


FLORIDA HIGHWAY PATROL POLICY MANUAL

| | | |
|--|---|----------------------------------|
|  | SUBJECT DISCIPLINE | POLICY NUMBER 8.02 |
| | APPLICABLE CALEA STANDARDS 26.1.4, 26.1.5, 26.1.6, 26.1.8 | ISSUE DATE 02/01/96 |
| | | REVISION DATE 07/01/11 |
| | | TOTAL PAGES 5 |

8.02.01 PURPOSE

To provide guidance to management when imposing disciplinary action pursuant to a sustained allegation of misconduct.

8.02.02 AUTHORITY

Division of Highway Safety and Motor Vehicle (DHSMV) Policy #3.06,
DHSMV Policy #3.08,
Section 110.227, Florida Statutes
60L-36, Florida Administrative Code

8.02.03 POLICY

The Florida Highway Patrol may impose disciplinary action for improper conduct or behavior that violates state laws or Department or Division policies. Disciplinary action will be imposed in a manner that is fair and consistent for all employees. Minor work deficiencies or non-repetitive violations of Division directives will be handled through coaching, counseling, and training.

8.02.04 DEFINITION

DISCIPLINARY ACTION - An action taken by a supervisor to correct an employee's conduct/behavior that violated an offense listed in the DHSMV, Policy #3.06, Disciplinary Process.

8.02.05 OBJECTIVES

- A. To provide procedures to ensure the fair and consistent application of discipline.
- B. To provide guidelines for employees wishing to appeal any disciplinary action which may have been imposed.

8.02.06 RESPONSIBILITIES

- A. The Commander, Office of Professional Compliance shall maintain all records of disciplinary action. A periodic audit of disciplinary records will be provided to

Regional Commanders and Troop Commanders to assist in providing uniformity and consistency of discipline. This audit will be statistical in nature and will not contain the names of employees that have been disciplined.

- B. Regional Commanders are responsible for providing oversight of discipline on a statewide basis and ensuring that disciplinary action is being administered uniformly and consistently.

8.02.07 PROCEDURES

A. DISCIPLINARY AUTHORITY

Supervisors should attempt to resolve work deficiencies through coaching, counseling and training and should be proactive in recognizing problems. Corrective action such as coaching, training or counseling will not be construed as disciplinary action.

1. Involuntary transfers will not be used for disciplinary purposes. However, such transfers may be used when it is deemed to be in the best interest of the Department and the member.

B. DISCIPLINARY ACTION

1. When disciplinary action is necessary, the action shall be in accordance with the requirements of the DHSMV Policy #3.06, Disciplinary Process and Section 110.227, Florida Statutes.
2. Supervisors should suggest that a member consider contacting the Department's Member Assistance Program (MAP) in situations where a member's misbehavior can be corrected through utilization of those services.
3. When it is necessary to administer disciplinary action, a supervisory referral to the Department's MAP should be considered, if the nature of the offense indicates that such referral may deter future violations.
4. In an effort to ensure uniformity, consistency and fairness in handling allegations of misconduct; supervisors are to obtain a comparable disciplinary action report from the Office of Professional Compliance.
5. In determining the severity of any disciplinary action, troop supervisors should take into consideration mitigating or aggravating factors that should include, but not be limited to:
 - a. The seriousness of the conduct as it relates to the employee's duties and responsibilities.
 - b. Action taken with respect to similar conduct by other employees.

- c. The previous employment record and disciplinary record of the employee.
 - d. Extraordinary circumstances beyond the employee's control.
- 6. The Department has established a "forgiveness" policy, whereby past transgressions will be forgiven for the purpose of progressive discipline, provided the time period for each category of disciplinary action is met or exceeded. Specific forgiveness policy guidelines can be found in DHSMV Policy #3.06.
- 7. Agency Vehicle Crashes
 - a. Upon reviewing the circumstances surrounding a traffic crash that occurred in an agency vehicle, the department may require training to reinforce an employee's driving knowledge and skills.
 - b. Chargeable Crashes with Agency Vehicle, alternative action: Should an employee sustain a first more serious clear-cut violation or a third minor violation within three years, the employee may elect alternative action of a driver's training course which will mitigate the disciplinary action. Selection of the alternative action is voluntary, is recorded in the employee's personnel file, and will be used for progressive disciplinary action if a further violation recurs within the three-year period. The member must complete the driver's training course within 45 days from the date that the employee elects the alternative action.
- 8. Complaints against employees that allege criminal violations will be grounds for bringing criminal charges if the evidence warrants. The criminal action will not serve to preclude the internal disciplinary process from dealing with the same matter concurrently.

