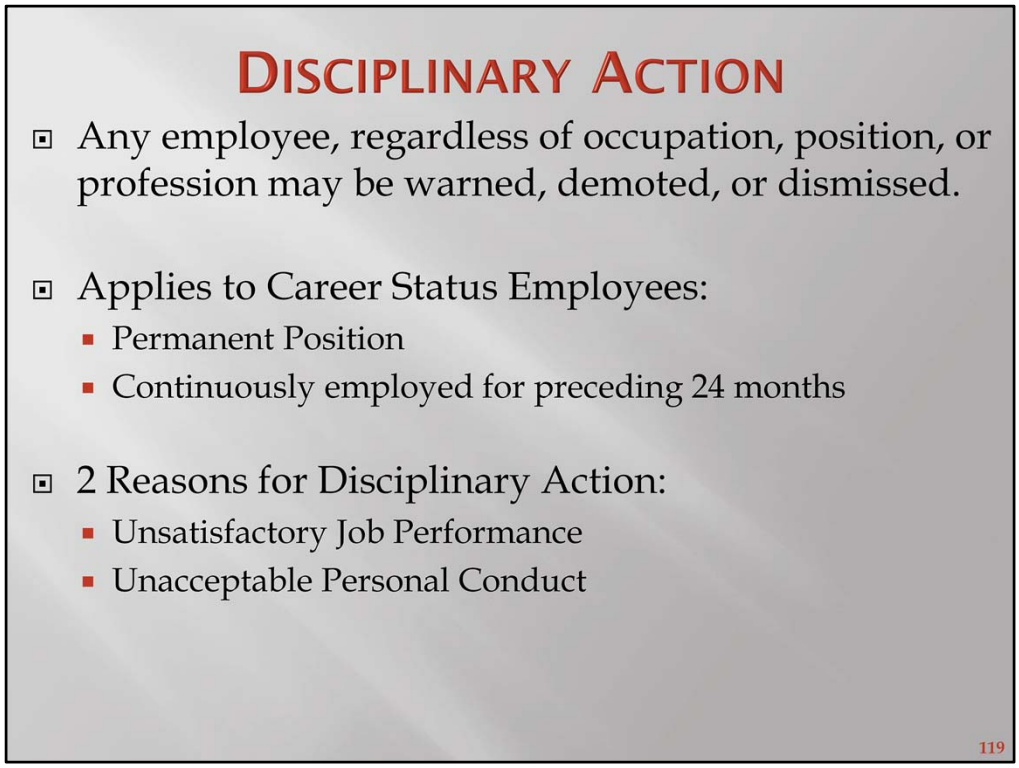

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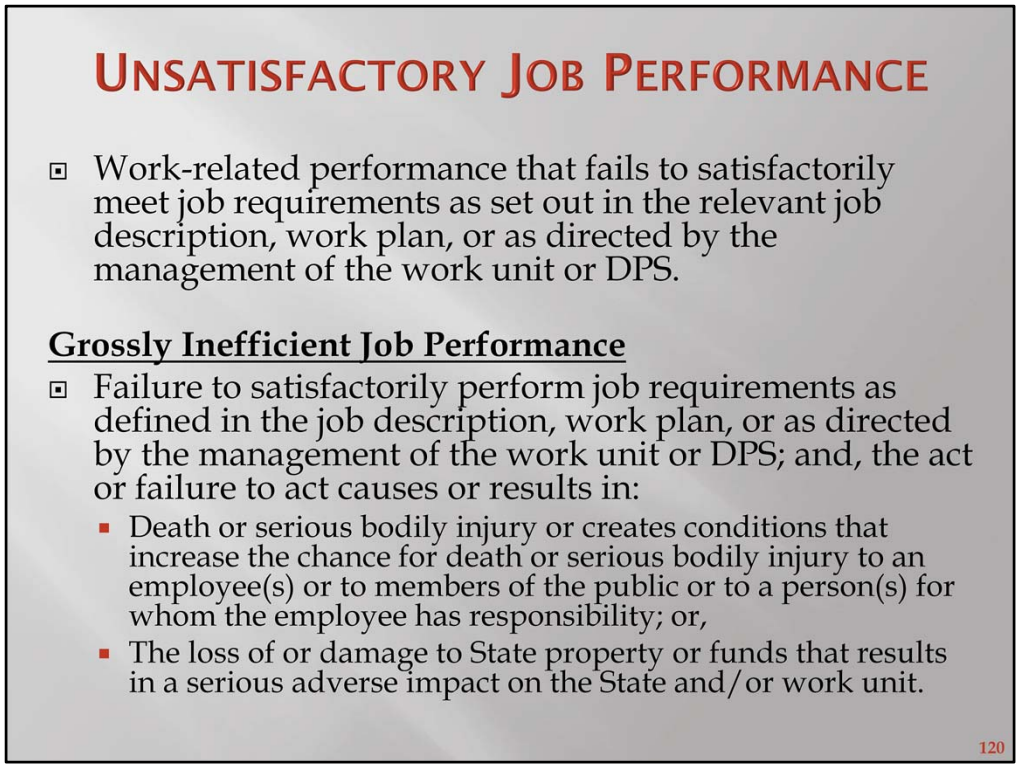
Any employee, regardless of occupation, position, or profession may be disciplined in accordance with this policy by the Commissioner or designee.

The Department of Public Safety (DPS) Disciplinary Process ensures all employees receive fair and consistent treatment relative to addressing job performance and personal conduct issues in the workplace. Adherence to this policy and the procedures will assure compliance with current State Human Resources Commission (SHRC) rules, Office of State Human Resource (OSHR) policies and further ensure that disciplinary actions are administered in a fair and equitable manner.

This policy applies to Career Status Employees which is an employment
Permanent Position
Continuously employed for preceding 24 months

There are 2 Reasons for Disciplinary Action:
Unsatisfactory Job Performance
Unacceptable Personal Conduct



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The two reasons for the discipline or dismissal of employees are:

- Unsatisfactory job performance,
- Unacceptable personal conduct which also includes including grossly inefficient job performance

First we will talk about unsatisfactory job performance.

Work-related performance that fails to satisfactorily meet job requirements as set out in the relevant job description, work plan, or as directed by the management of the work unit or DPS.

Unsatisfactory Job Performance can also include Grossly Inefficient Job Performance.
Grossly inefficient job performance is defined as failure to satisfactorily perform job requirements as defined in the job description, work plan, or as directed by the management of the work unit or DPS; and, the act or failure to act causes or results in:
Death or serious bodily injury or creates conditions that increase the chance for death or serious bodily injury to an employee(s) or to members of the public or to a person(s) for whom the employee has responsibility; or,
The loss of or damage to State property or funds that results in a serious adverse impact on the State and/or work unit.
What are some examples that you can think of that would be considered Unsatisfactory Job Performance?

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Unacceptable Personal Conduct

- Conduct for which no reasonable person should expect to receive prior warning; or
- Job-related conduct which constitutes a violation of State or federal law; or
- Conviction of a felony or an offense involving moral turpitude that is detrimental to or impacts the employee's service to the State; or
- The willful violation of known or written work rules; or
- Conduct unbecoming a State employee that is detrimental to State service; or
- The abuse of client(s), patient(s), student(s) or person(s) over whom the employee has charge or to whom the employee has a responsibility or of an animal owned by the State; or
- Absence from work after all authorized leave credits and benefits have been exhausted; or
- Falsification of a State application or in other employment documentation.

