

# *Progressive Discipline for Supervisors*



*Participant Guide*

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2017



**Colorado Department of Transportation**

## **Progressive Discipline For Supervisors**



Notes:

This course outlines the Progressive Discipline process with the goal of working with the employee to identify behavior that is not desirable and replacing it with positive behavior. The focus of the course is on the role of the Supervisor and it will take about 2 hours to complete.

Training Notes:

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# Course Agenda



- **Learning Logistics**
- Section 1 – Introduction to Progressive Discipline
- Section 2 – Elements of Progressive Discipline
- Section 3 – Documenting Progressive Discipline
- Conclusion

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## Training Notes:

### Notes:

This course is designed to assist supervisors with the actions they need to take to identify poor performance and resolve the issue at the lowest possible level. It will provide explanations and applications of each disciplinary step. It is comprised of the following sections:

- **Learning Logistics – This section introduces you to the course, the objectives and expectations**
- Section 1 - Provides an introduction to progressive discipline including the process, the essential elements and what is and is not Progressive Discipline
- Section 2 – This section explains the essential elements of each Progressive Disciplinary step or option. It will describe the difference between informal and formal discipline and help you understand when to apply each one and consider when to escalate an issue. It will also describe the requirements of a Disciplinary Action.
- Section 3 – This section will help you understand the need for documentation and how to do it so it is legally defensible.
- Conclusion – This section summarizes the course and explains where you can get help if you need it

# Course Learning Objectives

At the end of this course, you should be able to:

- Describe the Progressive Discipline process
- Identify how to resolve performance issues at the lowest possible level to improve employee performance
- Understand the connection between Performance Management and Progressive Discipline
- Describe the options of Progressive Discipline and when they apply
- Understand the requirements of a Disciplinary Action
- Understand how to provide good and defensible documentation
- List resources available to you to help you with the Progressive Discipline process

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## Training Notes:

### Notes:

The list on the slide above are the high level learning objectives for this course. Upon completing this course you should be familiar with the course and be able to perform all of the listed actions. This slide repeats at the end of the course and you will be shown the course objectives again and can ask questions about anything you do not understand.

# Course Terms and Concepts



- **Performance Management** – The process by which CDOT involves its employees, as a group and individuals in improving the organization and accomplishing the goals and objectives
- **Progressive Discipline** – An employee discipline system that provides a graduated range of responses to employee performance or behavior problems.
- **Document** – The process of recording the details of a performance event.
- **Performance** – The action or process of carrying out or accomplishing an action, task or function. “What you do”
- **Behavior/Conduct** - The way in which one acts or conducts oneself especially toward others. “How you do it”

## Training Notes:

### Notes:

- The following terms and concepts are critical to your understanding of this section of the course
- If you do not understand a term, please ask the instructor for additional clarification
- We will use Performance and Behavior/Conduct interchangeably throughout the course.

# Participant Introductions

Please take a moment to share:

- Your name
- Your role within CDOT
- Your expectations of this course



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## Training Notes:

Notes:

- Please take a moment to introduce yourself to the other participants in the course and the instructor. When you introduce yourself, include your name, role within CDOT and any expectations you may have of the course.

## Learning Logistics

- Classroom participation encouraged; ask, answer, and participate in the discussion
- Exercises to practice development of training materials
- Parking lot used to capture questions for in-class follow-up

### Training Notes:

#### Notes:

This course is two hours long and there will not be a break. When you are in the classroom please feel free to ask questions to the instructor and refrain from side conversations. The exercises in this course exist to provide you with a chance to practice the content of the course, so please participate! If there are questions the instructor is not able to answer they will be added to the parking lot. The instructor will provide an answer to you with three working days.



## Your Contributions to Learning

- Please respect the other participants by silencing your cell phones
- Focus on the course, please use the Internet and email over lunch and break times
- Please delay your side conversations until break times
- Attend the entire course to obtain credit for successful course completion

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### Training Notes:

#### Notes:

##### *During this course please:*

- Take a moment to turn off, or silence your cell phones. This is your time to learn.
- Refrain from browsing the Internet, sending/reading text messages, or sending/reading e-mails during class
- Participate in the course and listen, and refrain from having side conversations
- Be sure to attend the entire class to get credit for the course; *if more than 15 minutes are missed you will not get credit for attending the class*



# Section One - Introduction to Progressive Discipline

# Course Agenda



- Learning Logistics
- **Section 1 – Introduction to Progressive Discipline**
- Section 2 – Elements of Progressive Discipline
- Section 3 – Documenting Progressive Discipline
- Conclusion

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## Training Notes:

### Notes:

This course is designed to assist supervisors with the actions they need to take to identify poor performance and resolve the issue at the lowest possible level. It will provide explanations and applications of each disciplinary step. It is comprised of the following sections:

- **Learning Logistics – This section introduces you to the course, the objectives and expectations**
- Section 1 - Provides an introduction to progressive discipline including the process, the essential elements and what is and is not Progressive Discipline
- Section 2 – This section explains the essential elements of each Progressive Disciplinary step or option. It describes the difference between informal and formal discipline to help you understand when they are applied and escalated. It also describes the requirements of a Disciplinary Action.
- Section 3 – This section helps you understand the need for documentation and how to do it so it is legally defensible.
- Conclusion – This section summarizes the course and explains where you can get help if you need it

## Section 1 Learning Objectives

At the end of this section, you should be able to:

- Understand the connection between Performance Management and Progressive Discipline
- Describe the purpose of Progressive Discipline
- Identify the roles in the Progressive Discipline process
- Identify the Progressive Discipline process at a high level and the reasons for it
- Describe what actions need to be reported immediately

### Training Notes:

#### Notes:

- Each of the learning objectives corresponds to a slide, or a series of slides, in this section of the course.
- By the end of this section, you should be able to perform each of the listed objectives with the support of the training materials.
- The section objectives are tied directly to the course objectives reviewed at the end of the course.

# Exercise One – Check Your Attitude

Before we begin the course, let's warm up to this topic.

1. Turn to the tab of your book titled Personal Check-in: Your Attitude Towards Discipline
2. Complete the six steps using the examples provided
3. As a group, be prepared to discuss the following questions:
  - What are your attitudes towards disciplining employees?
  - How do your attitudes affect the outcome?

## Training Notes:

Notes:

### **Tab 01 – Personal Check-in: Your Attitude Towards Discipline**

Before we begin the course, let's warm up to this topic:

1. Turn to the tab of your book titled Personal Check-in: Your Attitude Towards Discipline
  2. Complete the six steps using the examples provided
  3. Use the space below to prepare you answer the two questions we will discuss as a group
    - What are your attitudes towards disciplining employees?
- 
- How do your attitudes affect the outcome?

## Performance Management & Progressive Discipline

*As we go through this course, keep in mind that PM and PD are often connected to each other, so:*

- Give honest performance evaluations
- Complete your evaluations on time
- Your ability to use discipline and its effectiveness is often tied to the ratings given in the evaluation
- If a “Needs Improvement” rating is given, you must issue a Performance Improvement Plan (PIP) or a Corrective Action (CA) (each of these will be explained later in the course)

### Training Notes:

#### Notes:

Timing is important. For example, if you issued a Corrective Action on January 17<sup>th</sup> to your employee for failing to follow policy, and gave them 3 months to improve, otherwise further disciplinary action would occur. When you go to do their final evaluation ratings in March, you rate them a 2+ for Accountability/Credibility competency. On April 17<sup>th</sup>, when you follow up to the Corrective Action you conclude that you want to issue another Corrective Action. Do you see a conflict here? Your new or revised Corrective Action may be difficult to issue.

# Purpose of Progressive Discipline



The purpose of Progressive Discipline is to:

- Shape and improve employee performance
- Make the employee aware of their unacceptable performance or behavior and allow them the opportunity to correct it
- Focus on the behavior that needs to change and not the personality of the employee
- Hold employees accountable
- Provide training/coaching to enforce rules and expectations
- Treat employees fairly

## Notes:

The purpose of Progressive Discipline is to work with your employees to develop new behaviors by providing them with the opportunity for performance improvement. This is done by outlining the behavior expected of the employee. Many times talking to the employee and letting them know the behavior needs to change is enough to create the desired change. This is why there is a steady progression in the disciplinary process. The progression should also include documentation of the behavior of the employee. This allows your communication to be about the behavior, for example, “you were late the last two Mondays”: instead of. “It seems you have been late a lot lately”. Progressive Discipline also allows you to coach the employee on the correct behavior and to create training opportunities if the employee is lacking the required skill set. And finally, the goal is to communicate with the employee to determine if there is a reason, as in this case, that is causing the employee to be late.

In short, we hire and retain great people. Progressive Discipline allows you to work with an employee who may be having a problem and assist them to become productive again. This not only helps the employee, but the organization, as it is often less expensive to help an employee than to hire a new one.

