

# TEXAS DEPARTMENT OF CRIMINAL JUSTICE

## INTER-OFFICE COMMUNICATIONS

<b>TO</b>	<u>Personnel Policy Manual Holders</u>	<b>DATE</b>	<u>September 1, 2014</u>
<b>FROM</b>	<u>Patty Garcia</u> Director, Human Resources Division	<b>SUBJECT</b>	<u>September 2014</u> Personnel Manual Update

Please update your Personnel Manual as follows effective September 1, 2014.

### **NUMERICAL INDEX:**

**Remove** the existing Numerical Index dated April 1, 2014.

**Insert** the revised [Numerical Index](#) dated September 1, 2014.

### **EXECUTIVE DIRECTIVES:**

#### **PD-22, “General Rules of Conduct and Disciplinary Action Guidelines for Employees” (rev. 13)**

1. Revised “the Labor Relations Section” to “Employee Relations” and “director of the Employee Relations” to “manager of Employee Relations” throughout the directive.
2. Added definitions for Administrative Supervision, Employee, Equal Employment Opportunity Designated Agency Official (EEO-DAO), and Reprimanding Authority; revised definitions for Dual Supervised Employee, Equal Employment Opportunity (EEO) Rule Violation, Preponderance of Evidence (previously Preponderance of Information), Support Documentation, and Technical Supervision.
3. Discussion, Section II.A: Language was added to clarify the provisions of informal corrective actions in correlation to formal disciplinary actions.
4. Discussion, Section II.B: “Informal” was included to describe the corrective actions available.
5. Discussion, Section II.B: The NOTE regarding letters of instruction was deleted. Along with supervisory counseling or an entry in a TDCJ Performance Log, a letter of instruction is to be considered an informal corrective action. Therefore, such a letter no longer impacts the “Standards of Conduct” rating on an employee’s performance evaluation.
6. Discussion, Section II.B.4: Language was changed to indicate that “an appropriate TDCJ official” may temporarily reassign an employee to other duties.
7. Procedures, Section I: Language was revised to clarify that a human resources representative shall ensure a copy is posted of the PD-22 excerpt in a common use area.
8. Section II.B.1: Language was revised to identify who a division director can authorize to be the reprimanding authority. Clarification was included to state that a witness, a charging official, or a prehearing investigator may not serve as a reprimanding authority.
9. Section II.B.2.a-b: Revised salary groups.
10. Section II.B.2.c: Language was added to specify AD-01.82, “Lines of Authority for Dual Supervision Positions,” guidance in dual supervision disciplinary actions; language was revised to indicate appropriate salary groups.
11. Section III: Revised to give the reprimanding authority the option of allowing an employee to be reassigned or continue in the current position pending prehearing investigation and employee hearing.

12. Section III.C: Language was added to clarify that the reprimanding authority shall obtain written approval from the appropriate division director and forward for review and coordination with the Payroll Department prior to suspending an employee without pay.
13. Section V: A reprimanding authority now has five workdays to review prehearing investigation findings. There was no previously required time frame.
14. Section V.A.1: Language was added that the manager of Employee Relations shall notify the employee, as well as the notification guidelines to follow in case the charge is not an EEO Rule Violation.
15. Section V.A.2: Language was added specifying if no employee hearing is warranted, documentation related to the prehearing investigation shall be maintained by the reprimanding official or returned to the charging official to issue a Letter of Instruction or otherwise counsel the employee.
16. Section V.B.2.a(3): Added that all documentation provided at the time of the hearing should be acknowledged by the employee.
17. Section V.B.3.d: Language was added to clarify that multiple violations resulting from audit reviews of operational or case load procedures shall be addressed as a single violation.
18. Section V.B.4.b: Revised to clarify when two or more alleged violations shall be addressed in single or multiple hearings.
19. Section V.B.4.d(1): Language has been added to clarify that employee hearings shall be scheduled at a time determined by the reprimanding authority.
20. Section V.B.5: Language was added to clarify that hearings may be conducted in person, via video conference, or via telephone, in accordance with location constraints, and an employee participating in a telephonic hearing shall do so at a TDCJ office.
21. Section V.D.2: Language was added to clarify procedures for documenting the premature departure of an employee during the proceedings.
22. Section V.E.1: Language was added stating an employee's representative at a hearing shall not be an individual under the supervision or custody of TDCJ. Telephonic representation is only permitted on a telephone located at a TDCJ facility.
23. Section V.F.1: Revised "information" to "evidence" to describe limits on witnesses; changes made as appropriate throughout directive.
24. Section V.H: Revised to specify that an employee shall request an accommodation consistent with the guidelines in PD-14, "Americans with Disabilities Act and Employment of Persons with a Permanent Medical Condition."
25. Section V.I.3: Language was added to state that the reprimanding authority shall ensure the employee was properly notified and provided copies of all disclosable support documentation, as well as procedures to follow if this does not occur.
26. Section V.J.2: Language was added to provide an employee with an additional 24 hour notice in the event an employee hearing identifies violations of a more severe level.
27. Sections VI.A and B: Revised to indicate documentation procedures regarding the PERS 184 and PERS 185.
28. Section VII: Language was added to indicate the procedures to be followed if a reprimanding authority determines no disciplinary action shall be imposed.