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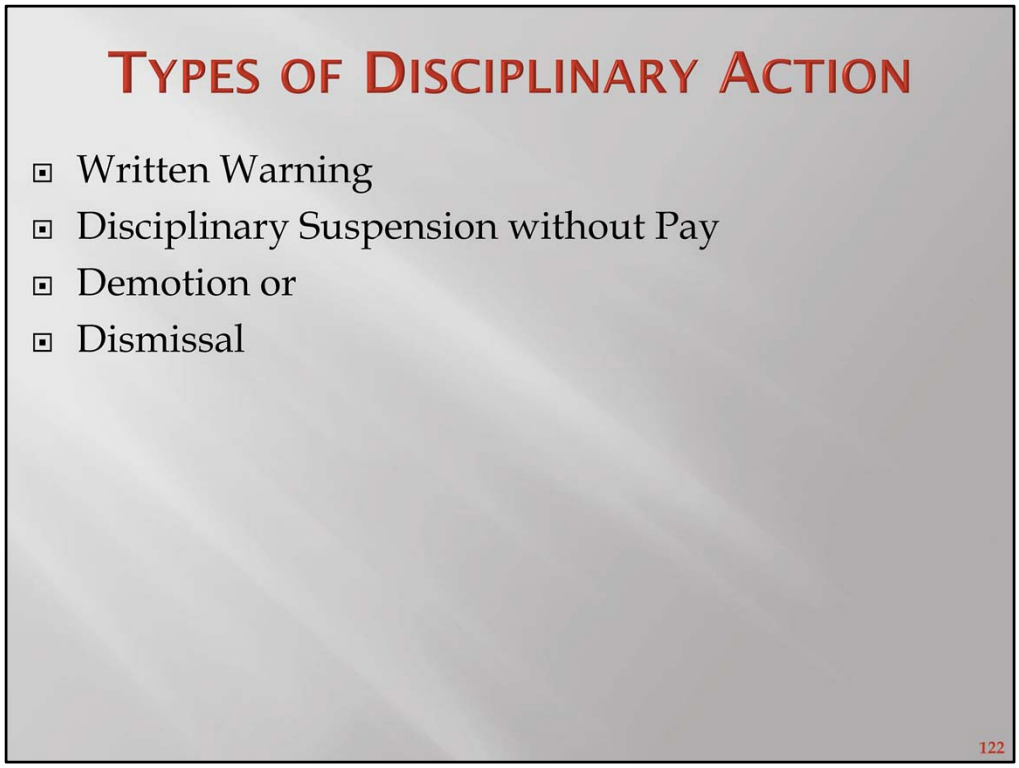
The 2nd reason for discipline or dismissal is Unacceptable Personal Conduct.

Unacceptable Personal Conduct- includes:
Conduct for which no reasonable person should expect to receive prior warning; or
Job-related conduct which constitutes a violation of State or federal law; or
Conviction of a felony or an offense involving moral turpitude that is detrimental to or impacts the employee's service to the State; or
The willful violation of known or written work rules; or
Conduct unbecoming a State employee that is detrimental to State service; or
The abuse of client(s), patient(s), student(s) or person(s) over whom the employee has charge or to whom the employee has a responsibility or of an animal owned by the State; or
Absence from work after all authorized leave credits and benefits have been exhausted; or
Falsification of a State application or in other employment documentation.

No prior warnings are needed to dismiss an employee for grossly inefficient job performance or unacceptable personal conduct.

What are some examples that you think might be considered Unacceptable Personal Conduct?
SOLICIT EXAMPLES AND BRIEFLY DISCUSS



