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EMPLOYEE DISCIPLINE

PURPOSE

1. Employee performance and behaviour is expected to contribute toward the achievement of the organization's goals and objectives. When an employee's performance or behaviour is unsatisfactory, corrective action must be taken. This corrective action will take the form of progressive discipline when the situation is a result of inappropriate behaviour or unsatisfactory performance and when the employee has the ability to perform at an acceptable level but chooses not to do so.

APPLICATION

2. These guidelines and procedures apply to all employees.

DEFINITIONS

3. **Disciplinary Suspension** is the temporary absence without pay of an employee from the place of duty to stress upon the employee the seriousness of the misconduct.
4. **Demotion** is the transfer to a new position with a maximum rate of pay lower than the maximum rate of pay for the position held by the employee immediately prior to the transfer. A demotion may be for a fixed period.
5. **Dismissal** is the termination, at the employer's discretion, of an individual's employment for cause.
6. **Employee Relations** is a Division of the Department of Human Resources.
7. **Standards of General Conduct** are accepted forms of performance, activity and behaviour that require no set rules to ensure compliance (e.g., coming in to work on time).
8. **Standards of Particular Conduct** are established work rules or orders set out by the employer (e.g., taking coffee breaks according to a rotational schedule).

	
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9. **Written Reprimand** is a written warning that performance or conduct is unsatisfactory. A copy of the written reprimand is placed on the employee's personnel file, becoming part of the employee's record.

PROVISIONS

10. The manager must inform an employee of the standards of particular conduct that apply in the workplace.
11. Employees may be disciplined for breaching standards of general conduct or standards of particular conduct.
12. The problem of an employee's failure to maintain the required standards of conduct must be resolved. In assessing misconduct, the manager should consider such factors as:
- the employee's length of service;
 - the employee's past record;
 - the seriousness of the offence; and
 - any other pertinent facts.
13. It is inappropriate to allow other employees to witness the discipline of co-workers. Interviews involving discipline must be held in private. **Employees must receive 24 hours notice and the right to union representation prior to a meeting, if the matters to be discussed may give rise to a suspension or dismissal.**
14. Discipline should not be viewed as punishment, but as a method of correcting a problem.
15. Disciplinary action should not be delayed. An inordinate time gap between the breach of conduct and the manager's response tends to disassociate the offence from the corrective action.
16. Disciplinary action should only be taken after the employee has an opportunity to present his or her version of the events. A meeting should be held with the employee for this purpose. If suspension or dismissal is being considered, an employee who is a member of an employee union must be given 24 hours notice of the meeting and be advised of the right to have a representative present at the meeting.
17. Employees in the NEU bargaining unit that are required to attend a meeting that may result in suspension or dismissal may request the

	
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meeting be postponed for a maximum of three working days to allow the employee to arrange to have a union representative present.

18. Discipline should be applied progressively unless the misconduct is extremely serious (e.g., theft, physical assault, or serious insubordination). If the employee fails to correct the behaviour, the discipline imposed becomes stronger with each incident. The progressive discipline process normally follows these steps:

Step 1 - Written Reprimand

Written reprimands are usually administered by the immediate supervisor. The supervisor may consult and involve their director or superintendent. The supervisor may also consult with their Human Resource Practitioner or Employee Relations before proceeding.

Step 2 - Disciplinary Suspension or Demotion

Disciplinary suspensions are administered by the Deputy Head in consultation with Employee Relations, upon the recommendation of the supervisor. Suspensions are applied progressively, but should be appropriate to the offence. The first suspension is normally for one day. If this does not correct the behaviour and repetition occurs, then the next incident would result in a five day suspension, followed by a ten day suspension. After a 10 day suspension, dismissal would be considered.

Deputy Heads should suspend an employee where they feel that an extensive investigation is required, the results of which may lead to dismissal. Where the Deputy Head feels an employee must be removed from the work site to properly conduct an investigation, then a suspension pending investigation under Section 30 of the *Nunavut Public Service Act* (PSA) is required. There are also provisions for suspension pending investigation under the *Nunavut Education Act* that apply to teachers. If you are going to meet the employee to advise him/her of the suspension pending investigation and there is a chance the outcome of the investigation may result in either a suspension or dismissal, you must provide them with 24 hours notice of the meeting and the right to union representation.

Disciplinary demotions under PSA Section 29 can be administered by the Deputy Minister of the department. Demotions after investigations PSA Section 30 are administered by the Deputy Minister of Human

	
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Resources in consultation with the employing Deputy. Demotion may be used as a "last resort" prior to dismissal.

