 201_.

The following constitutes the factual basis for:

On April 22, 201_, you attempted to leave the Santa Fe Police Firing Range with live ammunition.

At approximately 10:30 a.m. on April 22, 201_, while at the Santa Fe Police Range, all Cadets were advised that no live ammunition was to be taken off the range. When you were exiting the firing line, Captain Joe Ramirez observed you placing what appeared to be several rounds of ammunition in your pocket. When you were questioned about the contents in your pockets, you stated that you did not have any live ammunition or brass in your pockets. Captain Ramirez then ordered you to empty your pockets at which time he found four live M-16 rounds.

Your actions on April 22, 201_, jeopardized your safety, as well as the safety of your fellow cadets, were unprofessional and in violation of Corrections Academy Rule 19.5.

The NMCD has the following evidence supporting this action: written statements from Captain Ramirez and Staff Development Specialist Robert White.

Sample Letter For A Suspension of
A Probationary Employee

Mr. Pablo Ortiz

You have no appeal rights to the State Personnel Board; however, you may file a written grievance with the Department in accordance with the Department's Grievance Procedure. You have 10 working days from the date you receive this letter in which to exercise this right.

Sincerely,

John W. Doe / Warden

Enclosure

Employee Signature:
(Receipt Acknowledged)

Date:

Time:

Sample Letter
For A Demotion of an Employee
In Career Status

July 20, 200_

Mr. James Branch
P. O. Box 3333
Española, New Mexico 87532

RE: **NOTICE OF CONTEMPLATED ACTION - DEMOTION**

Dear Mr. Branch:

This letter is to inform you of my intent to demote you from your current position of Correctional Officer Sergeant to Correctional Officer 1 with the New Mexico Corrections Department. This will result in a five (5) percent reduction in your salary.

The following constitutes the factual basis for this contemplated action:

At 3:15 p.m., June 23, 201_, Lieutenant David Ortiz ordered you to monitor the performance of your subordinates and assure that all tasks were carried out. Documentation of this assignment was to be given to the Shift Commander at the end of your tour of duty on June 23, 201_.

At approximately 5:30 p.m., Lieutenant Ortiz observed you sitting in the Employee Lounge. He asked if you had completed the visual observations and documented the findings. You replied that you had observed the officers and that everything was done right, so you did not have to document anything. You had initiated the unit log indicating you had inspected the area and everything was in order.

Upon further inspection of your assigned unit, it was found that two officers, Renee Ramirez and Jim Jones, had not properly searched and secured the area resulting in missing supplies from the storage room.

You demonstrated negligent actions by failing to carry out a direct and reasonable order given to you by a supervisor that represents and constitutes negligence and inefficient performance of your duties.

Your failure to correct your deficient performance of duties is inconsistent with your obligations as a Correctional Officer Sergeant of the Northern New Mexico Correctional Facility; furthermore, it is in conflict with the interests, obligations and concerns of the Department. Your failure to properly supervise your subordinates demonstrates you are not fit to continue in a supervisory role.

Mr. James Branch

In addition:

1. On December 29, 201_, you were counseled and received a written warning regarding your negligent performance of duties;
2. On March 12, 201_, you received a formal letter of reprimand for negligence and inefficient performance of duties; and,
3. On May 14, 201_, you were suspended for three days for refusing to accept a direct and reasonable

The Department has the following evidence supporting this contemplated action:

1. Memorandum from Captain Frank Vigil;
2. Memorandum from Lieutenant David Ortiz;
3. Memorandum from Correctional Officer Renae Ramirez; and,
4. Memorandum from Correctional Officer Jim Jones.

Under current State Personnel Board Rules, you have the right to inspect and obtain copies of the above mentioned documentary evidence upon request.

Current State Personnel Board rules afford you the right to respond in writing to this notice or to request an opportunity to provide an oral response. If you wish to request an opportunity to provide an oral response, you must submit the enclosed forms to our institutional personnel office. Your written response or request to provide an oral response must be made within eleven (11) calendar days from the service of this notice. If this notice is served by mail, you will have three additional calendar days in which to file a response. If you fail to submit a written response, or the enclosed form requesting an opportunity to provide an oral response within the eleven (11) calendar day period (or fourteen (14) day period, if served by mail), you will have waived your right to respond to this *Notice of Contemplated Action*.

