

**NEVADA DEPARTMENT OF CORRECTIONS
ADMINISTRATIVE REGULATION
339**

**EMPLOYEE CODE OF ETHICS AND CONDUCT,
CORRECTIVE OR DISCIPLINARY ACTION, AND
PROHIBITIONS AND PENALTIES**

Supersedes: AR 339 (06/17/12); incorporates AR 340 (08/13/10); AR 341 (08/13/10); and AR 343 (12/17/13); AR 339 (Temporary, 10/13/14); AR 339 (Temporary, 12/10/14); and AR 339 (Temporary, 12/18/14) AR 06/17/12 (Reverted back to last permanent AR on 05/19/15)

Effective date: 01/ __ /16

AUTHORITY

NRS 209.131, .239; NRS Chapters 284 & 289; NRS 281A.400; NAC 284.638 -.656; 284.548, 284.738 -.771, 618.540, SAM 0521.0, 42 U.S.C. § 15601, *et seq.* and 28 C.F.R. Part 115

RESPONSIBILITY

The Director/Designee has responsibility for administering employee discipline.

The Appointing Authorities are responsible for enforcement of this Administrative Regulation (AR), utilizing the appropriate state forms. Additionally, the primary responsibility for ensuring that complaint allegations are properly referred and investigated rests with each Warden/Division-Head who becomes aware of the complaint or allegation of employee misconduct.

The Department's Human Resources Division is responsible to provide each permanent classified employee with a copy of this AR and maintain records of distribution. The Human Resources Division is also responsible for tracking disciplinary actions and maintaining employee personnel files.

All Department employees are responsible to comply with this AR at all times. This includes immediately reporting any alleged act of employee misconduct to a supervisor.

The Employee Development Manager, in conjunction with the Inspector General (IG), is responsible to develop and deliver training on this AR.

The IG is responsible for and oversees all investigations. The IG will maintain the investigative case file, including copies of related attachments associated with the complaint.

The Warden/Division Heads are responsible to review completed misconduct complaint investigations and adjudicate subordinate employee culpability, making recommendations for corrective or disciplinary action.

339.01 CODE OF ETHICS

Employees of the Nevada Department of Corrections should at all times adhere to the following Code of Ethics. The Nevada Department of Corrections is committed to a code of ethics that will guide the performance, conduct and behavior of its employees. This code will ensure that our professionalism is reflected in the operation and activities of the Department and is recognized by all interested parties. In this light, the following principles are practiced:

1. Employees shall maintain high standards of honesty, integrity, and impartiality, free from any personal considerations, favoritism, or partisan demands
2. Employees shall be courteous, considerate, and prompt when dealing with the public, realizing that we serve the public.
3. Employees shall maintain mutual respect and professional cooperation in their relationships with other staff members of the Department of Corrections.
4. Employees shall be firm, fair, and consistent in the performance of their duties. Employees should treat others with dignity, respect, and compassion and provide humane custody and care, void of all retribution, harassment, or abuse.
5. Employees shall uphold the tenets of the United States Constitution, its amendments, the Nevada Constitution, federal and State laws, rules, and regulations, and policies of the Department.
6. Whether on or off duty, in uniform or not, employees shall conduct themselves in a manner that will not tend to bring discredit or embarrassment to the Department of Corrections and the State of Nevada.
7. Employees shall report without reservation any corrupt or unethical behavior that could affect either inmates, employees, or the integrity of the Department of Corrections.
8. Employees shall not use their position for personal gain.
9. Employees shall maintain confidentiality of information that has been entrusted to them.
10. Employees shall not permit themselves to be placed under any kind of personal obligation that could lead any person to expect official favors.

11. Employees shall not accept or solicit from anyone, either directly or indirectly, anything of economic value, such as a gift, gratuity, favor, entertainment, or loan which is, or may appear to be, designed to influence their official conduct.

12. Employees shall not discriminate against any inmate, employee, or any member of the public on the basis of race, color, religion, sex, sexual orientation, age, disability, gender identity or expression, or national origin.

13. Employees shall not sexually harass or condone sexual harassment with or against any person, including but not limited to any inmate, employee, volunteer, vendor, or any member of the public.

14. Employees shall maintain the highest standards of personal hygiene, grooming and neatness while on duty or otherwise representing the Department.

