

Executive Directive

PD-22, “General Rules of Conduct and Disciplinary Action Guidelines for Employees”



April 24, 2025 (rev. 19)
Supersedes January 1, 2025 (rev. 18)

Authority

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|-----|-------------------------------|-----|--------------------------------|
| 1. | 5 U.S.C. § 7116 | 12. | Tex. Gov't Code § 493.007 |
| 2. | 18 U.S.C. § 201 | 13. | Tex. Gov't Code § 500.003 |
| 3. | 18 U.S.C. § 921 (a) | 14. | Tex. Gov't Code § 571.001-.177 |
| 4. | 18 U.S.C. § 922 (g) | 15. | Tex. Gov't Code § 614.023 |
| 5. | 18 U.S.C. § 2241-2245 | 16. | Tex. Gov't Code § 617.003 |
| 6. | 5 C.F.R. § 2601.201 | 17. | Tex. Penal Code § 38.11 |
| 7. | 5 C.F.R. § 2635.101—.808 | 18. | Executive Order 12731 |
| 8. | 5 C.F.R. § 3801.105 | 19. | Executive Order 12674 |
| 9. | 28 C.F.R. § 115.76 | 20. | BP-01.03 |
| 10. | Tex. Gov't Code § 493.001 | 21. | BP-02.08 |
| 11. | Tex. Gov't Code § 493.006 (b) | | |

Applicability

Texas Board of Criminal Justice (TBCJ) and Texas Department of Criminal Justice (TDCJ) employees, except those attending Pre-Service Correctional Training Course or Non-Correctional Officer Training Course, Parole Officer Entry Level Training Academy, or Office of the Inspector General Training Academy. Disciplinary processes for trainees will be addressed in accordance with [PD-33](#), “Trainee Management.” Employees serving the six-month probationary term as a new hire will be addressed in accordance with [PD-24](#), “Administrative Separation.”

Employment At Will Clause

This directive **does not** constitute an employment contract or a guarantee of continued employment. The TDCJ reserves the right to change the provisions of this directive at any time.

Nothing in this directive limits the executive director’s authority to establish or revise human resources policy. This directive guides the operations of the TDCJ and **does not** create a legally enforceable interest for employees or limit the executive director’s, chief officers’, or division directors’ authority to terminate employment at will.

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Policy Statement

This directive outlines the performance and conduct management structure used by the TDCJ. The goal of this directive is to enhance job performance and conduct in the workplace. This directive is administrative in nature and does not address possible civil actions, criminal prosecutions, or administrative actions by other agencies or entities.

The TDCJ has zero tolerance for all forms of discrimination based on race, color, religion, sex, including sexual harassment, national origin, age, disability, genetic information, pregnancy, and all other protected classes covered by state and federal laws (collectively "protected class). Retaliation for opposing or reporting discrimination, for associating with someone who has opposed or reported discrimination, or for being a witness in an Equal Employment Opportunity (EEO) investigation is prohibited. Any violations identified as possible EEO violations shall be referred and handled according to the guidelines outlined in [PD-21](#), "Anti-Discrimination in the Workplace."

This directive is published on the TDCJ website, [Texas Department of Criminal Justice Personnel Manual](#). A copy of the published excerpt from PD-22 is included in the TDCJ Direct Hire Packet provided to newly hired and rehired employees during the Direct Hire Session conducted in accordance with [PD-97](#), "Training and Staff Development."

Definitions

The following terms are defined for the purpose of this directive and are not intended to be applicable to other policies or procedures.

"Active Period"

Each violation number has an assigned period of time during which incurring another substantiated violation becomes a subsequent, thereby increasing the offense level. The duration of these periods may be one year, two years or life of personnel file.

"Business Day"

Monday through Friday, excluding state and national holidays for which TDCJ administrative offices are closed or days when offices are closed at the direction of the executive director.

"Considerations"

Factors to be reviewed that may influence the severity of a disciplinary action.

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"Credible Evidence"

Evidence that carries more weight and is more convincing than the opposing evidence, making the facts more likely to be true. Evidence can be testimonial, physical, or circumstantial.

"Disciplinary Packet"

A cumulative set of documents containing supporting documentation that includes the PERS 325, "Preliminary Conduct Investigation," the PERS 184, "Notification of Conduct Review," and the PERS 185, "Determination Form." Additionally, if applicable, the PERS 186, "Dismissal Recommendation" or the PERS 327, "Rehire Review Required" may be included.

"Employee"

A person employed by the TBCJ or the TDCJ on a full-time, part-time, or temporary basis.

"High-Level Investigation"

Investigation involving (a) a Behavioral Intervention Plan Fact Finding Inquiry, (b) a Risk Management Incident Review, (c) an Office of the Inspector General (OIG) investigation, (d) a Serious Incident Review, (e) an EEO investigation; or (f) an Executive Administration investigation surrounding a given allegation.

"Inmate"

An individual under the supervision or custody of the TDCJ, including an incarcerated individual housed in privately operated, city, county, federal, or other states' facilities. These individuals include, but are not limited to, parolees, individuals under mandatory supervision, and incarcerated individuals.

"Misconduct"

The manner in which an employee negatively behaves on a particular occasion or in a particular context.

"Supporting Documentation"

Encompasses all written materials and evidence used in making determinations during a review. This may include, but is not limited to, records of progressive corrective actions, witness statements, and any other pertinent evidence. Supporting documentation is cumulative. All documents added throughout each step are considered supporting documentation and make up the disciplinary packet.