If you request an opportunity to provide an oral response to this *Notice of Contemplated Action*, a meeting will be scheduled within eleven (11) calendar days from the date your request is received. Current State Personnel Board rules allow you the right to be represented by anyone you choose. Failure to attend the scheduled meeting will be considered as a waiver of your right to provide an oral response. The purpose of the oral response is not to provide an evidentiary hearing but is an opportunity for you to present your side of the story.

Sincerely,

John W. Doe / Warden

Enclosure

Employee Signature:
(Receipt Acknowledged)

Date:

Time:

Sample Letter
For Demotion of an Employee
In Career Status

July 20, 201

Mr. James Branch
P. O. Box 3333
Española, New Mexico 87532

RE: **NOTICE OF FINAL ACTION - DEMOTION**

Dear Mr. Branch:

You are hereby notified that effective August 4, 201_, you are demoted from Correctional Officer Sergeant (Pay Band 50) \$9.169 an hour, to Correctional Officer 1 (Pay Band 45) \$8.711 an hour with the New Mexico Corrections Department. This computes to a five (5) percent loss of salary.

The following constitutes the factual basis for this action:

You have neglected and ineffectively performed the duties of a Correctional Officer Sergeant, after previous attempts have been made to correct the deficiencies.

At 3:15 p.m., June 23, 201_, Lieutenant David Ortiz ordered you to monitor the performance of your subordinates and assure that all tasks were carried out. Documentation of this assignment was to be given to the Shift Commander at the end of your tour of duty on June 23, 201_.

At approximately 5:30 p.m., Lieutenant Ortiz observed you sitting in the Employee Lounge. He asked if you had completed the visual observations and documented the findings. You replied that you had observed the officers and that everything was done right so you did not have to document anything. You had initiated the unit log indicating you had inspected the area and everything was in order.

Upon further inspection of your assigned unit, it was found that two officers, Renae Ramirez and Jim Jones, had not properly searched and secured the area resulting in missing supplies from the storage room.

You demonstrated negligent actions by failing to carry out a direct and reasonable order given to you by a supervisor that represents and constitutes negligence and inefficient performances of your duties.

Sample Letter
For Demotion of an Employee In Career Status

Mr. James Branch

Your failure to correct your deficient performance of duties is inconsistent with your obligations as a Correctional Officer Sergeant of the Northern New Mexico Correctional Facility; furthermore, it is in conflict with the interests, obligations and concerns of the Department. Your failure to properly supervise your subordinates demonstrates that you are not fit to continue in a supervisory role.

In addition:

1. On December 29, 201_, you were counseled and received a written warning regarding your negligent performance of duties;
2. On March 12, 201_, you received a formal letter of reprimand for negligence and inefficient performance of duties; and,
3. On May 14, 201_, you were suspended for three days for refusing to accept a direct and reasonable order from your supervisor.

The Department has the following evidence supporting this contemplated action:

1. Memorandum from Captain Frank Vigil;
2. Memorandum from Lieutenant David Ortiz;
3. Memorandum from Correctional Officer Renae Ramirez; and,
4. Memorandum from Correctional Officer Jim Jones.

On July 25, 201_, a meeting between Deputy Warden Danny McCall, Major Steven Garcia and yourself was held in order to allow you the opportunity to present your oral response to the *Notice of Contemplated Action*.

I have taken your oral response into consideration, and have decided to proceed with the proposed action.

Mr. James Branch

Under current State Personnel Board rules, you have the right to appeal the demotion in writing to the State Personnel Board, 2600 Cerrillos Road, Santa Fe, New Mexico 87505-0127 within 30 calendar days of August 4, 201_. If you appeal this action, a copy of this notice must accompany your appeal.

(For employees covered by the bargaining unit)

Pursuant to 1.7.11.13 C (4) (b) NMAC, you may appeal this decision to (state the discipline taken) to the State Personnel Board (SPB) with a written statement of the grounds for the appeal delivered to the State Personnel Office, or you may make an irrevocable election to have the appeal decided by an arbitrator, but not both. Not later than thirty (30) calendar days from the effective date of this final action, a notice of appeal and irrevocable election must be made in writing and files with the State Personnel Director at the State Personnel Office, 2600 Cerrillos Rd, Santa Fe, NM 87505. Your appeal notice must indicate whether you are choosing to have the State Personnel Board or an arbitrator decide the appeal and must be accompanied with a copy of the final disciplinary action.