29. Section VII.D: An example was added to illustrate how a more severe penalty may be considered for supervisors.
30. Section VII.F, second table: Language revised to state a violation is considered subsequent if within the subsequent violation guidelines.
31. Section VIII: Language throughout the section was revised from “favorable payroll action” to “pay increase.”
32. Section VIII.C.2.b: Revised to clarify the reprimanding authority, not the Payroll Department, is to ensure payroll status change is completed and approved.
33. Section VIII.C.2.c: Language was added allowing an employee on suspension without pay access to TDCJ property, including a state residence, if applicable, to perform necessary human resources tasks.
34. Section VIII.C.3.a: Added language to clarify the effective date of a reduction in pay.
35. Section VIII.C.4.b: Added language to clarify the effective date of a demotion.
36. Sections VIII.D.1 and 2: Revised to state the dismissal approval date of EEO and non-EEO rule violations will be the date of signature.
37. Section VIII.D.4: Revised to reflect the consideration of other punishment, if any, shall be coordinated through the disciplinary specialist and appropriate division director when a dismissal recommendation is not approved.
38. Section IX.A: Language was added to reflect that the reprimanding authority shall ensure certain actions are taken within 24 hours of imposition of disciplinary action other than dismissal and that the human resources representative will enter the data of disciplinary action into the payroll system within 24 hours of imposing the sanction.
39. Section X.A.4: Revised to indicate a change in job assignment or use of administrative leave may be used in limited circumstances.
40. Section X.B.1: Language was added to reflect that the human resources representative shall ensure certain actions are taken within 24 hours of imposition of a dismissal recommendation.
41. Section X.B.2: Language was revised to clarify procedures for technical review by a disciplinary specialist.
42. Section X.B.4: Added language that the employee may “waive” as well as forfeit the mediation option.
43. Section X.B.4.b: Added language specifying the human resources representative shall enter the Payroll Status Change into the payroll system upon email notice from the disciplinary specialist. And language stating that the disciplinary specialist shall also provide a copy of the decision and support documentation to the manager of Employee Relations or designee if an EEO violation.
44. Section XI.A: Language was added to clarify the procedures for the reprimanding authority during the technical review process, if the violation has been mischaracterized and the correct violation results in a more severe disciplinary action.
45. Section XI.B: Language added to state the disciplinary specialist shall initiate the necessary paperwork to indicate if suspension without pay, reduction in pay, or demotion was removed as part of a technical or administrative correction; and coordinate the change with the Payroll Department and the unit or department human resources representative.
46. Section XIII.A: Added that all formal disciplinary actions become a permanent part of the unit or department employee disciplinary files and Master Human Resources File as specified.

47. Section XIII.A.4: Added language that an IOC signed and dated by the employee identifying all documents the employee received is acceptable documentation for the permanent file.
48. Section XIV.A.1: Changed from “resigned” employees to address “separated” employees.
49. Section XIV.A.4: These specific procedures have been incorporated into the PD-22 “Road Map.”
50. Attachment A: Added definitions for Employee and Hostile Work Environment; revised definitions for Discourteous Conduct, Harassment, Marriage, Other Individual, Retaliation, and Use of Force; deleted definition for Offense Involving Domestic Violence.
51. Attachment A, Listing of Employee General Rules of Conduct and Disciplinary Violations:
  - \* Rule No. 11: Revised to state “this does not include offender property, which is a violation of Rule Number 23.”
  - \* Rule No. 14: Revised title to “Use of Offensive Words or Actions;” and violation description.
  - \* Rule No. 14a: Added language to address the use of “when words or actions that would not violate Rule Number 14b are used as part of a verbal or physical altercation or an act of insubordination,” discipline in accordance with Rule Nos. 15 or 36.
  - \* Rule No. 14b: Revised to address protected class.
  - \* Rule No. 14c: Added language to address violations of the Use of Offensive Words or Actions – Protected Class – Toward an Offender.
  - \* Rule No. 16: Deleted “state owned or public highways.”
  - \* Rule No. 18a(1): Language revised to clearly describe what constitutes a violation, and to comply with SM-01.10, “Operation and Parking of Vehicles on TDCJ/Correctional Institutions Division (CID) Unit Property.”
  - \* Rule No. 18a(2): Added to include violations involving a controlled substance.
  - \* Rule No. 18a(3): Revised to note compliance with the guidelines of AD-02.95, “Storage of Firearms.”
  - \* Rule No. 18b: Revised to include Alcoholic Beverages and Other Wireless Communication Device(s) or a component of “One of those Devices” and to define specific delivery or possession of prohibited items.
  - \* Rule No. 21: Revised language to describe actions consistent with discrimination or harassment.
  - \* Rule No. 24: Revised to not include “deadly” force, only “excessive or unnecessary.”
  - \* Rule No. 25a-25d: Added “deadly” to the title of each.
  - \* Rule No. 28: Added language that authorization may be granted to wear the uniform for official agency representation at special ceremonies.
  - \* Rule No. 29: Definition was expanded to reflect the rule name.
  - \* Rule No. 33: The prohibition has been revised to clarify the prohibited circumstances and exceptions of disclosure of confidential information by an employee.
  - \* Rule No. 34: Expanded to also include prohibition of acceptance of gratuities from “other agent of the offender.”
  - \* Rule No. 37: Added language related to alerting other staff members when supervisor rounds are being conducted. Revision made in order to comply with PREA standards.
  - \* Rule No. 39a: Revised to reflect this rule will be incorporated into PD-25, “Administrative Separation,” and void effective September 1, 2014, the date this directive is published.
  - \* Rule No. 40: Revised to state possession, use, sale, or delivery of illicit drugs or drug paraphernalia while in a state or country where it is legal is not a defense for this violation.
  - \* Rule No. 42: The language was reorganized for clarity; the PERS 282A was included as an attachment in order to provide uniform documentation of employee-offender relationships.

