

Chapter: Discipline, Grievances, and Mediation	Effective Date: 5/15/23
Title: Disciplinary Action	Page: 1 of 5
Statutes: §242.004, Human Resources Code	Replaces: PRS.35.01, 1/1/15

(a) **Policy.**

Employees of TJJJ are expected to abide by [employee rules of conduct](#) and all TJJJ policies and procedures that apply to the position they hold. TJJJ uses a progressive disciplinary system designed to promote timely, fair, and consistent discipline when an employee's job performance or behavior is unacceptable.

Compliance with the employee rules of conduct is not a guarantee of continued employment. This policy does not limit TJJJ's authority to terminate an employee at will.

(b) **Additional Resources.**

- (1) [PRS.35.03](#) – This policy establishes the employee grievance process, including employee grievances about disciplinary actions.
- (2) [PRS.35.06](#) – This policy establishes the independent dismissal mediation procedures for employees who choose this option after being terminated through the disciplinary process.

(c) **Definitions.**

- (1) **Employee Relations Specialist**--A Human Resources employee assigned to Central Office whose responsibilities include providing technical guidance to human resources administrators.
- (2) **Local Investigation**--An investigation conducted by a supervisor to determine the facts of a reported violation and whether discipline is warranted. These investigations involve interviewing the employee and witnesses about the alleged misconduct and taking notes.

(d) **Corrective Actions That Are Not Discipline.**

When appropriate, a supervisor is expected to issue a counseling memo to address an employee's unacceptable performance or behavior before pursuing disciplinary action. In addition to any counseling memos or discipline issued, a supervisor may also issue a corrective action plan. Written counseling memos and corrective action plans must be written, objective, job-related, and issued in an impartial manner.

Counseling memos and corrective action plans require review and approval by the human resources administrator prior to issuance.

(e) **Termination Due to Failure to Have a Negative Alcohol/Drug Test Result.**

When a collection site or medical review officer notifies TJJJ that an employee has failed to have a negative alcohol/drug test result, termination is the only appropriate disciplinary action. Therefore, the procedures in (f) below do not apply.

- (1) The employee is suspended without pay in accordance with [PRS.11.09](#) until the director of human resources or designee issues the [Record of Employee Termination Due to Failure to Have Negative Alcohol/Drug Test Results form, HR-200dd](#).
- (2) An employee terminated for this reason may file a grievance only if the medical review officer changed a verified positive test result to a negative test result after the employee was terminated.

Note: Refusing to test, tampering with a specimen, and having a verified, confirmed positive alcohol or drug test result are considered failure to have a negative test result. See [PRS.02.17](#) for more information about refusing to test and tampering with a specimen.

(f) **Procedures.**

All required actions in the disciplinary process should occur as soon as reasonably possible.

(1) **Reporting Alleged Violations.**

- (A) The procedures in (B) below are in addition to the requirement established by [GAP.07.03](#) to immediately report a critical incident, serious incident, or suspected mistreatment of youth to the Incident Reporting Center. Reporting these types of incidents to the Incident Reporting Center is the first priority.
- (B) If a supervisor other than an employee's immediate supervisor observes an employee committing any violation of the employee general rules of conduct or other policy or procedure, the observing supervisor must notify the employee's immediate supervisor of the incident either verbally or in writing.

(2) **Employee Status Pending Outcome of Investigation.**

- (A) An employee should not be considered for a change in salary, change in classification, or other position status change while an investigation is pending.
- (B) The employee's supervisor may decide, based on available information, that there is good cause to suspend an employee pending the outcome of the investigation. For more information about suspensions, see [PRS.11.09](#).

(3) **Local Investigation.**

(A) **When an Official Investigation is Not Conducted.**

Notwithstanding the supervisor's determination, the Office of General Counsel may initiate an investigation separate and independent from the local investigation. The local investigation includes determining whether the incident:

- (i) occurred and is a violation; and
- (ii) warrants discipline.

(B) **When an Official Investigation is Conducted.**

- (i) When an official investigation is conducted, a local investigation is not conducted. In such instances, the supervisor must not interview the employee or any witnesses and must not take any statements. The information obtained from the employee and witnesses through the official investigation is sufficient.

Note: A supervisor may ask questions of the employee and witnesses to determine whether misconduct might warrant an official investigation.

- (ii) When the official investigation is complete, the chief local administrator decides whether to appeal the findings. After the chief local administrator decides not to appeal or receives the appeal response, the supervisor determines whether disciplinary action is warranted based on the final investigative findings.

(4) **Factors Influencing Decision to Recommend Disciplinary Action.**

A supervisor's recommendation for disciplinary action must be based on job-related, non-discriminatory factors. Before the imposition of a supervisor's recommended disciplinary action as a

result of a local investigation, the employee must be provided the opportunity to present information, in writing, that may influence a decision under section (f)(4)(B) below.

(A) The two most important factors are:

- (i) the documented facts of the reported incident; and
- (ii) the range of disciplinary actions, or “grid,” published in the [TJJD Employee Handbook](#), which identifies the disciplinary actions that are generally appropriate for each violation level.