Sincerely,

John W. Doe / Warden

Enclosure

Employee Signature:
(Receipt Acknowledged)

Date:

Time:

Sample Letter For Demotion of A
Probationary Employee

August 30, 201

Mr. Sammy Garcia
2020 Oak Street
Ruidoso, New Mexico 88345

RE: **Discipline of a Probationary Employee**

Dear Mr. Garcia:

You are hereby notified that effective pay period beginning September 15, 201_, you are demoted from Correctional Officer Specialist 3-C (Pay Band 50) \$9.000 an hour, to Correctional Officer Specialist 2-C (Pay Band 45) \$8.550 an hour with the New Mexico Corrections Department. This results in a five (5) percent loss in salary.

The following acts have led to this disciplinary action:

On January 8, 201_, you accepted the position of Correctional Officer Specialist C-A with the understanding that it was the Assistant Physical Plant Manager and the duties consisted primarily of administrative and supervisory responsibilities. Your work performance has been inadequate and unacceptable in these areas.

You continue to neglect documentation, such as weekly reports, time sheets and leave forms, performance evaluations, clearances into the institution, and purchase orders.

On July 31, 201_, you failed to assign staff to escort the contracted construction crew from Campbell Construction to the location of the new physical plant. This error resulted in the construction crew having to drive around the institution looking for the site. This also caused the tower officer to radio the control center to advise that there were trespassers on the grounds. This incident turned out to be very embarrassing for both the construction company and the institution.

On June 29, 201_, the business officer had to prepare an emergency purchase order to order supplies. You have the responsibility of overseeing warehouse personnel and ensure that adequate supplies are available. Mr. Jack Brown, Correctional Officer Specialist, and warehouse officer, stated that he had put in several requests for supplies, and you stated to him that you would get to them when you had time.

Mr. Sammy Garcia
August 30, 201

You have been given numerous opportunities to improve your supervisory deficiencies. When asked about these deficiencies, you stated you were trying, but you really did not understand the administrative aspects of your job.

The Department has the following evidence supporting this action:

1. Memorandum from Deputy Warden Santiago Aguilar;
2. Memorandum from Dennis Campbell from Campbell Construction;
3. Memorandum from Correctional Officer Tim Putt, Tower Officer; and,
4. Memorandum from Correctional Officer Spec. I-E, Jack Brown.

You have no appeal rights to the State Personnel Board; however, you may file a written grievance with the Department in accordance with the Department's Grievance Procedure. You have ten working days from the date you receive this letter in which to exercise this right.

Sincerely,

John W. Doe / Warden

Enclosure

Employee Signature:
(Receipt Acknowledged)

Date:

Time:

Sample Letter
For the Dismissal of an Employee In Career Status

April 15, 201_

Mr. John Doe
P. O. Box 181
Santa Fe, New Mexico 87501

RE: **NOTICE OF CONTEMPLATED ACTION - DISMISSAL**

Dear Mr. Doe:

This letter is to inform you of my intent to dismiss you from your position as a Correctional Officer 1 with the New Mexico Correctional Department, for testing positive for marijuana.

The following constitutes the factual basis for this contemplated action:

On March 30, 201_, your supervisor reported your conduct was unusual. He observed your speech to be slurred and your eyes appeared glassy. On the same date, you agreed to submit to a drug/alcohol test. The results of this test were positive for marijuana. As a result, the specimen was sent to Medical Laboratories Corporation for retesting. The result of this second test was also positive.

This is in direct violation of policy *CD-037900* and this action is in accordance with State Personnel Board Rule 11.

The Department has the following evidence to support this action:

1. Captain Ed Olga's report of March 30, 201_; and,
2. Results of two (2) drug/alcohol tests.

Under current State Personnel Board Rules, you have the right to inspect and obtain copies of the above-mentioned documentary evidence upon request.

Current State Personnel Board rules afford you the right to respond in writing to this notice or to request an opportunity to provide an oral response. If you wish to request an opportunity to provide an oral response, you must submit the enclosed form to our institutional Human Resources office. Your written response or request to provide an oral response must be made within eleven (11) calendar days (fourteen (14) days if served by mail) from the service of this notice. If you fail to submit a written response or the enclosed form requesting an opportunity to provide an oral response within the eleven (11) calendar day period, you will have waived your right to respond to this *Notice of Contemplated Action*.