"Unacceptable Performance"

Employee's inability to complete tasks and responsibilities associated with their assigned job duties.

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"Violation"

An infraction listed in the PD-22 Code of Conduct and Performance Standards. This may consist of one, or a combination, of (a) engaging, attempting, or conspiring to engage in a specific prohibited behavior; (b) aiding others in engaging, attempting, or conspiring in a specific prohibited behavior; or (c) failing to act where required by order, policy, or procedure.

"Work Cycle"

The consecutive set of days during which the hours worked are computed to determine wage and time compensation.

"Workday"

Sunday through Saturday including holidays and office closures.

Discussion

This directive encourages management involvement from the first sign of **unacceptable performance** or **misconduct**. By implementing a series of progressive corrective actions, management can actively foster behavioral change along with positive performance or conduct among **employees**. If an **employee's** performance or conduct does not improve despite using progressive steps, or if the issue or **violation** is deemed severe enough to bypass these steps, more advanced disciplinary actions may be considered through the conduct review process. Management is encouraged to use the full range of options fairly and equally, ensuring that actions are objective, job-related, and consistent.

An overview of roles:

I. **Employees of Other Agencies or Entities**

If **employees** of other agencies or entities' conduct has affected, or has the potential to affect, the security of the unit or department, the appropriate warden, section manager, or designee shall discuss the issue with the **employee's** supervisor within the other agency or entity. If necessary, the offending party can be removed from the unit or department.

II. **TDCJ Employees**

All TDCJ **employees** are representatives of the agency and are expected to adhere to the highest standards of conduct while on or off duty. This includes compliance with performance expectations based on standards set by management and the PD-22 Code of Conduct and Performance Standards issued with this directive.

Employees are responsible for knowing the **violations** in this directive and for seeking clarification if needed. Being unaware of the existence of a **violation** is not a defense. Since no single document can cover every situation, **employees** are responsible for having a working understanding of current TDCJ directives and standard operating procedures. If there are no written or verbal instructions regarding an **employee's** responsibilities or duties, the **employee** is expected to use sound judgment to decide on the best course of action until clarification can be provided.

If an **employee** has been subject to progressive corrective action or disciplinary action, signing any related documentation is not an admission of **unacceptable performance** or **misconduct**. It is simply an acknowledgment that the process or the outlined conversation took place, as stated, between the conduct assessor and the **employee**. Refusal to sign the document does not relieve an **employee** of the required actions, steps, or expectations placed upon them.

III. Conduct Assessor

The conduct assessor is a supervisor generally in an **employee's** chain of supervision. They are responsible for accurately documenting **unacceptable performance** or **misconduct**. Since no allegation or incident is the same and can have countless variables, a standard path of progression may be difficult to define. The recommendation of the agency is to consider implementing progressive corrective action prior to disciplinary action. The purpose of this directive is to equip supervisors with tools to guide the **employee** toward performance and conduct that is in the best interest of the agency.

This role identifies the appropriate **violation** number that accurately reflects the **employee's unacceptable performance** or **misconduct**.

IV. Conduct Investigator

If progressive corrective action is unsuccessful or if disciplinary action is being pursued, the conduct assessor shall report an **employee's** behavior to the conduct investigator. The conduct investigator, who is a supervisor generally within an **employee's** chain of supervision, shall conduct a thorough investigation of the alleged **violation** to gather all relevant facts and evidence.

V. Conduct Official

The conduct official is responsible for the fair and transparent administration of the disciplinary process. The conduct official assesses the results of the preliminary conduct investigation to determine whether a conduct review is

warranted. If a conduct review is required, the conduct official will oversee the review process, evaluate the **credible evidence** presented, and meet with the **employee**, witnesses, and representative, if applicable, to determine whether the allegation against the **employee** is substantiated. The conduct official may consult with a human resources (HR) specialist to make a final determination regarding what suitable disciplinary action should be taken.

A. Designation of the Conduct Official

The conduct official must be a TDCJ official who holds a position in salary group B21 or above. The conduct official must be authorized by the division director and is generally in the **employee's** direct chain of supervision. However, in cases where an official is unavailable, there is a conflict of interest, or other circumstances exist, the conduct official may be outside the **employee's** chain of supervision. It should be noted the conduct official may not be the conduct assessor, the conduct investigator or have a conflict of interest.

B. Conflict of Interest

Possible conflicts of interest are if the conduct official is actively involved in a **high-level investigation** relating to the **employee's** alleged **violation**, if they witnessed the alleged **violation**, have firsthand knowledge of the facts in the case or are the **employee's** representative.

When there is a conflict of interest, a TDCJ official who may be outside the **employee's** chain of supervision shall be assigned by the division director or designee. This is to maintain the integrity and impartiality of the disciplinary process.

VI. Human Resources

The respective HR specialist serves as both a liaison throughout the various steps of the disciplinary process as well as a resource for information or guidance and aids in the coordination of the overall disciplinary process.

The disciplinary team within Human Resources Headquarters (HRHQ) conducts a thorough technical review of disciplines and coordinates the dismissal approval process.

VII. Employee Representative

During the conduct review, an **employee** may elect to speak on their own behalf or may be represented by a designee of their choice in accordance with the PERS 184.

VIII. Witnesses

Witnesses with firsthand knowledge of the events under review may be requested to provide written statements in accordance with the PERS 184.

Procedures

I. Identification of **Unacceptable Performance** or **Misconduct**

The first step in addressing **unacceptable performance** or **misconduct** is to recognize the problem. This will help to determine where to begin within the process, or what steps should be taken. Issues or **violations** are discovered based on direct observation, a reported incident, or from investigative findings.