## Training Notes:

# Roles in the Progressive Discipline Process



The roles in the Progressive Discipline process are:

- Employee
- Supervisor
- 2<sup>nd</sup> Level Manager
- Appointing Authority (or delegate)\*
- Employee Relations / Civil Rights

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## Training Notes:

Notes:

*The following are the roles in the Progressive Discipline process.*

*Note: Your region/department may have different roles than the ones listed here. Additionally, the roles may perform different tasks.*

### **Employee**

- Once the employee is informed of the need to change their behavior, their role is to actively work towards changing their behavior. This includes following any directives laid out by the supervisor to help them improve.

### **Supervisor/Manager**

- Identifying that a behavior needs to change
- Coaching the employee on the need to change their behavior and informing the employee on what behavior needs to change
- Providing clear examples of what is acceptable behavior
- Explaining to the employee the consequences if the undesirable behavior continues.
- Documenting the behavior of the employee, and the details of the event
- Informing the 2<sup>nd</sup> level Manager if the pattern of behavior continues
- Providing information to the 2<sup>nd</sup> Level Manager, Appointing Authority and Civil Rights Manager in timely manner

### **2<sup>nd</sup> Level Manager**

- Using the information provided by the Supervisor to create the Performance Document Form (PDF) or the PIP
- Attending the 6-10 meeting (as appropriate) and approving informal documentation

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**Appointing Authority**

**\*(or delegate)** (When referring to an Appointing Authority in this course it also applies to whom that authority has been delegated to)

- Responsible for all actions related to the Corrective and Disciplinary process including ensuring the documentation complies with the due process and procedural requirements
- The employee has been provided an opportunity to improve prior to Disciplinary Action being taken (as appropriate)
- That all Progressive Discipline is equitable and consistent in similarly situated employees
- Maintaining all documentation for the 6-10 meeting including the review of all documentation submitted by the Supervisor and the 2<sup>nd</sup> Level Manager
- Drafting all written notices sent to the employee and maintain all timeframes
- Maintaining all documentation for the 6-10 meeting including the review of all documentation submitted by the Supervisor and the 2<sup>nd</sup> Level Manager
- Conducting the 6-10 meeting and issuing applicable disciplinary actions, if required

**Employee Relations/Civil Rights Manager**

- Monitoring and provide guidance to all roles
- Ensuring that all processes are equitable
- Interpreting policy and procedures
- Reviewing PDFs
- Assisting with the 6-10 process

**Training Notes:**

## Exercise Two - Reasons For Discipline

### 1. Review the reasons for discipline below:

- Willful misconduct
- Failure to perform competently (more on next slide)
- Violation of laws or department rules
- False statements of fact during the application process for a position
- Willful failure to perform, including failure to plan or evaluate performance in a timely manner, or inability to perform
- Final conviction of a felony that adversely affects the employee's ability to perform the job or may have an adverse affect on the department if employment continues

### 2. Based on your experience, do you have any other examples?

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### Training Notes:

#### Notes:

Refer to the slide above for the reasons why an employee may be disciplined. The step of discipline should coincide with the issue or action.

- Willful misconduct is misconduct committed with actual knowledge that the act or failure to act will likely result in harm, danger, major loss or defamation. It is deliberate, not an accident. Some examples are:
- Sleeping on the job, stealing, fighting, lying or falsifying, breaching confidentiality.
- Violation of laws or department rules: Include Federal, State and local laws, State Personnel Board rules, CDOT's Policies and Procedures, Departmental or Regional procedures and include CDOT's values.
- Willful failure to perform is when an employee intentionally, knowingly or deliberately fails to perform or repeatedly performs negligently after prior warnings or reprimands.
- In regards to a felony, remember a charge is not a conviction!

#### Write down some that you hear in the space below

Example 1:

Example 2:

Example 3:

# Identifying the Signs of Poor Performance



Signs of poor performance include:

- Relying on others to perform common work tasks
- Poor work quality
- Violating Policy and/or Rules
- Ignoring CDOT values
- Missing deadlines
- Not working well with others or negatively affecting others performance
- High absentee rate
- Employee is late or leaves early (without permission)

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## Training Notes:

### Notes:

As a supervisor one of the most difficult tasks is to identify when an employee is having an issue with performance that needs to be addressed. There are many reasons for this, however the most common is that the problem with performance occur over time and the supervisor is only aware of the issue once an event occurs that impacts the employee or the team. Ignoring or excusing poor performance results in frustration of other members of the team and may cause other performance issues with other members of the team. The only way to effectively “deal” with the issue of performance is to effectively acknowledge it is an issue and work with the employee to resolve the performance issue. The following are the signs of poor performance:

- **Relying on others to perform common work tasks** – Employee is consistently asking questions other members of their team because they have not mastered the required skill sets of their position or they only perform certain tasks of their job they are comfortable with
- **Poor work quality** – Employee does not possess the required knowledge, skills or abilities of their position resulting in the same errors occurring frequently
- **Violating Policy and/or Rules** – Employee does not understand there is a policy or chooses to ignore the policy because it is “stupid”, “unnecessary” or doesn’t apply to them
- **Ignoring CDOT values** – Employee violates one of the values of Safety, Integrity, People, Customer Service, Excellence or Respect
- **Missing deadlines** – Employee is consistently late with their work or asks for extensions for projects because they are too difficult

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- Missing deadlines – Employee is consistent late with their work or asks for extension for projects because they are too difficult
- Not working well with other or negatively affecting others performance – Employee has conflicts with other employees; other employees find excuses not to work with an employee or the employee will only work with certain of their co-workers
- High absentee rate – The employee is absent on dates when projects are due or the number of absences the employee has is impacting their or their co-workers ability to perform their job
- Employee is late or leaves early (without permission) – When employees cut short their work hours this can be a sign that they may not have enough work or are looking to avoid the work they have been assigned

**Training Notes:**

## What to Consider

When preparing to talk to the employee consider:

- The Type of employee
- Length of employment
- Does the problem impact workflow, productivity or other employees?
- Repetition and frequency of performance issues
- Mitigating circumstances

### Training Notes:

Notes:

#### **TAB 02 - Checklist: Analyzing Discipline Problems**

When to have a discussion with the employee about performance can be tricky, as not all problems rise to a point where they need to be addressed directly with the employee. When reaching this decision consider the following:

**Type of employee** – Probationary: Less than 1 year of service – Do not have right to pre-disciplinary meeting, a period of time to improve or a SPB review (unless it's an allegation of discrimination). Obligated however, to inform and document performance problems. Still need to have just cause to terminate. Certified: Have many rights that must be taken into consideration and not violate.

**Length of employment** – How long has the employee worked at CDOT? Is the issue based on old information and the employee does not have training on the new process or is the employee new and is not aware of the CDOT way of doing business?

**Does the problem impact workflow or productivity** – If the issue with the employee is impacting the workflow or productivity of the team or is it a matter of preference that the work be performed in a certain way?

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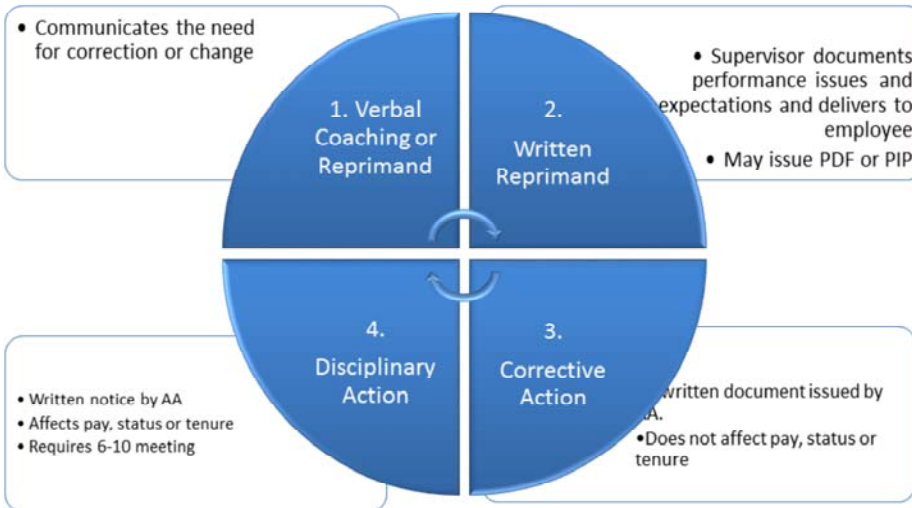
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**Repetition and frequency** – If the employee has not had many issues in the past, but has a single event and brings it to you such as an error on a form, then this is less severe and may not need to be addressed unless it is repeated or increases in frequency.

**Are other employees impacted** – If other employees are impacted, is this something that you are able to address with the employee or is it a matter that may impact other but is not something you are able to take action on such as the employee has an accommodation that other do not know about.