339.02 EMPLOYEE CONDUCT ON AND OFF DUTY

1. All Department employees are responsible, at all times, to conduct themselves in an appropriate manner, with honor, integrity, impartiality, and loyalty whether on or off duty, to obey and support the letter and spirit of the law, and to always exercise appropriate self-discipline in the use of the power and authority entrusted to them.

2. The penalty imposed for a violation of 339.07 Class of Offense Guidelines (18. R.), can range from a CLASS 1 – 5 violation depending upon the facts and circumstances of the particular case.

3. Under the law Peace Officers are expected to abide by the laws they are empowered to enforce. Peace Officer employees will obey all laws of the U.S., State of Nevada, and ordinances in force in their jurisdiction. Violations of law, an indictment or information filed against an officer, or a conviction can be cause for disciplinary action up to and including termination from employment, especially where off-duty conduct tends to bring the Department into public discredit or which tends to affect the employee's ability to perform assigned duties efficiently. Employees must also be careful that the authority vested in them as Peace Officers is not abused.

339.03 GOALS OF CORRECTIVE AND DISCIPLINARY MEASURES

1. Public employees have an affirmative duty to serve the public. The public trusts that the Department will operate within legal and procedural boundaries. Occasionally an employee will step beyond these boundaries, resulting in a misconduct and/or performance complaint. Each time the Appointing Authority adjudicates a complaint public trust is impacted.

2. When an allegation of misconduct and/or performance is Sustained, corrective or disciplinary action shall be applied.

3. Disciplinary action is intended to serve three purposes which are weighed carefully when making recommendations:

A. To modify the offending employee's behavior.

B. To set expectations for other employees.

C. To assure the public that the Department strives to maintain the public trust by holding employees accountable.

4. The offending employee's Appointing Authority is generally the best person to review and recommend the corrective or disciplinary action that will best serve to modify that employee's behavior. However, the recommendation will be superseded if it does not set consistent expectations for all employees or fails to uphold the public trust.

339.04 REPORTING COMPLAINTS OR MISCONDUCT

1. All Department employees, regardless of rank or position, who become aware of an alleged act of employee misconduct, are responsible to take immediate and appropriate action to control the situation, prevent aggravation of the incident, and notify their chain of command regarding the allegation.

2. All employees at any location must accept complaints of employee misconduct from any source, in any format. If the receiving employee is not a supervisor, a supervisor must be notified immediately.

3. A supervisor who is informed of a complaint against a staff member should immediately initiate a preliminary fair and impartial fact finding investigation and include any relevant supporting documentation.

A. Complaints may be based on affirmative acts or failures to act.

B. Any failure to comply with posted AR's, OP's, Post Orders, Unit Rules, or other procedures should be reported,

C. Lower level issues related to performance need not be investigated by Inspector General staff, as long as an "impartial fact-finding" process is followed.

- If during the impartial fact-finding process it is determined that in fact the performance issue involves a misconduct prohibition that could result in a suspension, demotion or termination of the staff member, the Warden or designee will be notified and the matter referred for review to the Inspector General's Office. Ongoing and/or failure to correct a performance issue in itself is something that is normally dealt with between a supervisor or manager and their respective HR division staff.

D. An employee who takes a complaint from an outside source may provide the complainant with a copy of the completed NOTIS entry or DOC form 028, including any documentation.

E. An employee taking a complaint should have a supervisor or another employee take over if it becomes clear that the complaint is about the employee.

F. If the complaint being received is about the employee's immediate supervisor, the employee is authorized to report the complaint to any other supervisor.

4 A supervisor who is informed of a complaint should immediately complete a NOTIS entry or DOC-028 when said complaint involving alleged misconduct by a staff member is equal to or greater than an identified misconduct prohibition that could result in a suspension, demotion or termination. The supervisor should make certain that any documentation is included with or in the IR, including staff member reports.

A. The NOTIS Incident Report will be submitted for review to the Inspector General's Office where determination of assignment will be made.

B. Any determination that the investigation will be completed at the institution level will result in notification to the Warden or designee and the matter assigned to them.

C. Should the Warden or designee identify issues that the matter should be in fact investigated by the Inspector General's Office, the Warden/designee should have discussion with the Inspector General or IG designee.

5. The Appointing Authority is responsible to make certain that reporting forms are correct and complete. Deficient reports will be returned to the Appointing Authority for corrections.