The conduct assessor determines whether to address **unacceptable performance** or **misconduct** through progressive corrective action or disciplinary action, based on the level of severity. If needed, the conduct assessor may consult an HR specialist to determine the most appropriate action. By taking proactive measures, the conduct assessor can maintain a fair and consistent approach in addressing **unacceptable performance** or **misconduct**, regardless of whether they choose to proceed with progressive corrective action or disciplinary action.

Should a supervisor, not in direct supervision of an **employee**, witness **unacceptable performance** or **misconduct**, they shall report it to a supervisor in the **employee's** chain of supervision.

II. Progressive Corrective Action

Progressive corrective action is a form of **unacceptable performance** or **misconduct** intervention. These intervention steps allow the conduct assessor to set expectations and potential consequences before resorting to disciplinary action. All progressive corrective actions are chosen and carried out by the conduct assessor. The conduct assessor has the flexibility to follow the actions listed, use a single option, or combine options based on the severity of the issue. If the conduct assessor believes the severity of the issue or **violation** warrants a more serious approach, discretion may be used to bypass intervention and proceed with disciplinary action.

These interventions allow an **employee** opportunities to improve performance or conduct. This approach is designed to be less punitive allowing more focus on **employee** development while still addressing **unacceptable performance** or **misconduct**. Receiving progressive corrective

action does not prevent disciplinary action from being taken after a review of all **supporting documentation**.

A. Documentation

The progressive corrective action process utilizes two primary documents, the PERS 181, "Counseling," and PERS 182, "**Employee Development Plan**." Documentation for each **employee** will vary depending on the progressive corrective actions chosen by the conduct assessor. The specific **unacceptable performance** or **misconduct** shall be outlined objectively and link the possible **violation** to **violations** outlined in the PD-22 Code of Conduct and Performance Standards.

All progressive corrective action documentation shall be kept in the conduct assessor's supervisory file and maintained at the **employee's** location of assignment. These documents may be used as **supporting documentation** in the **disciplinary packet** for the duration of one year from the date of the form. Once a PERS 181 or PERS 182 is completed, the conduct assessor shall provide a courtesy copy to the respective HR specialist.

B. Verbal Guidance

Conduct assessors shall address **unacceptable performance** or **misconduct** by providing instruction to the **employee** to encourage a behavior change toward desired performance or conduct. This is informal and intended to be used to verbally set expectations as minor issues arise. Verbal guidance is not documented.

C. Counseling

Counseling is provided by a conduct assessor and is the first documented progressive corrective action toward improving an **employee's unacceptable performance** or **misconduct**. Counseling involves providing guidance and feedback to the **employee**, communicating job expectations, developing job skills, and encouraging improved performance or conduct. The goal is to emphasize the importance of an **employee's** responsibility.

The conduct assessor shall document any counseling provided on the PERS 181. The conduct assessor and the **employee** shall sign and date the form to acknowledge that counseling occurred.

D. Employee Development Plan

An **employee** development plan is created collaboratively between the conduct assessor and the **employee**. It provides the **employee** with documented feedback regarding their performance or conduct, outlines specific goals for improvement, sets timelines for reevaluation, and sets expectations for when established goals are not met.

The conduct assessor shall meet with an **employee** privately to discuss and outline the **employee** development plan. The conduct assessor must set a reevaluation period for a minimum of 30 calendar days. For more serious concerns, the conduct assessor may deem additional reevaluations necessary on the 60-day and 90-day mark. The conduct assessor and the **employee** shall sign the form initially and during each reevaluation meeting of an **employee** development plan. **Employee** development plans are required for **violations** of G.1.1, "Unsustainable Performance," or G.1.7, "Attendance," refer to the PD-22 Code of Conduct and Performance Standards.

In creating an **employee** development plan, the conduct assessor shall address the following:

1. Specify the expected goals, establish measurable criteria, achievable actions, and provide relevant resources within a defined timeline to address the identified behavior or possible **violations**.
2. Encourage **employees** to identify support needs and provide them with resources for training, mentoring, or additional counseling sessions.
 - a. The Training and Leader Development Division offers a variety of in-person and online training opportunities designed to enhance skills and knowledge.
 - b. **Employees** have access through the [TDCJ Intranet](#) to the Training Library, which contains videos on specific topics such as **Employee** Professionalism, Cell Searches, Incident Command System, Key and Tool Control, and others. These resources may be used to address the specific areas of concern and help the **employee** improve their performance or conduct.

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3. Establish a schedule of anticipated reevaluation meetings to discuss **employee** progress, address challenges, and encourage continued open communication.
4. During the initial discussion, outline potential consequences for not meeting the specified goals. Inform the employee if notable improvement has not been made by the conclusion of the **employee** development plan, it may result in disciplinary action.

III. Preliminary Conduct Investigation

When the conduct assessor has exhausted progressive corrective actions and the **employee** has shown insignificant improvement, disciplinary action may begin. Justification shall be provided on the PERS 325 if progressive corrective action is not implemented. A preliminary conduct investigation ensures the conduct investigator carries out a fair and consistent investigation before presenting the case to the conduct official. If EEO allegations are discovered during a preliminary conduct investigation, they shall be reported to Workplace Resolution, Support, HR Division, before proceeding further.

A. Documentation

The preliminary conduct investigation process utilizes a PERS 325, supporting documents and, if applicable, a [PERS 24](#), "TDCJ Leave Request." The PERS 325 serves multiple purposes, including documenting the alleged **violations**, and summarizing the preliminary conduct investigation findings for the conduct official.