**Training Notes:**

# Progressive Discipline Options



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## Training Notes:

### Notes:

Progressive discipline is a process that starts with the communication of expectations to the employee. When an employee doesn't perform to the established expectations, coaching occurs to inform the employee of the expectations of the work unit and their behavior. If coaching the employee does not work, then the disciplinary process moves to other stages of the disciplinary process.

### **Verbal Coaching / Reprimand**

The goal of coaching is to create awareness of the need to change. When coaching an employee it is important to monitor and document the behavior of the employee so you are able to provide specific examples of the behavior of the action you want the employee to change. This is also the opportunity to discuss with the employee if there is a source for the behavior that is outside of the control of the employee (mitigating circumstances).

A Verbal Reprimand is used after coaching attempts have not been successful. It is to reinforce the expected correction and change with a more serious tone and message – a warning.

After the verbal, WRITE IT DOWN! Record your conversation.

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**Written Reprimand**

Typically used after verbal attempts have not been successful. The problem is documented using a Performance Documentation Form (PDF) or a Performance Improvement Plan (PIP) form. It records what the problem or issue is, the corrections or changes needed to be made, the length of time to do so, possible instructions or requirements such as taking courses and a time to follow up. Not necessary to send to personnel file. But keep for your records!

**Corrective Action**

This is the first formal stage of the progressive disciplinary process and does not impact pay, status or tenure of an employee. It typically occurs after at least one or repeated efforts to resolve have not worked. It can also be used if the employee has committed a serious infraction or violation of policy. It is intended to correct and improve the performance and behavior.

**Disciplinary Action**

The Disciplinary Action stage includes actions that impact the pay, status or tenure of the employee. A 6-10 meeting must be held prior to deciding to issue disciplinary action, or not.

More detail on these options will be explained later in the course.

**Training Notes:**



## Actions to be Reported Immediately

- Sexual Harassment
- Workplace Violence
- Discrimination
- Safety Issues/Violations
- Conviction of a Felony
- Others based on region/department policy or protocols



### Training Notes:

#### Notes:

In some cases, the actions of an employee need to be reported to an Appointing Authority, Human Resources or Civil Rights Manager immediately. This includes instances or allegations of Discrimination, Harassment, including Sexual Harassment, Safety violations or Workplace Violence.

#### **Sexual Harassment**

Sexual harassment is a form of sexual discrimination prohibited by Title VII of the 1964 Civil Rights Act. Sexual harassment occurs when an employee's response to unwanted conduct of a sexual nature affects tangible aspects of that employee's compensation, benefits, privileges, or working conditions. Sexual harassment also occurs when conduct of a sexual nature interferes with an employee's work performance or creates a work environment that is hostile or offensive. Sexual harassment may occur between any two people regardless of gender. Sexual harassment may also be found when the sexual conduct of two persons affects a third party.

#### **Workplace Violence**

Workplace violence is conduct in the workplace or on state property involving employees or persons who have an employment-related connection with CDOT that include:

- physical acts against persons or property in the workplace, or against CDOT property
- domestic violence occurring in the workplace or on state property
- veiled conditional or direct verbal or nonverbal threats, profanity or statements that harm and/or create an intimidating work environment
- written threats, profanity, cartoons or notes, or other written conduct that threatens or creates an intimidating work environment
- any other acts that threaten to injure or convey intimidation

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**Discrimination**

Discrimination is the act of treating a person, or group of people, differently based on their race, color, religion, sex (including sexual harassment), sexual orientation, age, national origin, political affiliation, and organizational membership, veteran's status, or disability.

**Safety Issues**

Actions where the employee did not take responsibility for their safety such as suffering an injury for not wearing appropriate safety equipment, committing a moving violation while driving a CDOT vehicle or hitting a building or parked car or other object with CDOT equipment. Refer to the Safety Action Plan for additional examples and details.

**Felony or Moral Turpitude**

If the employee is convicted of a felony or any other offence of moral turpitude that affects CDOT or the employee's ability to perform their assigned duties.

**Training Notes:**



## Section Two – Elements of Progressive Discipline

# Course Agenda



- Learning Logistics
- Section 1 – Introduction to Progressive Discipline
- **Section 2 – Elements of Progressive Discipline**
- Section 3 – Documenting Progressive Discipline
- Conclusion

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## Training Notes:

### Notes:

This course is designed to assist supervisors with the actions they need to take to identify poor performance and resolve the issue at the lowest possible level. It will provide explanations and applications of each disciplinary step. It is comprised of the following sections:

- Learning Logistics – This section introduces you to the course, the objectives and expectations
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- Section 3 – This section helps you understand the need for documentation and how to do it so it is legally defensible.
- Conclusion – This section summarizes the course and explains where you can get help if you need it

## Section 2 Learning Objectives

At the end of this section, you should be able to:

- Describe the essential elements of each Progressive Discipline option
- Describe the difference between informal and formal discipline
- Understand the intention of each option and know what option to apply
- Identify when to escalate an issue
- Understand the requirements of a Disciplinary Action – per Board Rule

### Training Notes:

#### Notes:

- Each of the learning objectives corresponds to a slide, or a series of slides, in this section of the course.
- By the end of this section, you should be able to perform each of the listed objectives with the support of the training materials.
- The section objectives are tied directly to the course objectives reviewed at the end of the course.

## Elements of Discipline

The four elements to successful Progressive Discipline are:

- **Informing** the employee of the issue or problem and the need for correction (why)
- **Explaining** what is acceptable behavior
- Give **time** for correction or improvement and **follow up!**
- **Explaining** the consequences of not improving or correcting

### Training Notes:

Notes:

For more details on the elements of discipline OED offers a class on Action Coaching Class.

When meeting with an employee about discipline it is critical to provide the employee with the knowledge they need to change. This needs to happen for each instance where you are applying discipline. They are:

#### **Informed:**

The employee needs to be made aware of the type of change they need to make to move from undesirable behavior to acceptable. For example, "Over the last six weeks, the quality of your work has been slipping. There were three errors in the work orders you have submitted and they had to be corrected twice before I was able to approve them."

#### **Explain Acceptable:**

The next step is to explain what type of actions are acceptable. Carrying on with the example above you would need to explain that this is not acceptable and then provide them with the baseline of what is acceptable. In this case, "It is very important that you understand how to complete your work orders correctly the first time and that if you have questions, you contact me with your questions, instead of submitting a work order you are uncertain about."

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**Explain Consequences**

The last action you need to take is to explain the consequences if the undesirable behavior does not change. During this step be sure to explain that this is not a threat, but a direct result of the actions of the employee's behavior. For example, "If this pattern of behavior continues, it could lead to further disciplinary action."

**Give Time and Follow up:**

Give a reasonable amount of time for the employee to improve or correct. It is your responsibility to follow up with what you stated. You must check to ensure the correction or improvement has happened, or not. This is a shared process.

**Training Notes:**

## Effective Discipline

There are five elements of effective discipline:

1. Expectations - How was employee informed?
2. Documentation - How were problems documented?
3. Fairness - Was the employee treated the same as other employees in similar situations? Did discipline fit the offense?
4. Problem Solving - What efforts were made to resolve problems?
5. Fair Warning – Was a timeline and consequences provided?

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### Training Notes:

Notes:

Regardless of the process used to discipline the employee there are five components to effective discipline. Refer to the slide above for details and questions to ask yourself.



## Verbal Coaching/Reprimand

- Coaching is used to inform an employee that their performance or conduct is not acceptable and needs to be improved or corrected.
- A Verbal Reprimand is used after attempts of coaching have not succeeded.
  - More serious tone and message
  - Seek to understand why correction didn't happen
  - Problem solve how to correct & give time frame
  - Follow up
- Document your conversation!

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### Training Notes:

#### Notes:

Advise to take the Action Coaching class offered by OED!

You can't assume an employee knows they are doing something wrong or incorrectly. You can't assume they know their behavior or conduct is not acceptable. You can't assume they've been properly trained.

What happens when you ASSUME?

#### TIPS:

- Meet with employee in private
- Explain the reason for the meeting; what the problem or issue is with as much detail as you can – don't generalize!
- Ask questions
- Get the employee's perceptions or explanations
- Explore any extenuating circumstances
- Ensure that your and CDOT's expectations are clear and understood
- Seek solutions together. Let the employee have input. Explore training and other resources available.

# Written Reprimand

The Written Reprimand (Aka: Written Warning) is:

- A more serious step
- Employee must acknowledge
- Needed for further actions - typically
- Tools: PDF or PIP
  - In Success Factors (SAP)



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## Training Notes:

### Notes

#### **Tab 03 – Performance Documentation Form**

#### **Tab 04 – Performance Improvement Plan**

A reprimand is a written description of an unacceptable behavior or unsatisfactory job performance. It includes a thorough statement of the circumstances causing the current action and a clear picture of future expectations. It must be detailed and provide a timeframe to correction. It also needs to state what will happen if the correction or improvement doesn't happen. Typically this is stated as "further disciplinary action up to and including termination".