339.05 INVESTIGATIONS

1. The Appointing Authority is responsible for ensuring that allegations of employee misconduct are investigated. The Appointing Authority should request an investigation using the "refer to IG" function in NOTIS.

2. Following receipt of an investigation request, the Inspector General or designee will review the NOTIS preliminary report/DOC-028, any attachments, and any other reports related to the allegations of employee misconduct to determine if an investigation is appropriate. If an investigation is initiated, the Inspector General or designee will identify generally appropriate allegations based upon the Class of Offense Guidelines outlined below and assign the appropriate investigative body.

A. Generally, those offenses identified as Class 1 and 2 will be assigned to the involved Appointing Authority for investigation. At the discretion of the Inspector General or designee, Class 3 offenses may be assigned to the involved Appointing Authority or to an

investigator within the Inspector General's Office. Generally, Class 4 and 5 offenses will be assigned to Office of the Inspector General investigators.

B. Incidents of poor or less than standard performance that do not contain an element of misconduct will be assigned to the Warden/Division Head for appropriate action without case assignment.

C. When circumstances dictate that the investigation will involve the interview of civilians or investigation outside of the institution, the investigation will be conducted by the Office of the Inspector General.

3. A preliminary inquiry will be conducted pursuant to the Office of the Inspector General – Guide for Investigators – Preliminary Investigations Section, noting that the original complaint and reports may suffice.

4. Any employee who is the focus or subject of an investigation shall be afforded all rights and protections provided by law, and by Department regulation and directive. Current requirements are in the “Office of the Inspector General – Guide for Investigators.”

5. The Inspector General or designee shall review the matter to determine where the investigation will be assigned.

A. If the IG determines that a formal investigation is not necessary, the Inspector General will notify the Appointing Authority, who is then responsible to appoint an individual of the rank of Sergeant/Non-sworn supervisor or higher as an institutional investigator.

1) If an investigation assigned to an institution subsequently yields evidence of potential criminal misconduct by an employee or others, the Appointing Authority shall immediately notify the Inspector General.

2) The Inspector General shall review the matter and determine whether the investigation should continue with the Appointing Authority or be returned to the Inspector General's authority.

B. If a formal investigation is required, a case number and investigator will be assigned without delay.

1) A formal investigation will be conducted pursuant to the Office of the Inspector General – Guide for Investigators.

2) If it becomes necessary to conduct parallel administrative and criminal investigations regarding a complaint of employee misconduct, the Inspector General shall ensure that the investigations are bifurcated. Information developed during the administrative investigation growing out of the subject's interview shall not be shared in the criminal investigation.

- 3) If additional misconduct is discovered during the course of an investigation which is related to the original misconduct, the investigator shall amend the allegations and continue with investigation. If the discovered misconduct is not related to the current investigation, the investigator should generate a new NOTIS entry and submit it for Inspector General review and assignment.
- 4) The investigation will be completed within the due date assigned by the Office of the Inspector General and applicable statutes and regulations. The Inspector General's Office may grant extensions requested for reasonable cause.
- 5) Where an IG investigator has determined that a polygraph examination would appropriately supplement an investigation, the procedural safeguards provided in the "Office of the Inspector General – Guide for Investigators" will be applied.

C. Upon completion of an employee misconduct investigation, the assigned investigator shall document investigative facts in a final case report according to the guidelines in the "Inspector General – Guide for Investigators."

339.06 PROHIBITIONS AND PENALTIES

1. The Chart of Corrective/Disciplinary measures ascribes an available range of Corrective/Disciplinary action for each Class of prohibited activity. This chart indicates the suggested level of discipline, from less serious to more serious, for the Class of Offense and for first, second and third offenses.
2. Penalties for prohibited activities should be assessed based upon criteria established in the Chart of Corrective/Disciplinary Sanctions.
3. Multiple Infractions - In cases involving more than one sustained violation, disciplinary action should begin with the most serious violation. Other related violations may then be considered as aggravating circumstances when determining the appropriate penalty from within the minimum and maximum recommended range, or each violation may be individually considered and the penalties cumulated.
4. Progressive Discipline - Grave acts of misconduct may warrant dismissal of an employee without previous corrective action or progressive discipline. However, less serious acts of misconduct may warrant the use of progressive discipline, i.e., lesser to greater discipline, to give the employee a chance to reform his or her conduct. The increasing level of concern expressed through progressive discipline may begin with corrective action or proceed to a written reprimand, suspension for up to 30 calendar days, demotion, or dismissal.
5. Appointing Authorities and employees must recognize that penalty schedules cannot accurately, fairly, or consistently address every situation; a comprehensive list of DOs and DON'Ts of employee conduct is not possible. Appointing Authorities must conduct an