Note: Because the grid is not the only factor considered when determining the appropriate disciplinary action, supervisors are not required to impose a less severe disciplinary action before imposing a more severe disciplinary action. A single infraction may warrant termination. Likewise, a supervisor may impose a disciplinary action that is less severe than the disciplinary action listed on the grid.

(B) Other factors that may influence a decision include:

- (i) the employee’s disciplinary history;
- (ii) whether the employee is currently on disciplinary probation;

Note: Disciplinary action for an employee who is currently on disciplinary probation should be elevated to a more severe action than would normally be recommended.

- (iii) any aggravating or mitigating circumstances;

Note: Aggravating or mitigating circumstances include, but are not limited to, evidence of willfulness or lack of willfulness, environmental factors that may have contributed to the employee’s action, and efforts or lack of efforts to help the employee overcome the problem.

- (iv) disciplinary actions imposed for other employees with similar violations; and
- (v) the employee’s record of training, length of service, position, job responsibilities, and performance history.

(5) Options for Disciplinary Action.

The table below shows all disciplinary actions in order of severity, starting with the least severe.

Disciplinary Action	Explanation
Reprimand	<ul style="list-style-type: none"> A reprimand is the lowest level of discipline in the progressive discipline process.
Disciplinary Probation	<ul style="list-style-type: none"> Probation allows an employee the opportunity to improve performance or modify behavior. Failure to do so during the probation period could result in additional and more severe disciplinary action. Probation may be for any amount of time deemed appropriate for the situation. If the employee is on probation for one violation and another probation is imposed for a new violation, the new probation period starts immediately after the first probation ends. During a probation period, the employee is not eligible to be considered for a promotion. <p style="margin-left: 20px;">Note: If an employee’s last day of probation is on or after the closing date of a position posting, the employee must not be considered for a promotion to the posted position. If an employee received a</p>

Disciplinary Action	Explanation
	<p style="text-align: center;">promotion but is placed on probation before the effective date of the promotion, the employee is no longer eligible for the promotion.</p> <ul style="list-style-type: none"> A probation period results in a delay in career ladder or career path promotions. If an absence or break in service of 30 or more consecutive calendar days occurs during a probation period, the length of the probation is extended by the length of the absence or break in service.
Involuntary Demotion	<ul style="list-style-type: none"> Involuntary demotion should only be considered when: <ul style="list-style-type: none"> performance or conduct is unacceptable to the degree that allowing the employee to remain in the current position is not in TJJJ's best interest; and continued employment in a lower-level job is believed to be in the interest of TJJJ. Before imposing an involuntary demotion, the supervisor must ensure that: <ul style="list-style-type: none"> a valid payroll position exists; the employee meets the position's minimum qualifications; and written budget approval (e.g., via email) has been received to fill the position. When an involuntary demotion is imposed, a minimum 3-month disciplinary probation must also be imposed. (See above for an explanation of probation.) Involuntary demotion must move the employee into a classified position in a lower minimum salary group and with different job duties. <p style="margin-left: 20px;">Note: For example, involuntary demotion cannot be used to change an employee from a youth development coach IV to a coach III.</p>
Termination of Employment	<ul style="list-style-type: none"> The employee is separated from employment for disciplinary reasons.

(6) **Required Approval of Recommended Disciplinary Action.**

Violation Level	Supervisor's Recommended Disciplinary Action	Required Approvals
Level 1 or 2	Reprimand or Up to 6-Month Probation	<ul style="list-style-type: none"> Human resources administrator only
Level 1 or 2	More than 6-Month Probation, Involuntary Demotion, or Termination of Employment	<ul style="list-style-type: none"> Human resources administrator Chief local administrator Employee relations specialist Office of General Counsel

Level 3 or 4	Any recommended action	<ul style="list-style-type: none"> Human resources administrator Chief local administrator Employee relations specialist Office of the General Counsel
<p>Note:</p> <ul style="list-style-type: none"> The human resources administrator coordinates obtaining email approval from the chief local administrator and the employee relations specialist. The employee relations specialist coordinates obtaining email approval from the Office of General Counsel. 		

(7) Maintaining Documentation.

If discipline is imposed, the only documentation filed in an employee’s personnel file is the [Record of Employee Disciplinary Action form, HR-200d](#), or the [HR-200dd form](#). All other documentation relating to the disciplinary action is filed in the separate disciplinary case file maintained by the human resources office.

(8) Employees in Licensed Positions.

When an employee holding a professional license is disciplined, the employee’s supervisor must promptly send an email notification of the disciplinary action to the supervisor’s chief local administrator and to the department head with oversight of the program in which the employee works. The department head is responsible for notifying the licensing agency when necessary to meet TJJJD’s obligation to report certain types of misconduct by the licensee.

(9) Exceptions.

Any exception to the disciplinary process established by this policy requires written approval from the director of human resources.

- See [PRS.11.09](#) for procedures relating to when it is appropriate to suspend an employee with or without pay pending completion of an investigation into alleged misconduct.
- See [PRS.35.03](#) for procedures relating to filing grievances about disciplinary actions.
- See [PRS.35.06](#) for procedures relating to independent dismissal mediation, which is an option for employees terminated through the disciplinary process.
- See [VLS.01.03](#) for procedures relating to the effect of disciplinary actions on an employee’s ability to participate in the TJJJD volunteer program.