#### **PERFORMANCE DOCUMENTATION FORM (PDF)**

- A form used to document instances of both positive and negative employee performance.
- Used to evaluate the employee's overall job performance during a rating period.
- Captures both the employee's and supervisor's signature.
- Kept in Supervisor's file
- Needed for further actions such as a Corrective or Disciplinary action
- It has a format to capture elements of good documentation – that is legally defensible!

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**PERFORMANCE IMPROVEMENT PLAN (PIP)**

- Typically used in conjunction with the PMP evaluation as a requirement for a “needs improvement” rating
- Can be used outside of the PMP for overall performance improvement of multiple areas of improvement
- Includes notice of what will happen if performance is not improved in specified time
- Includes dispute/grievance rights for the employee
  - 2 different paths: dispute is for a final rating and the PIP used for it and a grievance is allowed when using a PIP outside of the PMP evaluation system.
- Captures employee’s, supervisor’s and 2<sup>nd</sup> level supervisor’s signatures

**Training Notes:**

## Corrective Action – What is it?

A Corrective Action is a written document\* issued to **correct and improve** an employee's job performance or conduct.

- It does not affect an employee's current base pay, status or tenure
- It begins the **formal** progressive discipline process
  - Formal notice of a serious problem that needs correcting
  - Continues the documentation process you've begun
- Used after other attempts have not worked or for a serious violation

### Training Notes:

#### Notes:

Why is it "formal"? Governed by Rule some are:

- Board Rule 6-8: An employee may only be corrected or disciplined once for a single incident but may be corrected or disciplined for each additional act of the same nature.
- Board Rule 6-9: The decision to take corrective or disciplinary action shall be based on the nature, extent, seriousness, and effect of the act, the error or omission, type and frequency of previous, unsatisfactory behavior or acts, prior corrective or disciplinary actions, period of time since a prior offense, previous performance evaluations and mitigating circumstances. Information presented by the employee must also be considered.

\* The "document" is a CORRECTIVE ACTION LETTER. (more on next slide)

# Corrective Action – Requirements

## Corrective Actions must:

- Be issued in the form of a letter
  - Use template on our Intranet
  - Authorized by Appointing Authority or delegate
- Become part of employee's personnel file
- Be issued in a timely manner
- Include Areas for improvement, actions to take, time to correct (as applies), consequences if fail to correct and a statement of employee's right to grieve and attach explanation

## Training Notes:

### Notes:

#### **Tab 05 – Corrective Action Letter**

The Corrective Action letter is sent to the employee and becomes part of the personnel file, but may be optionally removed after a period of compliance by the employee. CAUTION: If removed it cannot be considered for any subsequent personnel action. During this period, it is the responsibility of the supervisor to continue to document the performance of the employee and follow any requirements outlined by the Appointing Authority.

Time to correct does not apply if the behavior must be stopped by the employee immediately.

# Disciplinary Action – What is it?

## Disciplinary Actions:

- Adversely affect an employee's current base pay, status or tenure
- Are for repeated, documented performance problems OR especially egregious behavior.
- Requires a 6-10 meeting!



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## Training Notes:

Notes:

**Tab 05 - Corrective Action Letter**

**Tab 06 - Disciplinary Action Letter**

Board Rule 6-2 states: A certified employee shall receive corrective action before discipline unless the act is so flagrant or serious that immediate discipline is proper. In appropriate cases, the AA may proceed immediately to disciplinary action.

Refer to the Reasons for discipline slide for more information.

# Investigating Allegations

## When Investigating:

- The AA or their designee should conduct an appropriate investigation before a Board Rule 6-10 meeting is held
- Employee Relations or Regional Civil Rights (Know the process and rules to follow)
- Employees may be interviewed, asked to identify witnesses, provide documents
- Assume it is NOT confidential!

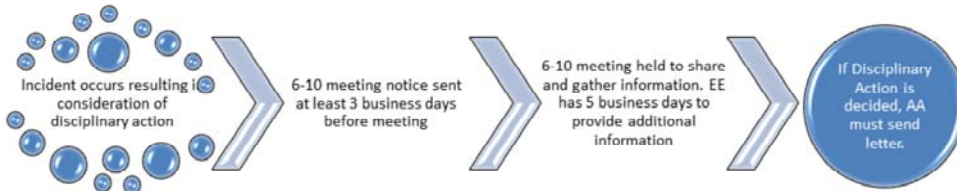
## Training Notes:

### Notes:

When you are investigating allegations you must determine the “truthfulness” of the allegations against the employee. Per Board Rule 6-10, you must disclose the source of your information unless it’s protected by law. Remember anything you discover falls under CORA and are all subject to discovery in the legal process.

A Disciplinary Action may be reversed if the AA or designee did not conduct an appropriate investigation!

# Elements of Disciplinary Action Timeline



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## Training Notes:

### Notes:

Important: If you haven't conducted a 6-10 meeting or have little experience, please contact Employee Relations or Regional Civil Rights for assistance! There are many Board Rules that govern this process. The Disciplinary Action Letter must be received by the employee no later than 5 days following the effective date of the discipline.



# Types of Disciplinary Actions

Types of disciplinary actions include:

- Adjustment of pay to a lower rate in the pay grade
- Base pay below the grade minimum for a specified period not to exceed 12 months
- Prohibition of promotions or transfers for a specified period of time
- Demotion
- Suspension without pay
- Dismissal (Termination)

## Training Notes:

Notes:

There are six types of disciplinary actions that may be used. Remember a disciplinary action impacts an employees' pay, status or tenure. Only the above are considered disciplinary actions under board rule.

## Before and During 6-10 Meeting

### *Preparing for the meeting:*

- Keep an OPEN MIND!
- Remember, it is not a hearing
- Send the 6-10 Meeting request to employee three full business days prior to the meeting
- Prepare the script to collect information
- You and the employee can have **one** representative of your choice

### *During the meeting:*

- Present the purpose and tell the EE the facts you know. (per script)
- Let the EE provide their information/explanation – listen
- Do not make a decision at the meeting
- Record the meeting

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### Training Notes:

#### Notes:

If you decide to take disciplinary action and the SPB receives evidence that you had made up your mind before the 6-10 meeting, the Board will reverse your decision. A public employee has a constitutional right to show their employer that they should not be disciplined before the employer takes action. The tape recording is crucial if the decision goes to an appeal. Do not erase, tape over or otherwise destroy the recording. Employees are allowed to do their own recording.

# 6-10 Meeting Preparation Script

## BOARD RULE 6-10 MEETING SCRIPT

This meeting is being held in accordance with State Personnel Board Rule 6-10 of the Colorado Department of Transportation. The purpose of the meeting is to exchange information before a decision is made on any possible disciplinary action. We are recording the entire meeting.

Since this is a recorded meeting, I would like for each person present in the room to state and spell your name and state your title for the record. I will start.

I am (name and title)

\_\_\_\_\_, Appointing Authority by delegation

\_\_\_\_\_, CDOT representative

\_\_\_\_\_, Employee

\_\_\_\_\_, Employee representative

The date is \_\_\_\_\_ and the time is \_\_\_\_\_. We are meeting in my office, at [address]. A notice of this meeting was [hand-delivered or mailed] and accepted by you (or whoever signed the notice and/or \_\_\_\_\_).

My role as the appointing authority is to present to you the specific information and reasons that potential disciplinary action is being considered. I also will ask you some questions about the information I have received.

As a certified employee, you will be given the opportunity to ask questions, explain what happened from your viewpoint, and/or refute the information we have presented. You may present any mitigating information you believe will assist me in making the final decision on any potential discipline.

Personnel rules allow the appointing authority and the employee each to have one representative. Although we each have a representative present, the discussion is between us and my expectation is that you will present the information you have to us and respond to any questions I may have.

Statements made during this meeting are not privileged. This means that anything said in this meeting becomes a part of the official record so that if there are any future actions on this matter, anything said in here will be entered into that record. Do you have any questions with regard to this?

### (Critical Statement to be made by the Appointing Authority)

I want to emphasize to you that there is no pre-determined outcome of this meeting. I will review all the information you provide along with the information provided by your supervisor and all other relevant information in considering what, if any, discipline I may impose. This may also necessitate my talking with others who have pertinent information and a review of your personnel file. Disciplinary action includes such things as base reduction in pay, prohibitions of promotions or transfers for a specified period of time, demotion, suspension without pay, and termination of employment. It is my duty to review all of the pertinent information and mitigating circumstances in order to reach a final decision on the appropriate course of action.

Dot 1015

The 6-10 meeting script includes:

- Date, time and location of the meeting and
- Purpose of the meeting
- Reason for scheduling the meeting
- Information about the employees right to present information at the meeting
- Right of the employee to have a representative of choice at the meeting
- The critical statement to be made by the Appointing Authority or designee
- Next steps after the 6-10 meeting

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## Training Notes:

### Notes:

Prior to conduction the 6-10 meeting with the employee be sure to prepare the script. This will help to ensure you have a successful meeting with the employee.