individual analysis of each employee for each incident and exercise their professional judgment and discretion in recommending a penalty. Training, education, actions, awards, and punishments are interrelated, not separate elements.

6. There is no requirement that charges similar in nature must result in identical penalties. Employees sometimes incorrectly equate fairness and consistency as synonyms; they are not.

A. Consistency within a disciplinary system means holding every employee equally accountable for unacceptable behavior. Unacceptable behavior for one is unacceptable behavior for all, regardless of rank, status, or tenure.

B. Fairness within a disciplinary system means understanding the numerous circumstances that could contribute to the unacceptable behavior. Disciplinary recommendations must consider these circumstances. Thus, two employees accused of the same misconduct could face different consequences.

7. Appointing Authorities and their reviewers should neither rely solely on previously imposed penalties nor quote them as an authority in penalty rationales. It must be remembered that this is a historical document of penalties. As such, it may not reflect an appropriate penalty for the misconduct. Indeed, an appropriate penalty may be higher or lower depending upon current issues and the impact of the particular misconduct on the Department and/or fellow employees.

8. Failure to report, failure to act, or failure to disclose is considered misconduct.

9. The Department has developed Class of Offense Guidelines which describe many prohibited employee actions and a Chart of Corrective/Disciplinary Sanctions which recommends penalties for inappropriate conduct.

10. Conflicting activities pursuant to NAC 284.738 include but are not limited to any activity prohibited by AR 332, Employee Reporting Responsibilities; AR 345, Unauthorized Relationships; AR 346, Nepotism; AR 347, Political Activities by Employees; and AR 355, Employee Secondary Employment.

See Chart of Corrective/Disciplinary Sanctions on page 9.

Chart of Corrective/Disciplinary Sanctions

Class	First Offense		Second Offense		Third Offense	
	Minimum	Maximum	Minimum	Maximum	Minimum	Maximum
1	Verbal Counseling	Written Reprimand	Written Reprimand	Suspension	Suspension	Dismissal
2	Written Reprimand	Suspension	Suspension	Suspension Demotion	Suspension Demotion	Dismissal
3	Suspension	Suspension Demotion	Suspension Demotion	Dismissal	Dismissal	N/A
4	Suspension Demotion	Dismissal	Suspension Demotion	Dismissal	Dismissal	N/A
5	Dismissal	Dismissal				

339.07 CLASS OF OFFENSE GUIDELINES

1. ABSENT WITHOUT LEAVE (AWOL)

A. Unexcused tardiness. **CLASS 1**

B. Absence without approved leave for three consecutive scheduled working days. **CLASS 5**

C. Any absence without approved leave short of three consecutive scheduled working days. **CLASS 2-4**

2. DISCHARGE OF FIREARM DUE TO NEGLIGENCE

A. Discharge of firearm because of negligence. **CLASS 2**

B. Discharge of firearm due to negligence, with substantial injury/damage. **CLASS 4-5**

3. ALCOHOL ABUSE

The State of Nevada Reasonable Suspicion and Pre-Employment Drug and Alcohol Testing Program provides for the testing of employees and applicants for alcohol and drugs pursuant to NRS 284.406 through NRS 284.407; and NAC 284.880 to 284.894, inclusive.

A. Employees under the influence of alcohol with the intent to report to duty or while on duty. First offense. **CLASS 4** Second offense within five years. **CLASS 5**

B. Appear for duty with the odor of alcohol/intoxicant on person or breath. **CLASS 3**

- C. Purchase or consumption of alcohol while in uniform when off duty. **CLASS 3**
- D. Purchase or possess alcoholic beverage on duty. **CLASS 4**
- E. Consumption of an alcoholic beverage while on duty. **CLASS 4**
- F. Driving while under the influence of alcohol while on duty. **CLASS 4**
- G. Damaging State property while under the influence of an alcoholic beverage. **CLASS 4-5**
- H. Refusal to submit to a lawfully required alcohol test. **CLASS 5**

4. **NARCOTICS/DRUGS**

The State of Nevada Reasonable Suspicion and Pre-Employment Drug and Alcohol Testing Program provides for the testing of employees and applicants for alcohol and drugs pursuant to NRS 284.406 through NRS 284.407; and NAC 284.880 to 284.894, inclusive.