B. **Employee** Status Pending Conduct Review

The division director or designee shall decide an **employee's** status pending the outcome of a disciplinary action. This time period begins at the preliminary conduct investigation and continues through the conduct review until a determination is made.

1. No Change in Status

When the conduct investigator or conduct official deems it is not necessary to make any changes that can affect an **employee's** status, the **employee** may continue to report to work for their regular job assignment.

2. Temporary Reassignment

Temporary reassignment may be used to limit the **employee's** contact with **inmates** or other **employees**. When the conduct investigator or conduct official deems it necessary to temporarily reassign an **employee**, they shall submit a written request for approval to their division director or designee. The reassignment shall be to an equivalent position with the same or similar job responsibilities and the same pay, status, schedule, and benefits. Reassignment could consist of the following:

- a. Assigning the **employee** to work a non-contact position within the same unit or department;
- b. Coordinating a temporary move of the **employee** to another unit or department; or
- c. Contacting the HR director or designee for placement assistance.

3. Leave Status

Leave may be used when an **employee** is identified as a security risk, including those in administrative roles. When the conduct investigator or conduct official deems it necessary to place an **employee** on leave status, they shall submit a written request for approval to their division director or designee.

- a. Leave options shall be considered in the order listed:
 - i. Involuntary use of the **employee's** accrued compensatory then holiday time; then
 - ii. Voluntary use of accrued overtime or vacation time. This option requires the **employee** to complete a [PERS 24](#); or
 - iii. Leave without pay (LWOP) in accordance with [PD-49](#), "Leaves Other than Medical and Parental." This option is for **employees** who have no accrued leave other than sick time or refuse to voluntarily use accrued overtime or vacation time. The conduct investigator or conduct official shall instruct the conduct assessor to report the LWOP status through the TIME Application. The HR time keying team shall

submit a payroll status change and notify the respective leaves department.

- b. If a discipline is found unsubstantiated or is overturned, the **employee** may be eligible for restoration of time used.

C. Investigation

A PERS 325 shall be completed per date of incident. However, one incident can have multiple **violations**. **Violations** must be distinctly different in nature. Although an **employee** may have multiple **violations** within one incident, not all **violations** must be addressed the same way. Some may be addressed through progressive corrective action and others may be addressed through disciplinary action.

The PERS 325 has five sections, and guidelines for completing each section is outlined as follows:

1. Identified **Unacceptable Performance** or **Misconduct**

Once a conduct assessor decides to pursue disciplinary action, they shall initiate Section I of the PERS 325. Once this section is complete, the PERS 325 and all **supporting documentation** pertaining to the allegation shall be forwarded to the conduct investigator.

If applicable, a copy of a completed **high-level investigation** surrounding the incident shall be attached. The releasing office shall have an individual with the expertise needed to redact and release relevant information relating to the incident. The conduct investigator shall note on the PERS 325 an entry such as "See attached releasable copy of the OIG Investigation Number (insert identifying number)." Confidential information shall be redacted in accordance with the [Office of the General Counsel Public Information Act Manual](#).

When preparing the PERS 325, the conduct investigator shall ensure the identified **violation** accurately matches the **employee's unacceptable performance** or **misconduct**. This packet shall consist of either:

- a. All documentation from any progressive corrective action and a PERS 325 or

- b. A PERS 325 justifying the allegation is severe enough to bypass progressive corrective action.

2. **Employee Statement and Contact Information**

Upon initial contact with the **employee**, the conduct investigator shall confirm the **employee's** preferred method of contact, including a valid email address, phone number, and mailing address. The conduct investigator shall obtain the **employee's** written statement to include their account of what occurred during the incident.

3. **Attached Witness Statement(s)**

The conduct investigator shall obtain witness statements to include the witness's account of what occurred during the incident.

The conduct assessor and **employee** may each provide statements from their witnesses, to support their allegation or defense to the conduct investigator.

4. **Conduct Investigator's Review and Recommendation**

The conduct investigator shall review all **credible evidence** and **supporting documentation**, then recommend whether a conduct review is warranted. The **disciplinary packet** shall then be submitted to the conduct official within 10 **business days** of the alleged **violation** for further consideration.

Any delay shall be justified on the PERS 325. Acceptable reasons for delays are as follows: an **employee** or witness is unavailable, there are scheduling conflicts, or there is at least one pending **high-level investigation** surrounding the incident.

5. **Conduct Official's Recommendation**

Within five **business days** of the conduct investigator's review and recommendation in Section IV of the PERS 325, the conduct official shall complete Section V. Upon the completion of the PERS 325, if a conduct review is warranted, the conduct official shall forward the **disciplinary packet** to the respective HR specialist for scheduling.

If the conduct official concludes that a conduct review is not warranted, the completed PERS 325 and all **supporting documentation** shall be returned to the conduct assessor for possible progressive corrective action, if needed.

IV. Conduct Review

Conduct officials and **employees** should be familiar with Section VI, outlined within the PERS 184. The conduct review will be carried out with the utmost professionalism, integrity, and respect for all parties involved. A conduct review ensures that an **employee** charged with an alleged **violation** has the opportunity to present their defense to the conduct official.