- \* Rule No. 42b: Added an example of direct interaction for clarity, and “the employee has an immediate family member who is currently an offender” to the direct interaction conditions.
  - \* Rule No. 42c: Revised to address distinction between unreported or unapproved relationships; clarified the role of social media and what constitutes a relationship with an offender.
  - \* Rule No. 42d: Language revised for clarification.
  - \* Rule No. 48: Revised to include random drug testing.
  - \* Rule No. 53: Revised to include other individual and retaliation by association.
52. Attachment B: Rule Nos. 18b and 25d were revised for consistency; Rule No. 39a was deleted.
  53. Attachment C: Rule No. 14b was revised; Rule No. 14c was added; Rules No. 25b, 25c, 29, and 33 were revised for consistency.
  54. Attachments C, D, and E: Revised “favorable payroll action” to “pay increase” for consistency.
  55. Attachment D: Rule Nos. 14a, 25a, 25e and 39b revised for consistency.
  56. Attachment E: Rule No. 1 revised to clarify how tardiness is used to enhance other violations; Rule 52 revised for consistency.
  57. Attachment G: New attachment added to assist in providing uniform records of allegations by an employee of conduct that might be in violation of TDCJ EEO policies.
  58. Attachment H: Revised for consistency with directive.
  59. Attachment I: Added language concerning hearings conducted in person, telephonically, or through video conference.
  60. Attachment J: Revised to include the method of calculation used to arrive at a reduction in pay.
  61. Attachment L: Revised for consistency with directive.
  62. Attachment M: Included the PERS 282A, Additional Offender Information, as an attachment to policy.
  63. Grammatical and formatting updates made.

**Remove** the existing PD-22.

**Insert** the revised [PD-22](#).

#### **PD-29, “Sexual Misconduct with Offenders” (rev. 4)**

1. Revised directive throughout for conformity with standards established by the *Prison Rape Elimination Act* (PREA).
2. Added definitions for Sexual Abuse, Sexual Harassment, and Voyeurism.
3. Revised definitions of Contract Employee, Marriage, Offender, Other Individual, Sexual Misconduct, and Volunteer.
4. Deleted definitions of Other Sexual Conduct, Sexual Contact, Sexual Intercourse, and Sexually Provocative.
5. Discussion, Section I.B: Added language to include permitted communication used in sex offender programs.
6. Discussion, Section I.C: Added to include communication of a sexual nature between employees while at work shall be reported in accordance with PD-13, “Sexual Harassment and Discourteous Conduct of a Sexual Nature.”

7. Discussion, Section II: Revised language from “state jail felony offenses” to “felony offenses,” and to “behavior in accordance with Texas Penal Code § 39.04.”
8. Discussion, Section III: Moved information on Sexual Misconduct to the definitions section.
9. Procedures, Section I.A.5: Added PREA ombudsman to reporting list; also added language in sections I.B.4 and I.C.
10. Procedures, Section I.C: Removed example language regarding a “witness.”
11. Grammatical and formatting updates made.

**Remove** the existing PD-29.

**Insert** the revised [PD-29](#).

If you have any questions regarding this update or need assistance concerning your Personnel Manual, please contact Cathy L Holm at (936) 437-3663 (Email User ID CHO9628).

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Attachments