Section 29 of the PSA gives an employee the right to appeal a demotion or suspension. An appeal must be made in writing to the Minister of Human Resources within 14 days of receiving the letter of suspension or demotion. The Minister can overturn, reduce or confirm the suspension or demotion.

Step 3 - Dismissal

The Deputy Minister of Human Resources in consultation with the Deputy of the employing department has the authority to dismiss an employee from a public service position. The authorities for imposing discipline are outlined in Attachment "A".

19. For a casual employee, the progressive discipline process in #18 above may be accelerated resulting in dismissal without all the steps having been taken (see Section 802 for casual employees).
20. Incidents of serious misconduct (such as assault, theft or serious insubordination) may warrant serious disciplinary measures, and steps of the progressive discipline process may be by-passed.
21. If a meeting (including a meeting advising the employee of a suspension pending investigation) is held with an employee who is a member of the NEU bargaining unit, that may result in a dismissal or suspension, the employee must receive 24 hours notice and must be advised of the right to have a Union representative present at the meeting.
22. Employees must receive 24 hours notice and the right to union representation prior to receiving his/her letter for suspension or dismissal, if you are going to give the letter to the employee in person.
23. Written reprimands, letters of suspension, letters of demotion and letters of dismissal are copied to an employee's personnel file.
24. The manager informs employees of the standards of particular conduct which apply to the workplace.

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25. When standards of conduct are breached, the manager initiates disciplinary action. The manager begins documenting this on a disciplinary action record sheet, see Attachment “B”.
26. If necessary, in order to determine the appropriate action to take, the manager may contact their human resource section who in turn may:
 - i) contact Employee Relations for assistance with progressive discipline; and
 - ii) consult with other managers and superiors.
27. The manager holds a private interview with the employee (with 24 hours notice and the right to Union representation if suspension or dismissal may occur) before disciplinary action is taken to do the following:
 - i) ensure the employee is aware of the problem;
 - ii) give the employee an opportunity to explain the circumstances surrounding the unsatisfactory performance or the breach of conduct;
 - iii) determine if the employee's actions were merely a result of misunderstanding directions, or if the employee wilfully broke rules of conduct; and
 - iv) explain to the employee how management will deal with the misconduct.
28. If the employee says the unsatisfactory behaviour is due to physical, personal or domestic problems, the manager encourages the employee to seek professional advice or treatment. This should include providing the employee with the toll-free number for the Government of Nunavut Workplace Wellness Program.
29. The manager makes notes of the interview. These notes are not placed in the employee's personnel file, but are kept for future reference should the behaviour continue, as well as for reference when the manager prepares a performance appraisal for the employee.
30. If culpable misconduct occurs, the manager meets with the employee to obtain an explanation. If required, the manager advises the employee that a letter of reprimand is being considered.
31. The manager prepares a written reprimand, see Attachment “C”. The manager gives this letter to the employee. A copy is placed in the

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employee's personnel file. The written reprimand informs the employee of the corrective action that will be taken and must include the following:

- i) an explanation of the behaviour for which the employee is being reprimanded;
 - ii) an explanation of how to correct the behaviour;
 - iii) an explanation of the type of discipline that is being considered or that will be carried out;
 - iv) a plan of action for correcting the problem, with time lines, if possible; and
 - v) an explanation of further action that will be taken if the employee fails to correct the behaviour.
32. More than one written reprimand may be given before proceeding to a suspension. Consult with your Human Resource section to determine if it is appropriate to move to the next step or issue another letter.
33. Where a disciplinary suspension or demotion is the next step in the progressive discipline procedure, the manager must do the following:
- i) carry out a thorough investigation; and
 - ii) if warranted by the investigation, prepare a report for the Deputy Head and recommend disciplinary suspension or demotion. (The report must include the employee's explanation.)
34. If the Deputy Head accepts the recommendation for suspension, the Deputy Head prepares a letter of suspension, see Attachment "D". This letter is given to the employee. A copy is placed on the employee's personnel file.
35. An employee may be suspended several times. Suspensions of one, three, five, and ten days are the normal progression.
36. If the Deputy Minister of Human Resources accepts a recommendation for demotion, the Deputy Minister of Human Resources advises the employee, in writing, of the demotion, see Attachment "E". This letter is given to the employee. A copy is placed on the employee's personnel file.
37. The Deputy Head may consider dismissing an employee as the final step in progressive discipline on recommendation from the Manager. As much information as possible should accompany this

	
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recommendation to ensure the Deputy Head is making an informed decision.