A. Documentation

The conduct review process utilizes two primary documents, the PERS 184, "Notification of Conduct Review," and the PERS 185, "Determination Form." The PERS 184 functions as the official notification to an **employee** that a conduct review has been initiated. This ensures the **employee** is informed of the process and its implications. Additionally, it provides a comprehensive set of guidelines that covers expectations for an **employee** undergoing a conduct review. The PERS 185 shall be used by the conduct official to document any disciplinary action and length of time associated with each action that are determined at the conclusion of a conduct review.

B. Notification

1. Notification Documentation

The respective HR specialist shall complete and provide the notification documentation to the **employee** within **10 business days** from the date the conduct official signs the PERS 325. Separate sets of notification documentation will be required for each conduct review. These documents shall be sent to the **employee** via email with a delivery receipt or certified mail with a return receipt if unable to present in person. The notification documentation shall consist of the following:

- a. A PERS 184, and
- b. A copy of the **disciplinary packet**.

2. Proof of Receipt

A delivery receipt email or certified mail receipt serves as proof of receipt and shall be attached to the PERS 184. If the notification documentation was provided to the **employee** in person, the signed and dated PERS 184 shall serve as the proof of receipt.

C. Scheduling

A single conduct review shall be conducted per incident regardless of the number of **violation** charges. This applies even if multiple incidents were investigated through one investigation. If multiple conduct reviews are held on the same date, a break shall occur between each conduct review. The conduct reviews should be prioritized chronologically beginning with the earliest incident.

The conduct review will be scheduled on an **employee's** regularly scheduled **workday** at a time determined by the conduct official. Prior to scheduling, the **employee** must receive the notification documentation at least 48 clock hours in advance, unless waived, but no later than five **workdays** after receipt of the notification. By waiving the right to a 48-clock hour notice, an **employee** agrees that the waiver applies throughout the entire disciplinary process, including any rescheduled conduct reviews. Any cause for delay in scheduling or completing a conduct review shall be documented by the conduct official.

D. Rescheduling

If a conduct review must be rescheduled, regardless of the reason, the **employee** must have a 48-clock hour notice prior to the rescheduled conduct review unless initially waived.

Once rescheduling is approved by the conduct official, the PERS 184 shall be updated to indicate the new location, date, and time. The respective HR specialist shall ensure procedures outlined in Procedures Section IV.B.2 are followed. If the conduct review is not held within five **workdays** of the original receipt or 15 **workdays** for reconvened conduct reviews, the conduct official shall provide justification on the PERS 184.

Whether the request to reschedule is approved or denied, the respective HR specialist shall ensure all parties are notified. If the request is denied, the conduct official shall provide written justification

to the respective HR specialist to be included in the **disciplinary packet** as **supporting documentation**.

Acceptable reasons for rescheduling are as follows:

1. **Employee** waives the 48-clock hour notice;
2. Insufficient 48-clock hour notice;
3. Incomplete notification documentation;
4. Reevaluation of **violation** - requires a new PERS 184;
5. Mischaracterized **violation** - requires a new PERS 184;
6. Emergency security situations;
7. Adverse weather conditions;
8. Approved sick leave or hospitalization;
9. Unforeseen circumstances; or
10. Reconvened conduct reviews.

E. Attendance

1. **Employee** Attendance

In the event of any of the following:

- a. **Employee** departs before conclusion;
- b. **Employee** refuses to sign; or
- c. **Employee** fails to attend;

the conduct official shall conclude the conduct review and document the event on the PERS 185 **employee** signature line. In addition, a neutral third party's initial and date are required on the form.

2. Human Resources Specialist

Upon request of the conduct official, an HR specialist may be present during a conduct review.

F. Review

The conduct official shall begin the conduct review at the designated location, date, and time. They shall advise the **employee** of the alleged **violation**, ensure the **employee** was notified within 48 clock hours and confirm receipt of notification documentation. If either was not provided, immediately conclude the conduct review. The respective HR specialist shall provide the **employee** with the complete notification documentation and follow the rescheduling procedures outlined in Procedures Section IV.D.

Upon confirmation of the aforementioned, the conduct review shall proceed as outlined in the Conduct Review Process guide. Additional steps are as follows:

1. Emphasize that any protest made shall pertain only to TDCJ policy and procedural-related issues.
2. Determine if the **violation** occurred based on the sum of **credible evidence** and **supporting documentation** submitted.
3. **Reevaluation of Violation**

Verify if an alleged **violation** should be modified to a different **violation** number based on **credible evidence** and **supporting documentation** presented in the PERS 325. The PD-22 Code of Conduct and Performance Standards and Recommended Guidelines shall be used as a reference when reevaluating **violations**.

- a. If the evaluation results in a same or lower-level **violation**, the conduct review shall continue and the reevaluation along with justification shall be documented in Section I of the PERS 185.
- b. If the evaluation results in higher-level **violation**, the conduct review shall immediately be concluded and rescheduled. The respective HR specialist shall follow rescheduling procedures outlined in Procedures Section IV.D.

V. Determination

Once a defense has been presented by the **employee**, or their representative, the conduct official shall make a determination based on the findings of the conduct review. The determination will remain confidential throughout the process. The conduct official has the flexibility to use a single disciplinary action, or a combination of disciplinary actions based on the severity of the **violation**. Upon the conclusion of the conduct review, the conduct official shall record their recommendation.

A. Documentation

The determination process utilizes three primary documents: a PERS 185, PERS 186, "Dismissal Recommendation," a PERS 327, "Rehire Review Required," and all **supporting documentation**. The PERS 185 is the form that indicates the conduct official's findings and selected disciplinary action(s).