You are encouraged to have Employee Relations/Civil Rights review your script.

## After the 6-10 Meeting

After the 6-10 meeting be sure to:

- Investigate any information the EE gave at the meeting
- Interview other people the EE told you about.
- Make your decision after waiting 5 days
- Not all 6-10's will result in Disciplinary Action, but the employee must be notified by certified mail



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### Training Notes:

#### Notes:

After the meeting, you need to follow-up on any information provided to you by the employee. This is not an optional step. When making your decision, you must also consider types of action taken against other employees in similar situations. If you have any questions consult with Employee Relations/Civil Rights. Also, do not make your decision until 5 days after the meeting because the EE may provide additional information within this window that may affect your decision. After you have documented your decision the letter is signed by the AA and sent to the employee by certified mail. Remember to use the letter templates we have created to assist you.

# Sample Letters

**STATE BOARD RULE 6-10 MEETING LETTER**

Rev. 1/16

**Instructions:** (Do not include these instructions in the letter to the employee)

1. It is recommended that this letter be reviewed by your Regional Civil Rights Manager, or for Headquarters staff, by Employee Relations, prior to issuance.
2. Copy this sample to your letterhead and complete the sections as indicated below.
3. The employee must receive this written letter at least 3 business days prior to the meeting.
4. Send letter certified mail, return receipt requested and also regular mail or by hand delivery. If hand delivered, have the employee sign and date to verify receipt.
5. Following issuance provide a signed copy of this letter electronically to [DOT\\_PerformanceManagement](mailto:DOT_PerformanceManagement) or for the personnel file to your Regional Civil Rights Manager, or for Headquarters staff to Employee Relations [HR\\_employee\\_relations@state.co.us](mailto:HR_employee_relations@state.co.us)

**[Date]**

**[Last known address]**

**Dear [Prefix] [Last name of employee]:**

I have received information that indicates the possible need to administer disciplinary action, in accordance with State Personnel Board Rule 6-10, I am scheduling a meeting with you on **[date, time, and location]**.

At this meeting I will present information that causes me to believe that discipline may be appropriate, which includes, but is not limited to, the following: **[add a brief description of the infraction, incident, behavior, attendance and/or conduct]**. Additional issues may be addressed if I receive further information prior to the meeting.

The purpose of this meeting is to exchange information and to allow you to present any information and/or mitigating circumstances you would like me to consider before a final decision is made. This meeting will be recorded, if you wish to have an audio recording of the meeting, you are welcomed to bring your own equipment. You are entitled to have a representative of your own choosing present at this meeting. You may also submit a written explanatory statement or bring other documentation that you want me to review prior to issuing my decision.

You may contact me, if you have any questions about any aspect of this letter.

Sincerely,

**[Appointing Authority]**

C: [Add other appropriate individuals]  
Personnel File

## Sample letters include:

- Scheduling a 6-10 Meeting
- Employee does not attend the 6-10 meeting
- Corrective Action
- Job Abandonment
- Disciplinary, other
- Disciplinary Separation
- Exhaustion of Leave Separation
- Response after Formal Grievance
- Response after informal Grievance
- Scheduling a 5-6 Meeting for Leave Exhaustion
- Separation of Probationary Employee

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## Training Notes:

### Notes:

Because some or part of the progressive discipline process may be delegated to you by the Appointing Authority; a variety of letters templates have been created for you. Using the template will ensure you have all of the requirements listed in Chapter 6 of the Personnel Board Rules. The sample letters cover the following scenarios:

- Scheduling a 6-10 Meeting
- Employee does not attend the 6-10 meeting
- Corrective Action
- Job Abandonment
- Disciplinary, other
- Disciplinary Separation
- Exhaustion of Leave Separation
- Response after Formal Grievance
- Response after informal Grievance
- Scheduling a 5-6 Meeting for Leave Exhaustion
- Separation of Probationary Employee

All of the sample letters can be found by going to: <http://intranet.dot.state.co.us/employees/performance-management/sample-letters> Prior to sending a letter to the employee, if it has been delegated to you, it is best to run it by the Appointing Authority or your Employee Relations/ Civil Rights staff.

## Exercise Three – What Would You Do?

*Now let's practice:*

1. Turn to the tab titled What Would You Do
2. Complete the handout based on how you would handle the situation.
3. When prompted we will be break out in groups/pairs to discuss how you handled the given situation.



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### Training Notes:

Notes:

#### **Tab 07 – What Would You Do**

1. Turn to the tab titled What Would You Do
2. Complete the handout based on how you would handle the situation.
3. When prompted we will be break out in groups/pairs to discuss how you handled the given situation.

# When an Employee Appeals

CDOT may be ordered to:

- Pay back pay and benefits / front pay
- Pay attorney's fees and costs
- Pay for damages
- Reinstate the employee



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## Training Notes:

### Notes:

A risk we face is when an employee who has been issued discipline, usually a Disciplinary Action, files an appeal with the State Personnel Board. Poor disciplinary processes or decisions can be costly and impact CDOT's purpose to save lives and make lives better.



## Section Three – Documenting Progressive Discipline



# Course Agenda



- Learning Logistics
- Section 1 – Introduction to Progressive Discipline
- Section 2 – Elements of Progressive Discipline
- **Section 3 – Documenting Progressive Discipline**
- Conclusion

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## Training Notes:

### Notes:

This course is designed to assist supervisors with the actions they need to take to identify poor performance and resolve the issue at the lowest possible level. It will provide explanations and applications of each disciplinary step. It is comprised of the following sections:

- Learning Logistics – This section introduces you to the course, the objectives and expectations
- Section 1 - Provides an introduction to progressive discipline including the process, the essential elements and what is and is not Progressive Discipline
- Section 2 – This section explains the essential elements of each Progressive Disciplinary step or option. It describes the difference between informal and formal discipline to help you understand when they are applied and escalated. It also describes the requirements of a Disciplinary Action.
- **Section 3 – This section helps you understand the need for documentation and how to do it so it is legally defensible.**
- Conclusion – This section summarizes the course and explains where you can get help if you need it

## Section 3 Learning Objectives

At the end of this section, you should be able to:

- Describe the importance of documenting
- Understand the essential elements of defensible documentation
- Identify the difference between subjective and objective statements

### Training Notes:

#### Notes:

- Each of the learning objectives corresponds to a slide, or a series of slides, in this section of the course.
- By the end of this section, you should be able to perform each of the listed objectives with the support of the training materials.
- The section objectives are tied directly to the course objectives reviewed at the end of the course.

# Documenting

When creating documentation:

- Always assume and say that performance documents are not confidential
- If you end up in Board hearing or court trial: *if it isn't documented it didn't happen*



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## Training Notes:

Notes:

The need for documentation is clear: It not only helps you recollect specific details that you can later use to justify your actions, but also lends a layer of protection to you as a supervisor by demonstrating that your decisions were based on sound business practices.

## Elements of Defensible Documentation

In a hearing or in court, documents can be exhibits. Be sure your documentation includes:

- **PRESENT:** States the purpose of the documentation; cites specific incident or nature of problem; states only facts that can be proven or have been observed
- **PAST:** Provides a history of related offenses and a reminder of previous disciplinary action; demonstrates progressiveness of action
- **FUTURE:** Employee must have clear understanding of the expected standard and how to achieve it and consequences of continued failure

### Training Notes:

#### Notes:

When you are creating the documentation keep loose language out of documents: factual and directed towards conduct of the employee. Be sure to explain the clearly what the nature of the problem, if there is any history of the same or related problems in the past and what your expectations are of resolving the issue. And finally, be sure to include the consequences of the employee continuing their current course of action.

Another thing to consider is that the discipline be consistent with the actions you took with other employees.

## Elements of Defensible Documentation

Your documentation should also explain:

- **Who?** Involved parties, witnesses, supervisors, anyone you spoke to about the incident or problem
- **What?** Nature of incident, **resulting impacts**, what specifically was done and by whom
- **Where?** Location of incident, specific
- **When?** Date and time of incident; events before/after

### Training Notes:

Notes:

Like any good reporter, you need to provide the best possible explanation of happened. The best way is to describe the facts are to ask yourself, Who, What, When, Where and When. You should also describe what you saw or heard and not what you assumed happened.