38. The Deputy Head reviews the request for dismissal. In conducting the review, the Deputy Head looks at the facts, checks for progressive discipline, examines case law and checks to see if the employee was treated fairly and reasonably. The following points are examined during this process:

- i) Does the seriousness of this offence warrant dismissal? (e.g., serious misconduct such as theft, fraud, insubordination and dishonesty, etc.)
- ii) What are the Government rules for dealing with the particular offence? Have these rules been followed?
- iii) Are these rules confirmed or reiterated in a union contract, an employee handbook or by previous Government actions that set precedents for dealing with similar incidents?
- iv) Was it made clear to the employee that this offence may result in dismissal?
- v) What is the length of the employee's service?
- vi) What is the employee's performance like and are performance appraisals on file?
- vii) Was the employee given a chance to provide an explanation of his/her version of the events?
- viii) Are there any other mitigating factors?
- ix) What does the relevant case law say?

39. A meeting is held with the employee to advise of the possibility of dismissal (24 hours notice and the right to representation is given to NEU employees). The Deputy Minister of Human Resources advises the employee in writing of the recommendation for dismissal. The letter should contain the reasons for the recommended dismissal and should clearly outline that the employee has five days in which to make a written submission on his/her behalf to be considered in the final analysis.

40. After reviewing all of the information, including the written submission (if provided) the Deputy Minister of Human Resources determines if dismissal is appropriate. The Deputy Minister of Human Resources informs the employee in writing of dismissal from the public service. The letter of dismissal will clearly state the reasons for the dismissal, why further employment cannot continue, that dismissal is effective immediately and the period of ineligibility for employment with the GN.

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41. The letter of dismissal is copied to the employee's personnel file and to the Director, Employee Relations, Department of Human Resources.
42. A copy of the notice of dismissal or demotion is faxed or hand delivered to the appropriate Finance office for pay action when the employee is outside of Headquarters.
43. The GN has guidelines on hiring former employees who were terminated. A former employee who was terminated who applies on a Public Service position within the two (2) year ineligibility period or has outstanding court action or grievances related to their dismissal, will not be considered for the competition for that position. The Deputy Minister of Human Resources has the authority to provide direction to hire an individual who is on the ineligibility list.

AUTHORITIES AND REFERENCES

44. Nunavut Public Service Act
Section 32
Section 33
45. Main Collective Agreement with the NEU
Article 35, Adjustment of Disputes

CONTACTS

46. For clarification or further information, please contact:

**Director Employee Relations
Department of Human Resources
Iqaluit, Nunavut
975-6211**



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**ATTACHMENT "A" –
DISCIPLINARY ACTION ROLES AND RESPONSIBILITIES**

FORM OF REPRIMAND	SUPERVISOR	EMPLOYEE RELATIONS	DEPUTY HEAD
1. Written Reprimand	A formal meeting or discussion. Letter should summarize discussion, outline nature of infraction, refer to previous warning and warn against repetition. Must state that a copy of reprimand will be placed on employee's file. Forward copy to Employee Relations.	Available for interpretations and assistance.	
2. Demotion	Interaction with employee as in #1. Recommend demotion to Deputy Head.	Assist Deputy Head in determining the appropriate length, pay level, etc. Ensure documentation is placed on employee's file.	Discuss with Employee Relations. A demotion with investigation is imposed by the Deputy Minister of Human Resources. A demotion without investigation is imposed by the deputy head.
3. Suspension Ensure 24 hours notice of meetings is given to employees who are members of Nunavut Employee's Union. Employees may request the meeting be postponed for a maximum of three working days.	Discuss incident with employee. The employee is given an opportunity to explain and is informed of the intention to recommend suspension. Recommend suspension to Deputy Head. Consult with Departmental HR section.	Consult with Departmental HR staff or Deputy Head regarding appropriate length of suspension and proper handling. Ensure correct procedures are followed to avoid possible grievance.	Discuss with Employee Relations. Impose suspension in writing. Contents of letter to follow the same outline as letter of reprimand. Forward copy to Employee Relations.
4. Dismissal Ensure 24 hours notice of meetings is given to employees who are members of Nunavut Employee's Union. Employees may request the meeting be postponed for a maximum of three working days.	Ensure that previous disciplinary actions are clearly documented. Recommend dismissal to Deputy Head.	Demonstrate that employee is guilty of misconduct or incompetence. Ensure that progressive discipline has been applied and failed. Ensure proper documentation is on file.	Discuss with Employee Relations. DM of Human Resources signs dismissal letter to employee. Copy to Employee Relations. If giving the letter to the employee in person, provide 24 hours notice and the right to union representation.

