

 Corrections and Community Supervision DIRECTIVE	TITLE Report of Employee Misconduct		NO. 2111
			DATE 01/05/2016
SUPERSEDES DIR# 2111 Dtd. 02/26/2014	DISTRIBUTION A	PAGES PAGE 1 OF 2	DATE LAST REVISED
REFERENCES (Include but are not limited to) Civil Service Law, Section 75	APPROVING AUTHORITY 		

- I. DESCRIPTION:** This directive provides guidance for reporting employee misconduct, recommending appropriate disciplinary action, and for the disciplinary process. (For procedures on reporting criminal charges filed against an employee, see Directive #2112, "Report of Criminal Charges.") The Bureau of Labor Relations, under the direction of the Deputy Commissioner for Administrative Services, is responsible for employee discipline, including those actions taken in accordance with Collective Bargaining Agreements, New York State Civil Service Law, and any applicable laws, directives, rules, and regulations. The Director of Labor Relations is designated as the Commissioner's representative with authority for these actions and duties, except designating a Hearing Officer for disciplinary matters conducted in accordance with Section 75 of New York State Civil Service Law. (See Section VI for further detail.)
- II. POLICY:** When a Superintendent, Division Head, or Regional Director has thoroughly investigated the facts and circumstances surrounding allegations of employee misconduct and determines that further action may be required, he or she must prepare and submit a Report of Employee Misconduct.
- The Superintendent's, Division Head's, or Regional Director's report will accompany any Unusual Incident Report filed.
- III. PROCEDURE**
- A. Format of the Report: The report shall include the following:
1. Employee's name, title, and status (permanent or probationer with permanent hold). If the employee is a probationer, include the dates of the probationary period.
 2. Employee's length of service and current assignment.
 3. A detailed report of the incident with the following information:
 - a. When and where the incident occurred;
 - b. The facts and circumstances of the incident (Please specify source of information relied upon in determining circumstances.);
 - c. Who was present at the incident, and the extent of their involvement (Please have these individuals prepare signed and dated statements.); and
 - d. Evaluation of seriousness of incident.
- Note: If an Unusual Incident Report has been filed, please note that fact and attach a copy.

4. A complete assessment of the employee's performance, with particular reference to conduct similar to that which causes the present concern. This assessment should include:
 - a. Copies of supervisory or evaluation reports;
 - b. Counseling memoranda;
 - c. A summary of attendance data, if appropriate; and
 - d. Unsatisfactory ratings, if any.
 5. Written reports of the employee's present performance, prepared by current Supervisor(s).
 6. A recommended penalty with reasons for the recommendation.
- B. Reporting Subsequent Information: Any information, including all relevant Departmental documentation obtained subsequent to the filing of an initial Report of Employee Misconduct, must be forwarded to the Director of Labor Relations immediately in a supplemental report.
- C. Submission of the Report: The Report of Employee Misconduct shall be sent to the Director of Labor Relations with a copy to the Deputy Commissioner in charge of that area to which the employee is assigned.
- IV. REVIEW**: The Director of Labor Relations will review Reports of Employee Misconduct and consider appropriate actions. If the Director of Labor Relations concludes that a Notice of Discipline is appropriate, he or she will have one prepared for the case. Draft Notices of Discipline are reviewed and signed by the Director of Labor Relations when they are appropriate.
- V. HEARINGS AND ARBITRATIONS**: The Director of Labor Relations will work to set up any contractual disciplinary arbitrations or hearings in accordance with applicable Collective Bargaining Agreements, and any applicable State laws and regulations.
- VI. CIVIL SERVICE LAW SECTION 75 CASES**: The Director of Labor Relations will review and issue disciplinary charges. Consistent with New York State Civil Service Law Section 75, the Commissioner will designate a Hearing Officer to conduct a hearing, consider the evidence, and write a report of conclusions and recommendations for review and determination by the Commissioner.