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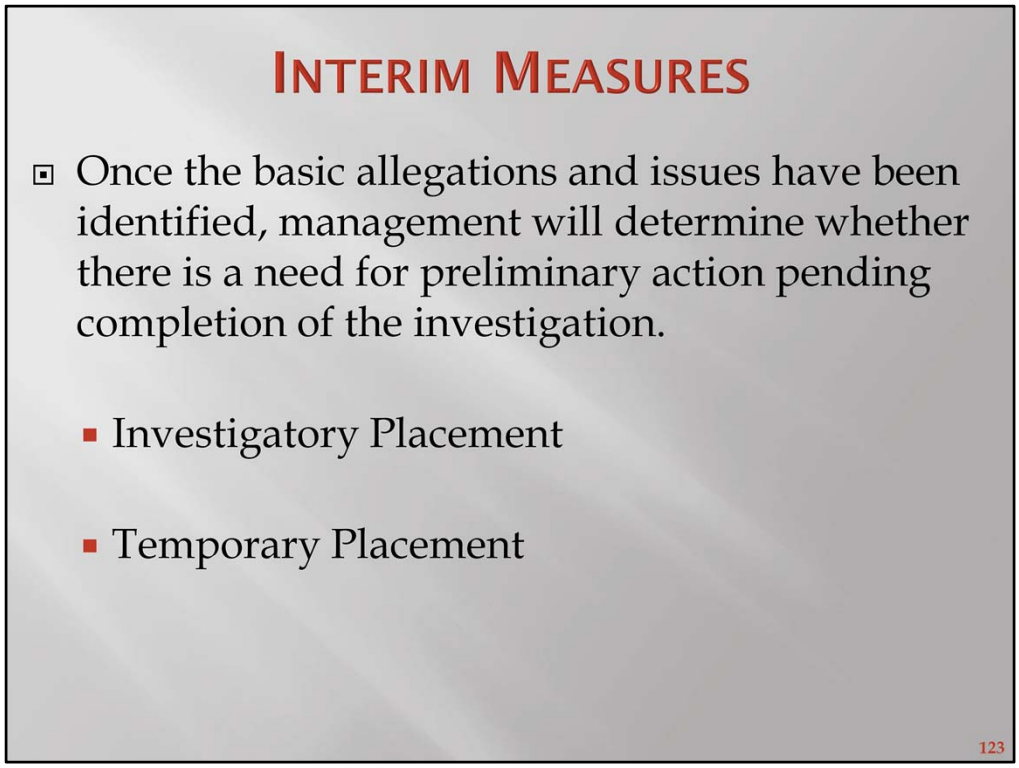
When just cause exists, the disciplinary actions that can be issued are:

- Written Warning
- Disciplinary Suspension without Pay
- Demotion or
- Dismissal

Pages 72 and 73 of your manual detail the requirements for each type of disciplinary action for the 2 Reasons for Disciplinary Action. Take a moment to review these requirements.



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An employee may be placed on Investigatory Leave with Pay (ILWP) per approval from the Human Resources Director or designee(s), or in appropriate circumstances, without prior approval, but with notification to the OSHR Director or designee the following business day. Investigatory leave shall be with pay (i.e. no charge to the employee's accrued leave) and may be used to temporarily remove an employee from work status. Investigatory leave does not constitute a disciplinary action, and therefore, may not be appealed.

An employee may be placed on ILWP only:
To investigate allegations of performance or conduct deficiencies that would constitute just cause for disciplinary action;
To provide time within which to schedule and conduct a pre-disciplinary conference; or
To avoid disruption of the work place and/or to protect the safety of persons or property.

TEMPORARY PLACEMENT
In lieu of ILWP, a manager may consider temporarily placing an employee within the work unit or to another work unit if applicable and based on business need. Employees temporarily placed shall be given written notification of the temporary placement when the placement results in a change of work locations or if there are any specific instructions. Such actions are for the benefit of the employee(s) and DPS to ensure a fair and objective investigation. For that reason, temporary placements are not grievable and do not carry appeal rights.

Inactive Disciplinary Action

- The manager or supervisor notes in personnel file that reasons for action have been resolved.
- For performance related discipline the performance management process reflects a summary rating at an acceptable level for that area.
- 18 months have passed since issuance with no additional disciplinary actions.