C. DISCIPLINARY ACTION REVIEW

- 1. A supervisor may issue an oral or written reprimand only after consulting with a member of higher rank within the supervisor's chain of command and the Office of Employee Relations.
- 2. In the event the complaint is sustained and the recommended disciplinary action is a suspension or greater, the Regional Commander will draft the Notice of Proposed Action and schedule a Disciplinary Action Review Board (DARB). The DARB will review the case and make any recommendations to the Troop Commander prior to serving the Notice of Proposed Action on the employee.
- 3. Following the DARB to Troop will forward the complaint investigation and the proposed action letter to the Office of Professional Compliance. OPC will facilitate a review of the complaint with the Office of General Counsel, the Office of Employee Relations, and the Director.

D. NOTICE OF PROPOSED ACTION

1. In the case of a proposed suspension or dismissal action, the Troop Commander will ensure, when practical, that a supervisor personally serves a copy of the Notice of Proposed Action to the employee.
2. The supervisor serving the notice will record, on the second copy, the time, date and place the notice was served and sign the notice. A copy will then be forwarded to OPC.
3. When disciplinary action of a suspension or dismissal is proposed, the Notice of Proposed Action shall follow the format set forth by the Office of Employee Relations.
4. The member will receive a full and complete copy of the investigative file along with the Notice of Proposed Action.
5. The Notice of Proposed Action will contain notice of the right of the employee to have access to a predetermination conference to answer, orally or in writing, the allegations. The letter will contain the date, time, location and instructions for accepting the pre-scheduled conference. It is the member's responsibility to affirmatively accept the scheduled predetermination conference, if desired, within five working days of the date the notice was served by the supervisor.
 - a. The five working day period will begin on the employee's next regular workday after the notice is served.
 - b. Requests for a predetermination conference must be submitted in writing by the employee directly to:
 - (1) The Troop Commander, and received by the Troop Commander within the specified time, if the employee is assigned to a field troop.
 - (2) The appropriate Lieutenant Colonel or Regional Commander within the employee's chain of command, if the employee is assigned to Troop Q.

E. PREDETERMINATION CONFERENCE

1. Any predetermination conference will be held in accordance with Section 110.227 Florida Statutes.
2. Should the member accept and attend the predetermination conference, the Troop Commander will assure that the conference officer has a complete file to review prior to the conference. At the conclusion of the conference, the conference officer will commit his/her findings to writing and forward them directly to the Troop Commander or the appropriate

Regional Commander and the Office of Professional Compliance. The findings of the conference officer should indicate whether any new or additional information was presented which could affect the agency's decision.

3. If the employee does not affirmatively accept the scheduled predetermination conference, or if the employee does not present any factors to cause the Department to modify or change its proposed action, the Notice of Final Action shall be issued by the troop or GHQ as appropriate.

F. NOTICE OF FINAL ACTION

1. As provided by Rule 60L-36, Florida Administrative Code, an employee shall be given written notification by certified mail, returned receipt requested, or when possible, personal delivery of the Division's decision to proceed with a suspension or dismissal.
2. The Notice of Final Action will follow the format set forth by the Office of Employee Relations and state the effective date of the suspension or dismissal.
3. Such notice shall be delivered within five workdays from the date the action is effective.
4. The instructions for appealing or grieving the action shall be contained in the notification to the employee of the action to suspend or dismiss.
5. A statement as to the content of the employee's employment record relating to a dismissal will be included in the final action letter.
6. The Bureau of Personnel Services will provide a statement of the status of fringe and retirement benefits to any employee dismissed from service.

G. APPEALS AND GRIEVANCES

Availability of appeals and grievances and applicable procedural guidelines can be found in DHSMV Policy #5.07, and the most recent Collective Bargaining Agreement.