- A. Employees under the influence of or using a controlled substance/narcotic/drug, etc. while on duty. First offense. **CLASS 3** Second offense within five years. **CLASS 5**
- B. Peace Officers and/or those employees who come into contact with inmates as a part of their job duties, under the influence of or using a controlled substance/narcotic/drug, etc. while on duty. First offense. **CLASS 4** Second offense within five years. **CLASS 5**
- C. Refusal to submit to a lawfully required controlled substance/narcotic/drug test. **CLASS 5**
- D. An employee driving under the influence in violation of NRS 484C.010 et seq. or of any other offense for which driving under the influence is an element of the offense, and the offense occurred while driving a state vehicle or a privately owned vehicle on state business. **CLASS 4-5**
- E. Unlawful manufacture, distribution, dispensing, possession, selling, or use of any controlled substance, narcotic, and/or drug at his/her place of work or on state business. **CLASS 4**
- F. Knowingly transport any person to buy/obtain any illegal controlled substance, narcotic, and/or drug. **CLASS 4**
- G. Failure to notify a supervisor after consuming any drug, alcohol and/or substance which could interfere with the safe and efficient performance of his/her duties. **CLASS 4**

5. **CRIMINAL MISCONDUCT**

A. An employee who is convicted of driving under the influence in violation of NRS 484C.010 et seq. or of any other offense for which driving under the influence is an element of the offense while driving a state vehicle, or a privately owned vehicle on state business. (See NAC 284.653.) **CLASS 4-5** Second offense within 5 years. **CLASS 5**

B. An employee who is convicted of the unlawful manufacture, distribution, dispensing, possession, selling, or use of any controlled substance at his place of work or on state business. **CLASS 5**

C. Guilty plea of any type (Alford, no contest, etc.) or conviction of a felony, gross misdemeanor, or misdemeanor. **CLASS 4** Provided the conduct at issue has an adverse impact upon the Department and/or tends to bring the Department into public discredit which tends to affect the employee's ability to perform duties efficiently.

D. Reasonable belief that a felony, gross misdemeanor, or misdemeanor has been committed. **CLASS 4** Provided the conduct at issue has an adverse impact upon the Department and/or tends to bring the Department into public discredit which tends to affect the employee's ability to perform duties efficiently.

E. Domestic violence conviction. [18 U.S.C.A. §§ 917, 922 (Federal Gun Control Act of 1968) as amended, effective October 1, 1996]. **CLASS 5**

6. **DISCOURTESY**

A. Discourteous or improper remark to a member of the public or a co-worker. **CLASS 2**

B. Initiate and/or perpetuate malicious rumors regarding fellow employees. **CLASS 2**

7. **DISCRIMINATION, SEXUAL HARASSMENT, AND OTHER TITLE VII VIOLATIONS**

A. Title VII of the Civil Rights Act pertains to discriminatory acts in the workplace taken against applicants or employees merely on the basis of their race, color, religion, sex, sexual orientation, age, disability, or national origin.

B. NDOC is required by Title VII to ensure that no discrimination occurs in the workplace. As part of this responsibility, NDOC must provide a system for reporting, prompt investigation, and discipline of employees engaging in unlawful conduct. The goal is to ensure that the alleged harasser stops the discriminatory behavior as well as discouraging other employees who might engage in such behavior from doing so.

C. "Sexual Harassment" is defined pursuant to NAC 284.771. Therefore, depending on the nature, severity, and duration of conduct in violation of Title VII, NDOC should impose prompt disciplinary sanctions ranging from a **CLASS 3** to a **CLASS 5**.

D. "Hostile work environment" is a legal term for discriminatory conduct in violation of Title VII by employees that occurs over a period of time and by its nature changes an employee's terms and conditions of employment. It is not a work environment that is unpleasant for reasons not directly associated with Title VII discrimination, such as a grouchy supervisor or ill-mannered co-workers.