B. Findings

Findings have two categories: unsubstantiated or substantiated. These reflect the determination reached based on the **credible evidence** gathered during the investigation. **Violations** are considered unsubstantiated until proven to be substantiated.

1. Unsubstantiated

An unsubstantiated finding indicates the **credible evidence** provided was insufficient to prove the allegation. This does not mean the allegation did not occur. Instead, it indicates that there was not enough **credible evidence** to reach a finding.

In cases where the conduct official determines the allegation against an **employee** is unsubstantiated, the following shall be indicated on the PERS 185:

- a. The conduct official shall mark "unsubstantiated" and provide justification.
- b. If deemed appropriate, the conduct official may recommend additional training, or progressive corrective action.
- c. No disciplinary action will be taken.

- d. If applicable, determine if eligible to receive back pay or accrued leave.
- e. All parties involved shall be notified of the outcome.

2. Substantiated

A substantiated finding indicates enough **credible evidence** was provided to confirm the allegation more than likely occurred, as reported.

In cases where the conduct official determines the allegation against an **employee** is substantiated, the following shall be indicated on the PERS 185:

- a. The conduct official shall mark "substantiated."
- b. Specifics regarding disciplinary actions shall be outlined in Section III of the PERS 185.

C. Reconvened Conduct Review

When a finding or disciplinary action cannot be determined during the initial conduct review, the conduct official may choose to reconvene. Justification for reconvening shall be documented on the PERS 184. The respective HR specialist shall follow the steps outlined in Procedures Section IV.D and update the information in Section V of the PERS 184.

D. Considerations

- 1. The conduct official shall consider the following in determining the appropriate disciplinary action to ensure a fair, consistent, and transparent approach:
 - a. Severity of the **violation**;
 - b. History of **high-level investigations**;
 - c. Previous disciplinaries within the **active period**;

At the discretion of the conduct official, when an additional **violation** is incurred within the **active period**, the most severe option of the given offense may be used;

- d. Length of service;

- e. Self-reporting of **violation**;
 - f. Cooperation during the conduct review; and
 - g. Changes in line of supervision or job requirements.
2. If official records concerning an **employee's** performance or conduct contradicts a conduct assessor's write up, official records may be considered more reliable and given greater weight in the determination process. This may include an **employee's** [PERS 11](#), "Employee Performance Evaluation," [PERS 401](#), "TDCJ Employee Performance Log," or any progressive corrective action documentation.
 3. If an **employee** has multiple substantiated **violations**, the conduct official shall consider imposing disciplinary action under a higher offense, as shown in the PD-22 Code of Conduct and Performance Standards and Recommended Guidelines.
 4. If the **employee** holds a supervisory position, a more severe disciplinary action may be warranted. Supervisors are expected to demonstrate the highest standards of performance and conduct. They are viewed as role models for **employees** and should conduct themselves in the manner they expect **employees** to perform. The time held as a supervisor will hold more weight than total state service time.

E. Disciplinary Action

The conduct official shall consult the PD-22 Code of Conduct and Performance Standards and Recommended Guidelines as a reference point for the length of each disciplinary action while retaining the discretion to tailor disciplinary measures to each case's unique circumstance. Each disciplinary action is independent and may be used as a stand alone or in conjunction with others for the appropriate offense.

1. Probation
 - a. Imposition

Probation may be imposed independently or in conjunction with suspension without pay, reduction in pay, or demotion. The duration of probation does not have to be the same as any other disciplinary action. Before probation can be

imposed on a first offense, a 60-day **employee** development plan showing no significant improvement is required, except for **violations** indicated as "dismissal only."

b. Implications

When a conduct official places an **employee** on probation, it places a higher level of accountability on the **employee**. During a probationary period, an **employee** must not incur another substantiated **violation**. Doing so will result in a recommendation for dismissal.

While on probation, an **employee** is not eligible to receive the following:

- i. Merit compensation;
- ii. Salary adjustment increase (except a legislatively mandated increase);
- iii. Promotion;
- iv. Transfer (other than an emergency transfer);
- v. A reduction-in-force hiring preference; or
- vi. Tuition reimbursement.

For procedures relating to the effects of disciplinary probation on salary rate increases, refer to [PD-72](#), "Employee Salary Administration," [PD-89](#), "Salary Equity Adjustments," [PD-90](#), "Merit Compensation," and [AD-11.78](#), "Tuition Reimbursement Program."

2. Suspension Without Pay

a. Imposition

Suspension without pay may be imposed on a first, second, or third offense. It can be imposed independently or in combination with probation, as deemed appropriate.

The conduct assessor shall indicate the suspension without pay in the time keeping application. Suspension without pay shall begin at the beginning of an **employee's work**

cycle. The **employee** shall not be allowed to accrue compensatory time or overtime within the **work cycle** affected by suspension without pay.

b. Implications

While on suspension without pay, the **employee** shall not be permitted access to secure TDCJ premises. **Employees** shall be allowed to perform necessary tasks, such as turning in state property or going to the **employee's** TDCJ housing. The **employee** shall immediately turn in their ID card and state issued keys to their respective HR specialist. In addition, if the **employee** is suspended for more than five **workdays**, the **employee** shall immediately turn in any other state issued items or equipment, such as uniforms and parking permits, to their respective HR specialist.

3. Reduction In Pay

a. Imposition

Reduction in pay may be imposed on a second or third offense. It can be imposed independently or in combination with probation or suspension without pay, as deemed appropriate.

b. Implications

Pay may be reduced by 3.4%, 6.8%, or 10.2% within the **employee's** current salary group. The effective date for a reduction in pay will be based on payroll deadlines. If reduction in pay is imposed in conjunction with suspension without pay, the suspension without pay shall be completed before the reduction in pay begins.