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**ATTACHMENT “B” –
DISCIPLINARY ACTION RECORD SHEET**

DISCIPLINARY ACTION TAKEN	WRITTEN REPRIMAND	SUSPENSION
Date/Time of Interview		
Place of Interview		
Reason for Interview (include behaviour requiring correction and dates)		
Employee's Response		
Suggested Steps to Correct Problem		
Explanation of further action to be taken if behaviour goes uncorrected.		

	
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**ATTACHMENT “C” –
SAMPLE LETTER OF REPRIMAND**

PERSONAL & CONFIDENTIAL

Date:

Employee Name
Title
City/Town

Dear:

Subject of Reprimand

This will confirm the meeting we had on (date) concerning your continuing problem regarding (state the nature of the problem).

You were warned orally on (date or dates) about (state the problem) and you were advised that your failure to correct this problem could result in further discipline. Despite this warning, you have continued to (state nature of problem), the latest incident occurring on (date) .

As I have explained to you, this type of behaviour is unacceptable. It is your responsibility to correct this problem. If (state nature of problem) continues, you will be subject to further disciplinary action.

If you have personal problems that may be affecting your ability to (state nature of problem), the Government of Nunavut has an Employee Wellness Program that I encourage you to contact. You can make arrangements to access this service by contacting the Employee and Family Assistance Program (EFAP) toll-free at 1-866-229-2204.

A copy of this letter will be placed on your personnel file.

Sincerely,

(Signature of Supervisor)

c: Personnel File (send to the Appropriate Human Resource Office in the regions).
Director, Employee Relations Department of Human Resources.

	
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**ATTACHMENT “D” –
SAMPLE NOTICE OF SUSPENSION**

PERSONAL & CONFIDENTIAL

Date:

Name of Employee
Title
Department

Dear:

Subject of Suspension

I have been informed by your supervisor, (name of Supervisor), that on (date) you (state nature of incident). You have been warned both orally and in writing on previous occasions about (state nature of problem). The (date) incident indicates that these warnings have not been sufficient to resolve the problem. Therefore, I have decided to suspend you without pay for (one, five or ten) working days, commencing on (date). You will be expected to report for work at your normal work location and starting time on (date) .

This suspension is to ensure that you understand the seriousness of this situation and to convince you of the need to correct the problem. If (state nature of problem) continues to be a problem, you may be subject to further disciplinary action and, possibly, dismissal.

If you have personal problems that may be affecting your ability to (state nature of problem), the Government of Nunavut does have an Employee Wellness Program that I encourage your to utilize. You can make arrangements to access services of the Employee and Family Assistance Program (EFAP) toll-free at 1-866-229-2204.

A copy of this letter will be placed on your personnel file.

Sincerely,

(Deputy Head's Signature)

c: Personnel File (send to the Appropriate Human Resources Office in the regions).
Director, Employee Relations Department of Human Resources.

	
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**ATTACHMENT “E” –
SAMPLE NOTICE OF DEMOTION**

PERSONAL & CONFIDENTIAL

Date:

Name of Employee
Title
Department

Dear (Employee):

Demotion

After reviewing your submission and the circumstances surrounding your work performance problems, I have decided to accept the recommendation made by your Deputy Head to demote you, under Section 29 of the *Nunavut Public Service Act*, to the position of (position title). (you must clearly state why he/she is being demoted)

Your demotion shall be from (start date) to (end date). (Disciplinary suspensions must be for a fixed period) You will be expected to report to work at your new work location on (date) and shall report to (state supervisor’s name).

This demotion is to ensure that you understand the seriousness of this situation and to convince you of the need to correct the problem. If you are having personal problems that are affecting your ability to fulfil your employment obligations, I encourage you to contact the Employee Wellness Program at 1-866-229-2204. If (state nature of problem) continues, you will be subject to further disciplinary action up to and including dismissal.

A copy of this letter will be placed on your personnel file.

Sincerely,

(Deputy Head's Signature)

c: Personnel File (send to the Appropriate Human Resource Office in the regions).
Director Employee Relations Department of Human Resources.