Sample Letter

**For the Dismissal of an Employee
In Career Status**

Mr. John Doe

If you request an opportunity to provide an oral response to this Notice of Contemplated Action, a meeting will be scheduled within eleven (11) calendar days from the date your request is received. Current State Personnel Board rules allow you the right to be represented by anyone you choose. Failure to attend the scheduled meeting will be considered as a waiver of your right to provide an oral response.

Sincerely,

John W. Doe / Warden

Enclosure

Employee Signature:
(Receipt Acknowledged)

Date:

Time:

Sample Letter
For the Dismissal of an Employee In
Career Status

May 1, 201_

Mr. John Doe
P. O. Box 181
Santa Fe, New Mexico 87501

RE: **NOTICE OF FINAL ACTION - DISMISSAL**

Dear Mr. Doe:

This is to inform of my decision to dismiss you from your position as a Correctional Officer 1 with the New Mexico Corrections Department effective May 3, 201_ at 3:30 p.m. for testing positive for marijuana.

The following constitutes the factual basis for this action.

On March 30, 20_, your supervisor reported your conduct was unusual. He observed your speech to be slurred and your eyes appeared glassy. On the same date, you agreed to submit to a drug/alcohol test. The results of this test were positive for marijuana. As a result, the specimen was sent to Medical Laboratories Corporation for retesting. The result of this second test was also positive.

The Department has the following evidence to support this action:

1. Captain Ed Olga's report of March 30, 201_; and,
2. Results of two drug/alcohol tests.

An oral response hearing was held on April 24, 201_. You had no statement as to the charges against you. The circumstances leading to this disciplinary action have been reviewed and I have decided to proceed with the proposed action.

Under current State Personnel Board rules, you have the right to appeal the dismissal to the State Personnel Board, 2600 Cerrillos Road, Santa Fe, New Mexico 87505-0127 within 30 calendar days of May 3, 201_. If you appeal this action, a copy of this notice must accompany your appeal.

(For employees covered by the bargaining unit)

Pursuant to 1.7.11.13 C (4) (b) NMAC, you may appeal this decision to (state the discipline taken) to the State Personnel Board (SPB) with a written statement of the grounds for the appeal delivered to the State Personnel Office, or you may make an irrevocable election to have the appeal decided by an arbitrator, but not both. Not later than thirty (30) calendar days from the effective date of this final action, a notice of appeal and irrevocable election must be made in writing and files with the State Personnel Director at the State Personnel Office, P.O. Box 26127, 2600 Cerrillos Rd, Santa Fe, NM 87505. Your appeal notice must indicate whether you are choosing to have the State Personnel Board or an arbitrator decide the appeal and must be accompanied with a copy of the final disciplinary action.

Sincerely,

John W. Doe / Warden

Enclosure

Employee Signature:
(Receipt Acknowledged)

Date:

Time:

Sample Letter For the Dismissal of A Probationary Employee

September 2, 201_

Mr. John Doe
110 Zia Road
Santa Fe, New Mexico 87501

RE: **Disciplinary Action Probationary Employee - DISMISSAL**

Dear Mr. Doe:

You are hereby notified that at the close of business on Friday, September 6, 201_, you are dismissed from your position as Secretary 2 with the Corrections Department.

The following constitutes grounds for your dismissal:

Continued tardy and unexcused absences after verbal counseling from your supervisor.

The Department has the following evidence to support this action:

1. Memo for the Record from your supervisor, Mr. Robert Brown; and,
2. Leave slips and time sheets.

You have no appeal rights to the State Personnel Board; however, you may file a written grievance with the Department in accordance with the Department's Grievance Procedure. You have ten working days from the date you receive this letter in which to exercise this right.

Sincerely,

John W. Doe / Warden

Enclosure

Employee Signature:
(Receipt Acknowledged)

Date:

Time:

Sample Letter Requesting
Administrative Leave

August 1, 201_

Cabinet Secretary
P. O. Box 27116
Santa Fe, New Mexico 87502-0116

Dear Secretary:

In accordance with State Personnel Board Rule 1.NMAC 7.11.12, the purpose of this letter is to request your approval to grant Administrative Leave for a period of 120 hours to Mr. John Valdez, Correctional Officer I.

Mr. Valdez is currently pending disciplinary action and the additional time is needed to investigate allegations of _____ and to prepare the disciplinary action. Specific period of this request is from August 26, 201_ through September 10, 201_.

If you have any questions, please do not hesitate to contact my office.

Sincerely,

Discipline Authority

() Approved () Disapproved

Secretary of Corrections