4. Demotion

a. Imposition

Demotion may only be imposed on the third offense. It can be imposed independently or in combination with probation, suspension without pay, or reduction in pay, as deemed appropriate.

Demotion is a permanent change in the duty assignment of an **employee** from one classified position to another classified position in a lower salary group, for example, B15 to A14, or B15 to B14. Returning to the same position will require an **employee** to requalify or reapply.

b. Position Availability

Prior to imposing a demotion, the conduct official shall ensure a valid payroll position vacancy exists and the authority to fill the position has received budget approval. A demotion will result in the **employee** remaining in the same career field and under the same chain of supervision unless:

- i. The **employee** meets the minimum qualifications for a position outside the **employee's** current career field;
- ii. The demotion is coordinated with the Recruiting and Hiring Section, HR Division; and
- iii. The division director or designee for the position to which the **employee** is being demoted concurs with the placement into the position.

c. Implications

Demotion is a change from one position to a lower position with the effect of decreasing salary by 1-3 pay groups.

If suspension without pay is imposed in conjunction with a demotion, the suspension without pay shall be completed before the demotion takes effect.

If an **employee** currently under a reduction in pay receives another substantiated **violation** warranting demotion, the demotion will outweigh the existing reduction in pay. In this case, the reduction in pay shall be escalated to a demotion, effectively ending the previous reduction in pay.

5. Dismissal

Dismissal, being the most severe disciplinary action, requires a rigorous approval process. This multi-step procedure ensures that termination decisions are made with careful consideration,

fairness, and are in compliance with agency policies and applicable laws.

F. Human Resources Specialist

1. Disciplinary Packet Submission

Once the conduct official has made a determination, and the PERS 185 is completed, the **disciplinary packet** shall be submitted to the respective HR specialist. The discipline is entered into the Payroll Personnel System Disciplinary Action Update (PPS DISCAU) screen and, if necessary, a payroll status change is completed. A copy of the PERS 185 shall be provided to the **employee**. The **disciplinary packet** shall be emailed within five **business days** to the disciplinary team at HR_Discipline@tdcj.texas.gov.

2. Payroll Status Changes

For suspension without pay, reduction in pay, and demotion, the respective HR specialist shall coordinate with the **employee's** respective time keying team within HRHQ to ensure a payroll status change is processed with payroll. During the post conduct review, the disciplinary team shall coordinate payroll status changes with the **employee's** respective time keying team for processing with payroll.

F. General Provisions

1. Deviation

If a deviation is made above or below recommended guidelines, a justification must be provided in Section IV of the PERS 185.

If a deviation is made below recommended guidelines where it is indicated as dismissal only, written approval must be obtained from the executive director, respective chief officer, or respective division director and attached to the PERS 185.

2. Effective Date

Disciplinary action takes effect based on the dates indicated on the PERS 185. At the end of the conduct review, the conduct official shall outline all disciplinary actions and effective dates with the **employee**.

3. Interruptions due to Leave Without Pay

Probation or reduction in pay that is interrupted by more than one calendar month of LWOP, the number of months missed will extend the duration of the disciplinary action. The conduct assessor shall indicate LWOP in the time keeping application to ensure the respective HR specialist or the respective time keying team is notified of the **employee's** return to work.

VI. Post Conduct Review

A. Documentation

Post conduct review processes may utilize the PERS 186 or PERS 327.

B. Technical Review Process

The primary objective of this review is to audit the overall disciplinary process, facilitate the dismissal approval process, and ensure compliance with TDCJ policies and procedures, and state and federal laws. The disciplinary team shall conclude the technical review within **30 business days**.

1. Compliance Review

The disciplinary team shall conduct a comprehensive review of the full **disciplinary packet**. During the technical review, a discipline can be found in compliance or out of compliance. When a discipline is found in compliance, the disciplinary team shall follow the record retention guidelines outlined in Procedures Section VIII.B. Reasons for finding a discipline to be out of compliance are as follows:

a. Mischaracterized Violation

A mischaracterized **violation** is when a more appropriate **violation** number applies to the incident. The disciplinary team shall indicate "out of compliance" on Section VI of the PERS 185, provide justification, and communicate the change to the **employee**, respective HR specialist, and the conduct official. The respective HR specialist shall follow rescheduling procedures outlined in Procedures Section IV.D. This action provides the

employee time to prepare a new defense relating to the recharacterized **violation**.

b. Reassessment of Disciplinary Action

Reassessment is when a higher or lower disciplinary action is identified and is more appropriate to the incident. When a discipline is found to be out of compliance, the disciplinary team shall indicate "out of compliance" on Section VI of the PERS 185 and provide a counter recommendation. This shall be sent via email to the conduct official. The conduct official shall provide a response.

i. If the conduct official concurs with the disciplinary team's counter recommendation, they shall indicate concurrence in Section VI of the PERS 185 and return the form to the disciplinary team.

ii. If the conduct official non-concurs with the disciplinary team's counter recommendation, the conduct official shall indicate non-concurrence and email the disciplinary team the updated PERS 185 and justification. If the disciplinary team maintains their original non-concurrence, they shall forward the PERS 185 and the conduct official's non-concurrence justification to the HR director for review.

(a) If the HR director concurs with the disciplinary team, they shall contact the respective division director to determine a final resolution.

(b) If the HR director non-concurs with the disciplinary team's recommendation, that becomes the final resolution.