E. Refer to NAC 284.771.

1) Discriminating against or harassing another person because of that person's race, color, religion, sex, sexual orientation, age, disability, gender identity or expression, or national origin. **CLASS 4-5**

2) Make a prohibited discriminatory remark at work or in the work related environment. **CLASS 4-5**

3) Display of discriminatory photographs, cartoons, jokes, or other comments of a discriminatory nature at work or in the work related environment. **CLASS 4-5** (While the NDOC cannot control your personal postings on a social networking site, any inappropriate materials from such a site re-posted in any work-related environment can lead to charges under this section. Similarly, "photo-shopping" an image of a co-worker in a discriminatory fashion can lead to charges under this section.)

8. **DISHONESTY**

A. Theft, misappropriation, or other fraudulent activity involving Department or State funds, property, or resources, including but not limited to falsification of a timesheet. **CLASS 5**

B. Theft of property belonging to another employee, a citizen, or an inmate. **CLASS 5**

C. Knowingly making false statement on travel claims. **CLASS 5**

D. Receiving travel expenses through false pretenses. **CLASS 5**

E. Making a personal profit from State transactions. **CLASS 5**

F. Accepting or soliciting a bribe or gratuity. **CLASS 5**

G. Converting found, recovered or seized property to personal use. **CLASS 2-5**

9. **FALSE OR MISLEADING STATEMENTS**

A. Knowingly providing false or misleading statements, including omissions, either verbally or in written reports or other documents, concerning actions related to the performance of official duties. Or knowingly providing false or misleading statements, including omissions,

in response to any question or request for information in any *official* investigation, interview, hearing or judicial proceeding. **CLASS 5**

B. Knowingly falsifying any State record or report. **CLASS 5**

C. Failure to assure factual accounting and record-keeping to prohibit falsification, unauthorized alteration, or destruction of documents, log books, and other records. **CLASS 5**

10. **FRAUD IN SECURING APPOINTMENT**

A. Willful falsification of application for employment or other personnel forms. The falsification must deal with a material fact that would have adversely affected the employee's selection. **CLASS 5**

B. Permitting another person to take a portion of the State Service examination for the employee or for someone else or participating in such an examination for another person. **CLASS 5**

11. **IMPROPER POLITICAL ACTIVITY**

A. Using or promising to use any official authority or influence for the purpose of influencing the vote or political action of any person or for any consideration. **CLASS 2**

B. Engaging in political activity during the hours of their state employment to improve the chances of a political party or a person seeking office, or at any time engage in political activity to secure a preference for a promotion, transfer, or salary advancement. **CLASS 2**

C. Engaging in any unauthorized political activity, except for expressing an opinion, while on duty, while in uniform, or at public expense. **CLASS 3**

D. Soliciting and/or influencing any employee to engage or not engage in any political activities with direct or indirect use of any threat, intimidation, or coercion. This includes threats of discrimination, reprisal, force, or any other adverse consequence including loss of any benefit, reward, promotion, advancement, or compensation. **CLASS 5**

E. Subjecting any employee who chooses not to engage in any political activity to any direct or indirect discrimination, reprisal, force, coercion or intimidation or any other adverse consequence including the loss of any benefit, reward, promotion, advancement, or compensation. **CLASS 5**

12. **INSUBORDINATION**

A. Disobeying or refusing to obey a statute, regulation, written or verbal instruction, or lawful order. **CLASS 4-5**

B. Disobeying or refusing to obey a statute, regulation, written or verbal instruction, or lawful order, involving a potential or an actual security breach, especially which leads to personal injury. **CLASS 5**

C. Argue about the wisdom or propriety of a lawful order or decision; back-talking.
CLASS 2

D. Refusal to undergo a search of person or property on institutional property. **CLASS 5**

E. Failure to provide identification or display proper I.D. **CLASS 1-2**

F. Unauthorized service and or acceptance of legal process. **CLASS 1**

G. Unauthorized representation of Department. **CLASS 2-5**

H. Disobeying the State of Nevada smoking statutes and/or Department tobacco prohibition regulations. **CLASS 3**

I. Use of profane, disparaging, or abusive language directed at, with, to and/or around or to otherwise make another employee(s) aware of an attempt to embarrass, ridicule or degrade a supervisor of the institution, Department or State of Nevada Service. **CLASS 3-5**

J. Refusal to work mandatory overtime. **CLASS 3** Any subsequent refusal. **CLASS 4-5**

13. **MISUSE OR UNAUTHORIZED USE OF PROPERTY**

Behavior under this category may also subject the employee to civil or compensatory penalties or criminal prosecution.