## Exercise Four – Documenting

1. Read the scenario below.

*The other day I saw you sleeping at your desk. I felt that you should be working instead of sleeping. When you finally decided to wake up and get off your behind, I asked you why you were sleeping. You told me to mind my own business. I felt sad and hurt. I think you don't like working here and maybe you should find another job. You have a bad attitude toward work. I wish you would just not show up. You're a bad example to other employees.*

2. Use the notes sections to point out what is wrong with this example
3. Discuss this as a group

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### Training Notes:

Notes:

Use the space below for notes on what you think is wrong with the scenario above. (E.G. Accusing the employee)

## Exercise Five – Documenting Details / Not Opinions

When documenting, provide specific details about what the problem is. For example:

- Don't write: "you were hostile to another employee"
- Write: You were rude and abrupt with Bob, when you told him "to stop asking questions and just sit down and shut up"

***Now it's your turn, practice rewriting the four statements in the notes section of your book.***

*Notes:*

*Rewrite the four statements below so they are objective:*

1. *I didn't like the way you looked at me when I assigned you extra work.*
2. *The work you turned in is sloppy.*
3. *You are never at your desk.*
4. *I don't like your attitude.*

Training Notes:

## Documentation References

Examples of references include:

- Federal Laws
- State Personnel Board Rules
- CDOT Policy and Procedural Directives
- Position Descriptions
- Work aids and documents created by you and your team
- Employee goals in SuccessFactors

### Training Notes:

Notes:

Tab 08 – Examples of Good Documentation

When documenting WHY the performance or conduct of an employee is unacceptable, it is helpful to make a reference.

It also helps make a case for why the employee “should have known” what is acceptable. Even if the employee “didn’t know” your discipline step and documentation should refer to the source(s). This will help reinforce your decision to take further disciplinary action, if needed.

- State Personnel Rules can be found at:  
<https://www.colorado.gov/pacific/spb/rules>
- CDOT Policy and Procedural directives can be found at:  
<http://intranet.dot.state.co.us/resources/policy-procedure/policy-and-procedural-directives>
- Position Descriptions can be found at:  
<http://intranet.dot.state.co.us/employees/cdot-positions/position-documents>



# Email

Before you send an email:

- They live forever
- Don't write anything in an email you wouldn't want a judge or jury to read
- Anything you document in an email may be used as evidence



## Training Notes:

### Notes:

Think before you send any documentation in an email format. It cannot be deleted and will not go away. Ask yourself, "Do you want what you are about to write to be seen by others or used against you in court? Consider a person to person conversation instead of an email because:

- Emails are discoverable as documentation for exhibit and public disclosure.
- Emails belong to CDOT.
- Emails on your personal devices can also be discoverable.
- Disclaimer on most email accounts:
- *Under Colorado's Open Records Act (CORA), all e-mails sent by or to me on this state-owned e-mail account may be subject to public disclosure.*



# Conclusion

# Course Agenda



- Learning Logistics
- Section 1 – Introduction to Progressive Discipline
- Section 2 – Elements of Progressive Discipline
- Section 3 – Documenting Progressive Discipline
- **Conclusion**

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## Training Notes:

### Notes:

This course is designed to assist supervisors with the actions they need to take to identify poor performance and resolve the issue at the lowest possible level. It will provide explanations and applications of each disciplinary step. It is comprised of the following sections:

- Learning Logistics – This section introduces you to the course, the objectives and expectations
- Section 1 - Provides an introduction to progressive discipline including the process, the essential elements and what is and is not Progressive Discipline
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- Section 3 – This section helps you understand the need for documentation and how to do it so it is legally defensible.
- **Conclusion – This section summarizes the course and explains where you can get help if you need it**

## Conclusion

You should now be able to:

- Describe the Progressive Discipline process
- Identify how to resolve performance issues at the lowest possible level to improve employee performance
- Understand the connection between Performance Management and Progressive Discipline
- Describe the options of Progressive Discipline and when they apply
- Understand the requirements of a Disciplinary Action
- Understand how to provide good and defensible documentation
- List resources available to you to help you with the Progressive Discipline process

### Training Notes:

Notes:

- The slide above contains what you should now be able to do with the help of the training material. If you have questions about the content after this course refer to the next slide for the name and contact information of the people who can help.
- If you have a question now, please ask. You will have another chance at the end of the course, after we discuss where you are able to get help and the resources that are available to you.

## Where Can I Get Help – People?

For additional assistance contact your Civil Rights Manager:

Region	Name	Email	Phone
One	Kathy M. Williams	kathy.williams@state.co.us	303-757-9386
Two	Vacant		
Three	Chip Brazelton	chip.brazelton@state.co.us	970-683-6210
Four	Juliet Sheets	juliet.sheets@state.co.us	970-350-2156
Five	Jason Benally	jason.benally@state.co.us	970-385-1403
HQ	Christine Andersen	Christine.Andersen@state.co.us	303-512-5449

### Training Notes:

#### Notes:

If you are uncertain on how to proceed with the Progressive Discipline process:

1. Start with contacting your Supervisor for help with the process
2. If you still have questions, contact the Civil Rights Manager for your region or the Employee Relations unit in HR.

The Employee Relations unit, under Christine, are:

- Rose Estrada 303-757-9211
- Kathy Golden 303-757-9128
- Dorris Wangombe (in training) 303-512-4143

## Other CDOT Help Resources

The following resources are available to help you:

*For Information about Corrective and Disciplinary Actions:*

- <http://intranet.dot.state.co.us/employees/performance-management/Corrective-disciplinary-actions>

*Sample letters for Corrective or Disciplinary Actions:*

- <http://intranet.dot.state.co.us/employees/performance-management/sample-letters>

*List of Appointing Authorities:*

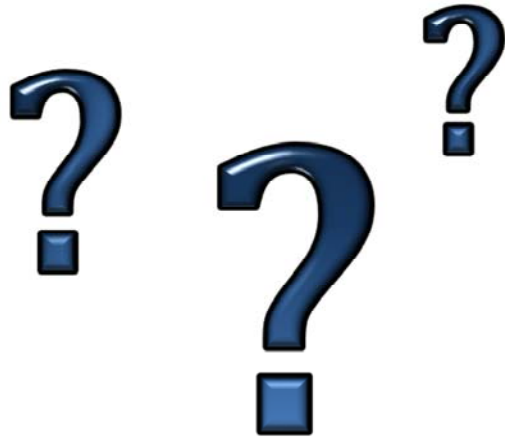
- <http://intranet.dot.state.co.us/employees/appt-authority>

### Training Notes:

#### Notes:

There are quite a few resources you can access online. The first link takes you to a website about what constitutes a Corrective or Disciplinary Action and provides details about what it is and when it should be used. The second link takes you to sample letters you can view to help you document Corrective and Disciplinary Actions. The last is a link to the role of the Appointing Authority.

## Questions?



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### Training Notes:

#### Notes:

If you have any questions about the Corrective or Disciplinary Action process after the class contact your Regional Civil Rights Manager. The link to the contact details can be found at:

<https://www.codot.gov/business/civilrights/about>




All questions placed in the parking lot and not answered during this course, will be sent to the training group within three working days after the course is complete.




# Glossary







Tab 1 – Personal Check-In: Your  
Attitude Towards Discipline



# Personal Check-In: Your Attitude Towards Discipline

Reflect on your attitudes toward discipline. Think how you feel when you are disciplined by an authority figure as well as how you feel about disciplining employees.

1. When I am disciplined by an authority figure, I feel

---

(Examples: threatened, uncomfortable, comfortable, relieved, etc.)

2. When I am disciplined by an authority figure, I immediately

---

(Examples: listen, defend my position, refuse to accept responsibility, look for excuses, etc.)

3. Following the disciplinary process, I

---

(Examples: change behavior, make no changes, etc.)

4. When I need to discipline an employee, I feel

---

(Examples: prepared, uneasy, confident, threatened, etc.)

5. During the disciplinary process, I expect the employee to


---

(Examples: listen, look at me, get angry, storm out of the room, etc.)

6. Following the disciplinary process, I expect an employee to

---

(Examples: change behavior, make no changes, etc.)



## Tab 2 – Checklist: Analyzing Discipline Problems




## CHECKLIST: ANALYZING DISCIPLINE PROBLEMS

- Seriousness of the Problem:** How severe is the issue or infraction?
- Time Span:** Have there been other, similar, discipline problems in the past by this employee and, if so, over how long of a time span?
- Frequency and Nature of Problems:** Is the current problem part of an emerging or continuing pattern of problematic behavior or disciplinary infractions?
- Policy/Rule Violated:** If a policy or rule was violated, was the rule (or supervisor's order) reasonably related to the employee's job and performance? Was every effort made to ensure that the employee did, in fact, violate the rule or management order?
- Employee's Work History:** How long has the employee worked for the organization without problems, and what has been the overall quality of job performance?
- Malice/Intent:** Did the employee commit the offense spontaneously as a matter of strong personal impulses, or is there evidence of premeditation?
- Extenuating Factors/Provocation:** Are there reasonable extenuating circumstances related to the problem such as provocation by another person?
- Degree of Orientation:** To what extent has management made an earlier effort to educate the problem employee about existing discipline rules or performance expectations, and the consequences for violations?
- Investigation:** Was the employer's investigation conducted fairly and objectively? Was the investigation completed fully before disciplinary action was taken and was there substantial evidence or proof of the employee's guilt?
- History of Organization's Discipline Practices:** How have similar infractions been dealt with in the past? Has there been consistency in the application of discipline procedures or are there unique conditions that would set this particular situation apart from others?