The final resolution shall be communicated back to the disciplinary team who will then attach the email documentation to the PERS 185 and email a copy to the conduct official and the respective HR specialist. The respective HR specialist shall notify the **employee**. The disciplinary team will update PPS DISCAU, and follow the procedures outlined in Procedures Section V.F.2.

- c. Other reasons for being out of compliance shall be indicated in Section VI of the PERS 185 as "Other" with a justification included.

C. Dismissal Approval Process

The disciplinary team shall coordinate routing of the dismissal in accordance with the PERS 186.

1. Concurrence

Dismissal action shall be completed within 30 **workdays** of an **employee** waiving or forfeiting mediation, or mediation was concluded.

Upon approval of the dismissal recommendation, the disciplinary team shall ensure the following actions are completed:

- a. Email the final outcome to the respective HR specialist and time keying team;
- b. Follow the procedures outlined in Procedures Section V.F.2.; and
- c. Email a copy of the decision and **supporting documentation** to the **employee** with a delivery receipt or via certified mail with a return receipt.

2. Non-Concurrence

In the event a dismissal recommendation is not approved, an alternate disciplinary action shall be determined by the division director and coordinated through the disciplinary team. Within 24 hours, the disciplinary team shall follow the procedures outlined in Procedures Section V.F.2. and email a copy to the conduct official. The disciplinary team shall communicate the updated disciplinary action to all parties involved.

D. Rehire Review

The rehire review process is designed to ensure thorough vetting of potential rehires that left the agency under questionable circumstances, thereby maintaining the integrity and safety of the

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workplace. HRHQ Recruiting and Hiring Section is responsible for coordinating the detailed review of a potential rehire application.

1. Required

A rehire review is mandatory when an **employee** separates under any of the following circumstances:

- a. Ongoing **high-level investigation**,
- b. Pending city, county, state, or federal criminal charge,
- c. Ongoing unit or department investigation,
- d. Pending conduct review or disciplinary action,
- e. Post-resignation investigations reveal information that can impact reemployment with the TDCJ. Such findings should be detailed in the investigation documentation or in a separate inter-office communication.

In such cases, a warden, section manager, or conduct official shall provide relevant documentation to their respective HR specialist to submit a PERS 327.

The PERS 327 shall be attached to the investigation documentation, **disciplinary packet**, and the **employee's** resignation letter, if applicable. The documentation is forwarded for approval to the respective division director, or their designee and the HR director. Once approved, all documentation is emailed to the disciplinary team.

2. Not Required

If no investigations or disciplines are pending a rehire review shall not be required.

3. Rehire Review Required Provisions

If the **employee** applies for reemployment with the TDCJ, employment may only be offered with prior approval by the hiring division. If approved, the following factors shall be considered:

- a. If applicable, the TDCJ official who approves the offer of employment shall determine whether the investigation that was ongoing at the time of separation shall be

completed, with the understanding that completion of the investigation may result in the **employee** being subject to the disciplinary process.

- b. If the **employee** separated employment while under disciplinary action and returns within two years, the **employee** will be required to complete the previously imposed disciplinary action up until the two-year mark. After the two-year mark, previously imposed disciplinary action no longer applies.

VII. Appeals

Appeals are made through an **employee** filing a grievance or opting for a dismissal mediation.

A. Grievance

Should new evidence or procedural irregularities be discovered, a grievance may be initiated. A dismissal recommendation may not be grieved until a conduct review is concluded.

For grievance guidelines refer to [PD-30](#), "Employee Grievance Procedures."

B. Dismissal Mediation

At the mediation level the senior agency official may elect to restore an employee's time balances lost and the employee is eligible for back pay when the violation has been unsubstantiated during the mediation process.

For mediation guidelines refer to [PD-35](#), "Independent Dismissal Mediation and Dispute Resolution."

VIII. Documentation Provisions

- A. Throughout the disciplinary process, management and **employees** shall record factual details such as dates, times, witness statements, and other key information on all documentation. Actionable Items, Documents, and Timelines may be used as a reference for a summary of actions and timelines within the disciplinary process.

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B. Record Retention

All disciplinary documentation shall be maintained in the respective HR specialist's **employee** file. Documentation relating to the disciplinary process shall be maintained according to the TDCJ Records Retention Schedule. Completed disciplinaries shall be sent to HRHQ Business Operations to be entered into the **employee's** master personnel file.

C. Records Request

To obtain copies of an **employee's** discipline file, **employees** may submit a public information request in accordance with [ED-15.12](#), "Public Information Requests." Documentation may not be available until the conduct review is concluded.

D. Refusal to Sign

If the **employee** refuses to sign any document, it shall be recorded on the **employee** acknowledgement line as "**employee** refused to sign" and the date shall be indicated. In these cases, a neutral third party may be required to sign for confirmation.

IX. Forms / Documents

The related forms and documents listed below are available by following the hyperlink.

- A. [PD-22 Code of Conduct and Performance Standards and Recommended Guidelines](#)
- B. [Actionable Items, Documents, and Timelines](#)
- C. [Conduct Review Process](#)
- D. [PERS 181, Counseling](#)
- E. [PERS 182, Employee Development Plan](#)
- F. [PERS 325, Preliminary Conduct Investigation](#)
- G. [PERS 184, Notification of Conduct Review](#)
- H. [PERS 185, Determination Form](#)

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- I. [PERS 186, Dismissal Recommendation](#)
- J. [PERS 327, Rehire Review Required](#)

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