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A disciplinary action becomes inactive, i.e., cannot be counted towards the number of prior disciplinary actions that must be issued before further disciplinary action can be issued for unsatisfactory job performance when:

- The manager or supervisor notes in the employee's personnel file that the reason(s) for the disciplinary action has/have been resolved or corrected; or
- For performance-related disciplinary actions, the performance evaluation process documents a summary rating that reflects an acceptable level of performance overall and satisfactory performance in the area cited in the warning or other disciplinary action, or
- Eighteen (18) months have passed since issuance of the warning or disciplinary action and the employee does not have another active warning or disciplinary action occurring within the last eighteen (18) months. If a warning, demotion or disciplinary suspension occurs within the eighteen (18) months of prior disciplinary warnings, demotions or suspensions, the disciplinary action will remain active until the end date of the most recent disciplinary action

Grievances

It is the policy of North Carolina State government that a grievance process exist to allow for prompt, fair and orderly resolution of grievances arising out of employment.

Employees have the right to present a grievance free from interference, restraint, coercion, or reprisal.

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Since disciplinary actions can sometimes result in employee grievances/appeals, the Office of State Human Resources (OSHR) sets forth a process for dealing with those grievances and appeals. It is the policy of North Carolina State government that a grievance process exist to allow for prompt, fair and orderly resolution of grievances arising out of employment.

Examples of Grievable Issues*

- Dismissal, demotion or suspension without pay for lack of just cause
- Denial of promotion due to failure to post
- Failure to give priority reemployment rights after a reduction in force
- Denial of request to remove inaccurate/misleading info from personnel file
- Denial of veteran's preference
- Any retaliatory personnel action for reporting improper gov't activities
- Violation of the Fair Labor Standards Act(FLSA), Age Discrimination in Employment Act (ADEA), Family and Medical Leave Act (FMLA), or Americans with Disabilities Act (ADA)
- Unlawful workplace harassment

*This is not an all inclusive list. Refer to the policy for a complete list of grievable issues

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This is a list of SOME grievable issues. A complete list of grievable issues can be found in the policy that is noted in your manual.

- Dismissal, demotion or suspension without pay for lack of just cause
- Denial of promotion due to failure to post
- Failure to give priority reemployment rights after a reduction in force
- Failure to give employees in exempt policy-making or exempt managerial status priority reemployment consideration or reassignment after removal from an exempt position
- Denial of request to remove inaccurate or misleading information from personnel file
- Denial of veteran's preference regarding reduction in force, and other employment events including subsequent hirings, promotions, reassignments, and horizontal transfers
- Any retaliatory personnel action for reporting improper government activities
- Violation of the Fair Labor Standards Act(FLSA), Age Discrimination in Employment Act (ADEA), Family and Medical Leave Act (FMLA), or Americans with Disabilities Act (ADA)
- Unlawful workplace harassment based upon age, sex, race, color, national origin, religion, creed, or disabling condition, including both quid pro quo and hostile work environment.

Grievance Process

- Informal discussion with Supervisor.
- If not successful, initiate Step 1 Grievance form within 15 days of the alleged occurrence.
- 2 Step Resolution Process
  - Step 1: Mediation
  - Step 2: Hearing before Employee Advisory Committee

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If an employee has a problem or issue, it should be discussed first with the employee's immediate supervisor or the appropriate supervisor within the employee's chain of command. This should occur within 15 days of the alleged grievable issue. The employee must clearly declare to the supervisor or other appropriate personnel that the Informal Discussion request is regarding an alleged event or action that is the basis of a potential grievance.

If communication with the supervisor does not resolve the issue, the employee may file a written grievance. The grievance must be submitted by using the Step 1 Grievance Filing Form. The employee must submit the grievance within fifteen calendar days of the alleged occurrence of the event or action that is the basis of the grievance.

There is a two-step process for resolution of employee grievances internal to DPS. Each step is designed to maximize communication and resolution of workplace issues.
Step 1: Mediation: a structured process using a neutral third party to attempt to help parties resolve their conflict. When mediation does not produce an agreement at Step 1, the grievance may be appealed in Step 2. This step will include a hearing with an Employee Advisory Committee. The request to appeal shall be made in writing by completing the Step 2 Grievance Filing Form. Once the Panel hears the case, a Final Agency Decision is issued. If the employee is not in agreement with the Final Agency Decision, some grievable issues may appealed to the Office of Administrative Hearings. Please refer to the policy for a complete list.