- Implications on Other Employees:** What impact will this decision have on other employees in the work unit and/or organization - will it be seen as fair, reasonable, and just or discriminatory treatment?
- Progressive Discipline:** Is the nature and severity of the problem appropriate to use progressive disciplinary measures as a means of trying to correct the problem? Do personnel policies require progressive discipline on all infractions.
- Justification:** If the employee decides to take his or her case to higher management (or the courts), is there reasonable evidence (documentation) to justify the disciplinary/termination decision?





# Tab 3 – Performance Documentation Form



# COLORADO DEPARTMENT OF TRANSPORTATION PERFORMANCE DOCUMENTATION FORM



Employee Name	/	Personnel #	
Employee Org Unit			
Supervisor Name		Personnel #	

Use this form to document instances of both **positive** and **negative** employee performance to be used in evaluating the employee's overall job performance during a rating period.

<b>Purpose for Documentation</b>	
<input type="checkbox"/> Commendation	<input type="checkbox"/> Remediation

<b>Competency Areas</b>				
<input type="checkbox"/> Safety	<input type="checkbox"/> Prof/Technical	<input type="checkbox"/> People Skills	<input type="checkbox"/> Administration	<input type="checkbox"/> HR Management

Date of Event	Time of Event	Shift
---------------	---------------	-------

Location of Event

Details of Event (Describe what happened, who was involved, etc.)

Did Others Observe the Event?     No     Yes    Who?

<b>Source(s) of Information (check all that apply)</b>	
<input type="checkbox"/> Personal observation	
<input type="checkbox"/> Statement from employee	
<input type="checkbox"/> Interviews/Reports from others (please list)	
<input type="checkbox"/> Document(s) (please list)	
<input type="checkbox"/> Other (please list)	

<b>Action Taken (check all that apply)</b>	
<input type="checkbox"/> Discussed with employee & issued this form	<input type="checkbox"/> Referred employee and/or issue to EEO
<input type="checkbox"/> Verbally commended employee	<input type="checkbox"/> Developed training plan for employee
<input type="checkbox"/> Verbally reprimanded employee	<input type="checkbox"/> Recommended corrective/disciplinary action
<input type="checkbox"/> Referred employee to next level supervisor	<input type="checkbox"/> Advised empl. of grievance/complaint process
<input type="checkbox"/> Other (explain)	

Employee Signature	Date
Supervisor Signature	Date



Tab 4 – Performance Improvement  
Plan





# COLORADO DEPARTMENT OF TRANSPORTATION PERFORMANCE IMPROVEMENT PLAN



<b>Employee Name:</b>		<b>Personnel No.:</b>
<b>Employee Org Unit:</b>		<b>Date:</b>
<b>Supervisor Name</b>		
<b>Reviewer Name</b>		
<b>Appointing Authority Name</b>		

### Reason for Performance Improvement Plan (check all that apply)

- "Needs improvement" performance rating
- Corrective action for "needs improvement" performance rating
- Disciplinary action for "needs improvement" performance rating
- Informal improvement plan
- Other (please explain): \_\_\_\_\_

**Board Rule 6-6.** A needs improvement performance rating shall result in a performance improvement plan or a corrective action and a reasonable amount of time must be given to improve, unless the employee is already under corrective or disciplinary action for the same performance matter. A performance improvement plan is not a corrective action. If performance is still unsatisfactory at the time of reevaluation under a performance improvement plan, a corrective action shall be given. If performance is still unsatisfactory at the time of reevaluation under a corrective action, the appointing authority may take disciplinary action up to and including demotion or termination.

### Improvement Plan Areas

<b>Improvement Area 1</b>
Job Duty (from Position Description Questionnaire):
Competency Area (from Performance Management Form): <input type="checkbox"/> Professional/Technical <input type="checkbox"/> People Skills <input type="checkbox"/> Administration <input type="checkbox"/> HR Management <input type="checkbox"/> Safety
Related Factor(s) (from Performance Management Form): • •
Related Individual Performance Objective, if any (from Performance Management Form):
Problem Description:
Improvement Action(s) Required:
Date to Reevaluate Performance:

<b>Improvement Area 2</b>
Job Duty (from Position Description Questionnaire):
Competency Area (from Performance Management Form): <input type="checkbox"/> Professional/Technical <input type="checkbox"/> People Skills <input type="checkbox"/> Administration <input type="checkbox"/> HR Management <input type="checkbox"/> Safety
Related Factor(s) (from Performance Management Form): <ul style="list-style-type: none"> <li>•</li> <li>•</li> </ul>
Related Individual Performance Objective, if any (from Performance Management Form):
Problem Description:
Improvement Action(s) Required:
Date to Reevaluate Performance:

<b>Improvement Area 3</b>
Job Duty (from Position Description Questionnaire):
Competency Area (from Performance Management Form): <input type="checkbox"/> Professional/Technical <input type="checkbox"/> People Skills <input type="checkbox"/> Administration <input type="checkbox"/> HR Management <input type="checkbox"/> Safety
Related Factor(s) (from Performance Management Form): <ul style="list-style-type: none"> <li>•</li> <li>•</li> </ul>
Related Individual Performance Objective, if any (from Performance Management Form):
Problem Description:
Improvement Action(s) Required:
Date to Reevaluate Performance:

Attach additional pages if the plan contains more than three improvement areas.  
 Check here if additional pages are attached.

**Improved Performance**

Success in improving performance from a final performance rating of "needs improvement" to a rating of "successful" or above may have pay implications. State Personnel Procedure 3-19(B) prevents an employee awarded a final performance rating of "needs improvement" from receiving any achievement pay. If an employee does improve their performance to the "successful" level, please document the improved rating, complete an Interim Rating Form (CDOT Form 1282) and have a SAP Appraisal Entry Person enter the interim rating into SAP.

**Failure to Improve Performance**

Failure to correct performance on or before the date(s) specified may result in any of the following actions:

- 1) Continuation of the performance improvement plan with revised date(s) to reevaluate performance;
- 2) Revised performance improvement plan with revised date(s) to reevaluate performance;
- 3) Corrective action; and/or
- 4) Disciplinary action.

The employee may submit a written explanation to the appointing authority, who is named on page 1. This explanation will be attached to and kept with this performance improvement plan. A performance improvement plan is not placed into an employee's official personnel file maintained by CDOT's Center for Human Resource Management unless requested by the appointing authority.

**Additional Improvement Plan Areas**  
 (Optional. Attach to Performance Improvement Plan.)

<b>Employee Name:</b>	<b>Personnel No:</b>
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<b>Improvement Area</b>
Job Duty (from Position Description Questionnaire):
Competency Area (from Performance Management Form): <input type="checkbox"/> Professional/Technical <input type="checkbox"/> People Skills <input type="checkbox"/> Administration <input type="checkbox"/> HR Management <input type="checkbox"/> Safety
Related Factor(s) (from Performance Management Form): <ul style="list-style-type: none"> <li>•</li> <li>•</li> </ul>
Related Individual Performance Objective, if any (from Performance Management Form):
Problem Description:
Improvement Action(s) Required:
Date to Reevaluate Performance:

<b>Improvement Area</b>
Job Duty (from Position Description Questionnaire):
Competency Area (from Performance Management Form): <input type="checkbox"/> Professional/Technical <input type="checkbox"/> People Skills <input type="checkbox"/> Administration <input type="checkbox"/> HR Management <input type="checkbox"/> Safety
Related Factor(s) (from Performance Management Form): <ul style="list-style-type: none"> <li>•</li> <li>•</li> </ul>
Related Individual Performance Objective, if any (from Performance Management Form):
Problem Description:
Improvement Action(s) Required:
Date to Reevaluate Performance:

<b>Improvement Area</b>
Job Duty (from Position Description Questionnaire):
Competency Area (from Performance Management Form): <input type="checkbox"/> Professional/Technical <input type="checkbox"/> People Skills <input type="checkbox"/> Administration <input type="checkbox"/> HR Management <input type="checkbox"/> Safety
Related Factor(s) (from Performance Management Form): <ul style="list-style-type: none"> <li>•</li> <li>•</li> </ul>
Related Individual Performance Objective, if any (from Performance Management Form):
Problem Description:
Improvement Action(s) Required:
Date to Reevaluate Performance:

**Dispute/Grievance Rights**

The employee may dispute a final performance rating of "needs improvement" according to CDOT's performance management program dispute resolution process. If the employee receives a performance improvement plan, but not a corrective/disciplinary action, the employee may not dispute the plan through the performance management program dispute resolution process, but may submit a grievance. If a corrective or disciplinary action accompanies the performance improvement plan, the employee may submit a grievance regarding the corrective/disciplinary action. Allegations of discrimination should be referred to a CDOT civil rights (EO) representative.