A. Damage to or loss of State property or equipment due to neglect or carelessness.
CLASS 2-5

B. Failure to properly maintain State property and/or Department equipment. **CLASS 1**

C. Unauthorized use, misuse, or waste of property belonging to the State or Department.
CLASS 2-5

D. Unauthorized destruction of State records. **CLASS 5**

E. Speeding or committing other traffic violations while driving a State-owned vehicle, or reckless handling of other State equipment. **CLASS 2**

F. Using a Department vehicle for other than official business or for personal use and benefit. **CLASS 3**

G. Deliberate waste of materials or supplies. **CLASS 2**

H. Unlawful removal of State property. **CLASS 5**

I. Improper use of Department communications or information systems. **CLASS 4**

J. Permitting inmates to use Department telephones, or be in an area unsupervised where staff telephones are accessible, except as otherwise authorized by administrative regulations. **CLASS 4**

K. Intentional destruction, damage to or loss of property or State equipment. **CLASS 4-5**

L. Loss of or damage to inmate property caused by an employee of the Department which is attributable to negligence, lack of reasonable care, failure to follow proper procedures or misconduct on the part of the employee. **CLASS 2-4**

14. COMPUTER USAGE VIOLATIONS

A. Unauthorized or improper use or copying of proprietary software, electronic file, program, or data. **CLASS 4-5**

B. Unauthorized use or distribution of Department data or programs for other than the administration of Department duties, responsibilities, and business. **CLASS 3-5**

C. The introduction or use of computer hardware or software to or on Department computers or systems, including but not limited to, downloading any such materials without prior authorization. **CLASS 3-5**

D. Using another employee's password to access Department computers. **CLASS 3**

E. Providing or exposing your password to any other person. **CLASS 3**

F. Failure to secure your Department computer, or accessing a Department computer which has been left unsecured. **CLASS 3**

G. Use of State or Department e-mail, intranet, or Internet system which violates any statute, regulation, Administrative Regulation, policy or procedure for purposes not directly related to Department duties or unrelated to the Department mission. This includes activities such as access to or distribution of computer games or use for private business. **CLASS 3-4**

H. Use of State or Department equipment for gambling. **CLASS 5**

I. Use for access to or distribution of pornographic material as defined by NAC 284.646(4). **CLASS 5**

J. Forging a digital signature. **CLASS 5**

K. Attempting to, or intentionally using e-mail or Internet facilities to disable, impair, overload or disrupt computer or network performance, services or equipment, or to circumvent any system intended to protect privacy or security of another user or the system or to harass other users. **CLASS 5**

L. Unauthorized use to inappropriately seek, distribute, obtain copies of, modify, or distribute information, files, or other data that is private, confidential or not open to public inspection. **CLASS 5**

M. Intentionally allowing an inmate to have any password protected file. **CLASS 5**

N. Permitting an inmate to have access to privileged, confidential, or sensitive information contained on a computer. Employees should not access such information on their computer screens with inmates in the vicinity. **CLASS 4**

O. Leaving an inmate unsupervised in any area containing access to privileged, confidential, or sensitive information on an unsecured computer. **CLASS 5**

P. Improperly permitting an inmate to work on, use, or otherwise access any computer, computer system, or information system of the State or the Department so that:

- 1) the inmate may be connected in any way to a modem, network or similar device which would allow communication outside a Department facility;
- 2) the inmate may collect, organize, or otherwise use personal, Department, or State proprietary or confidential information; OR
- 3) the inmate participates in providing technical or other assistance with a computer problem. **CLASS 5**

Q. Purposefully circumventing State or Department internet security for any reason including but not limited to accessing unauthorized internet web sites. **CLASS 3-4**