	<b>Signatures</b>	<b>Date</b>
<b>Supervisor</b>		
<b>Reviewer</b>		
<b>Employee</b>		



## Tab 5 – Corrective Action Letter

## SAMPLE CORRECTIVE ACTION LETTER

Rev. 1/15

Instructions: (Do not include these instructions in the letter to the employee)

1. It is recommended that this letter be reviewed by your Regional Civil Rights Manager and for Headquarters staff, by Employee Relations prior to issuance.
2. Copy this sample to your letterhead and complete the sections as indicated below.
3. Send letter certified mail, return receipt requested or hand-delivered. If hand delivered, have the employee sign and date to verify receipt.
4. Following issuance provide a signed copy of this letter electronically to [CDOT\\_HRpersonnel@state.co.us](mailto:CDOT_HRpersonnel@state.co.us) for the personnel file; to your Regional Civil Rights Manager, or for Headquarters staff to Employee Relations [dot\\_employee\\_relations@state.co.us](mailto:dot_employee_relations@state.co.us)

**[Date]**

**[Last known address]**

Dear **[Prefix] [Name of employee]:**

This letter is a formal corrective action pursuant to State Personnel Board Rule 6-11. It is being issued to improve your **[performance/behavior]**.

**[In this paragraph describe the actions that resulted in the corrective action being issued (e.g., you have been late to work four times during the past month and continue to arrive at work late even though we have had several discussions about your working hours). Make certain that the employee's performance evaluation does not conflict with your assessment of the problem(s) and that your description of each incident is indisputable. An outline form is typically easier to use and to understand. Also, refrain from giving personal opinions or diagnosis].**

**[Include previous attempts made to assist the employee (performance evaluations, corrective actions, confirming memos, educational memos, discussions, etc.).]**

**[This paragraph should describe what the employee must do to improve and/or correct the situation (e.g., you must arrive at work by 8:00 each morning and call your supervisor no later than 7:45 if you will be late). This portion is critical. It is not a corrective action without it.] [State the time frames/deadlines the employee has to improve (e.g., you cannot be late to work more than two times during the next three months). The improvement period must be reasonable and in accordance with the nature of the problem. In some cases, the improvement must be immediate and no time period is given (e.g., effective immediately and ongoing, you are to.....)].**

Failure to comply with the requirements of this corrective action may result in further corrective and/or disciplinary action, up to and including termination.

You have a right to submit a written explanation to this corrective action that will be attached to each copy of this corrective action. If you wish to protest this corrective action, you may initiate the grievance process as stated in State Personnel Board Rule 8-8.

To do so you must notify me no later than 10 calendar days after receipt of this corrective action. If you are dissatisfied with the results of that meeting and wish to continue the grievance process, you must put your grievance in writing and give it to ***[Appointing Authority or delegated designee]*** within 5 calendar days from receipt of my written decision.

If your grievance also alleges discrimination, it must be put in writing, signed and mailed or delivered to the State Personnel Board, 1525 Sherman St., 4th Floor, Denver, CO 80203, phone (303) 866-3300, fax (303) 866-5038, within 10 calendar days from receipt of this notice. Standard appeal forms are available online at [www.colorado.gov/pacific/spb](http://www.colorado.gov/pacific/spb). If you file an appeal, also send a copy to Headquarters, Employee Relations.

I hope this information is clear. If you have any questions, please contact ***[identify your Regional Civil Rights Manager or for Headquarters, Employee Relations]*** or you may call my office.

Sincerely,

***[Appointing Authority]***

c: ***[Add other appropriate individuals]***  
Personnel File



Tab 6 – Disciplinary Action Letter



**SAMPLE DISCIPLINARY ACTION LETTER - OTHER**

Rev. 1/15

Instructions: (Do not include these instructions in the letter to the employee)

1. It is recommended that this letter be reviewed by your Regional Civil Rights Manager, or for Headquarters staff, by Employee Relations, prior to issuance.
2. Copy this sample to your letterhead and complete the sections as indicated below.
3. The employee must receive this written letter no later than five calendar days following the effective date of the discipline.
4. Send letter certified mail, return receipt requested or hand-delivered. If hand delivered, have the employee sign and date to verify receipt.
5. Following issuance provide a signed copy of this letter electronically to [CDOT\\_HRpersonnel@state.co.us](mailto:CDOT_HRpersonnel@state.co.us) for the personnel file; to your Regional Civil Rights Manager, or for Headquarters staff to Employee Relations [dot\\_employee\\_relations@state.co.us](mailto:dot_employee_relations@state.co.us)

**[Date]**

**[Last known address]**

Dear **[Prefix] [Last name of employee]:**

This letter is to notify you pursuant to State Personnel Board Rule 6-15 that I have decided to take disciplinary action. Effective **[date] (choose):**

- 1) you will be disciplinarily demoted to the position of Title. Your monthly base pay will be reduced to new salary.**
- 2) your monthly base pay will be reduced to \$ amount for # of months.**
- 3) you will be suspended without pay for # of calendar days.**
- 4) you will be prohibited from any promotions or transfers for # of months.**

On **[date]** a Board Rule 6-10 meeting was held to discuss information concerning **[Point by point account of the allegations, incidents and facts addressed. Reference any relevant documentation and previous corrective actions for the same type of performance and/or behavior, if applicable].**

In response to these allegations, incidents and facts, you provided the following information. **[Summarize the employee's response to each allegation/issue as well as any supplemental information that the employee furnished. If the employee did not respond, for whatever reason, state this fact (e.g., at the Board 6-10 meeting you did not provide any evidence to contradict your supervisor's information, nor did you present any mitigating circumstances)].**

After considering all of the information including your statements made at the meeting, **[and the supplemental information you provided on date]**, your personnel and performance history with the department, I have reached the following conclusions: That you violated **[cite the policy violation and how the employee was aware of it and/or state rule violation refer to Board Rule 6-12, reasons for discipline].**

You have a right to submit a written explanation to this disciplinary action that will be attached to each copy of this disciplinary action.

You may appeal this decision in writing to the State Personnel Board, 1525 Sherman St., 4th Floor, Denver, CO 80203, phone (303) 866-3300, fax (303) 866-5038 within 10 calendar days of receipt of this notice. The 10 day deadline also applies to allegations of discrimination. Standard appeal forms are available online at [www.colorado.gov/pacific/spb](http://www.colorado.gov/pacific/spb). If you file an appeal, also send a copy to Headquarters, Employee Relations.

I hope this information is clear. If you have any questions, please contact *[identify your Regional Civil Rights Manager or for Headquarters, Employee Relations]* or you may call my office.

Sincerely,

*[Appointing Authority]*

c: *[Add other appropriate individuals]*  
Personnel File



## Tab 7 – What Would You Do

## PROGRESSIVE DISCIPLINE PRACTICE EXERCISE: What Would You Do?

### WHAT WOULD YOU DO?

What is the appropriate course of action to take if one of your employees does the following?

(You can make some assumptions and be creative!)

1. Comes in two hours late without notifying anyone (first time)?
2. Refuses to perform a reasonable work-related task?
3. Is rude to a member of the traveling public?
4. Has a backing accident the twice in the same month?
5. Is always on the phone with personal calls?
6. Didn't show up for work and didn't phone in?
7. Gets angry at their supervisor and forcefully shoves them backwards?
8. Disappears for extended periods of time while on the job, after being told that it is unacceptable?
9. Travels out of state, on business, but without approval?
10. Completes work with several errors?
11. Uses CDOT equipment for personal use on company time?



Tab 8 – Examples of Good  
Documentation

# GOOD EXAMPLE OF DOCUMENTATION

To: Ima Latesky

From: Eva Evilene

Date: February 5, 2011

Re: Habitual Tardiness and Absenteeism

Georgia Community Action Agency's Rules of Conduct state that habitual tardiness or absenteeism will be subject to discipline.

Ima, I talked to you on December 1, 2010, January 2, 2011 and on January 13, 2011 about your tardiness. On January 24, 2011 you were late again and I discussed with you the importance of coming to work on time because lateness interferes with the schedule of work and it places an unfair burden on your fellow employees. I told you that unless you reported to work on time you would be subject to further disciplinary action. Today, you were late again. Please consider this a written warning. Unexcused absences, tardiness, or failure to follow department procedures for reporting to work will result in further discipline up to and including termination of employment.

Ima, I expect you to immediately resolve your tardiness and attendance problems and become the dependable receptionist I know you have the capability to be.

The undersigned employee hereby verifies that she has been given the opportunity to read and discuss the contents of this memo and to respond to it in writing below or on the reverse side.

\_\_\_\_\_ (Date)                      \_\_\_\_\_ (Employee)

\_\_\_\_\_ (Date)                      \_\_\_\_\_ (Supervisor)