15. **NEGLECT OF DUTY**

A. Careless or sloppy work; frequent mistakes or errors. **CLASS 1**

B. Failure to complete work assignments. **CLASS 1**

C. Failure to complete and submit required reports to supervisor or other designated person. **CLASS 2**

- D. Failure to take corrective action when warranted. **CLASS 1-2**
- E. Willful failure to intervene or respond when necessary. **CLASS 3**
- F. Making inappropriate recommendations. **CLASS 1**
- G. Wasting time or loitering. **CLASS 1**
- H. Failure to devote full time, attention and effort to assigned duties. **CLASS 2**
- I. Conducting outside/personal business on State time. **CLASS 2-3**
- J. Engage in unauthorized off duty employment, activity or enterprise determined to be inconsistent, incompatible, or in conflict with duties as employees of the Department. **CLASS 3**
- K. Engage in secondary employment without an approved Request for Secondary Employment Form. **CLASS 2**
- L. Failure to keep work area clean and uncluttered causing a work hazard. **CLASS 1**
- M. Misplacement of important documents or property. **CLASS 1**
- N. Disregard of safety rules. **CLASS 2-4**
- O. Intentionally initiating or causing a disruption of normal operations. **CLASS 4**
- P. Failure to make proper notification of sick leave. **CLASS 2**
- Q. Failure to maintain telephone or other method of delivering messages at residence. **CLASS 1**
- R. Failure to maintain required uniform. **CLASS 1**
- S. Failure to wear appropriate clothing consistent with assigned duties. **CLASS 1**
- T. Failure to appear for court or a hearing when duly notified or subpoenaed. **CLASS 3**
- U. Failure to comply with any court order or judgment. **CLASS 3-5**
- V. Failure to maintain personal appearance appropriate to the job. **CLASS 1**
- W. Loss of seized, found, or recovered property by negligence. **CLASS 1** Willful failure to appropriately identify and secure such property. **CLASS 2**

- X. Allowing unauthorized personnel to enter work areas. **CLASS 2**
- Y. Failure to ensure subordinate employees perform required duties. **CLASS 1**
- Z. Failure to report to a supervisor when tired or ill. **CLASS 2**
- AA. Sleeping on duty or failure to remain fully awake while on duty. **CLASS 4**
- BB. Failure to assure safety and security as part of effective job performance, employees remain alert, aware of, attentive and responsive to their surroundings while on duty. **CLASS 4**
- CC. Failure to report misconduct, or failure to report or notify supervisor concerning incidents, activities, events of immediate interest or concern, or matters impacting PREA which take place within the jurisdiction of, or which impact, the Department. **CLASS 1-5**
- DD. Failure to exercise proper supervision over offenders. **CLASS 2**
- EE. Concealing or covering-up of defective workmanship. **CLASS 2**
- FF. Failure to report an arrest or conviction of any misdemeanor, gross misdemeanor, or felony within 24 hours or before the beginning of their next shift. **CLASS 2**
- GG. Failure to report suspension or revocation of a driver's license when a valid driver's license is a requirement of the position. **CLASS 2**
- HH. Failure to report contact with law enforcement (other than in matters involving routine traffic stops, random automobile stops and road blocks, and other than in cases involving the rendering of assistance to law enforcement) or having been notified that employee is the subject of a criminal investigation, or that a criminal investigation is proceeding against employee. **CLASS 2**
- II. Preferential treatment of subordinates or offenders. **CLASS 2**
- JJ. Failure to respond to radio call. **CLASS 2**
- KK. Unauthorized possession of weapons or security equipment on State Property. **CLASS 5**
- LL. Failure to perform security functions, violation of any safety rule, or violating or endangering the security of an institution. **CLASS 4-5**
- MM. Intentional failure to discharge duties, whether custodial or other job responsibilities, provided that failure results in (a) escape of a prisoner (b) the serious physical injury (c) sexual assault or (d) death of another person. **CLASS 5**

NN. Engaging in any act or communicating information in any fashion that could assist any individual to escape arrest, detention and/or punishment, or enables any individual to dispose of or conceal evidence. **CLASS 5**

OO. Withholding information or concealing suspected criminal activity to shield individuals from detection, arrest, detention or punishment. **CLASS 5**

PP. Attempting to have any formal charges dismissed, reduced, avoided or stricken from any court calendar, except as provided by law. **CLASS 4**

QQ. Take any action that interferes with the administration of criminal justice, including intentionally interfering with the service of subpoenas, other lawful process, or the attendance or testimony of any witness at any lawful proceeding. **CLASS 5**

RR. Concealing, altering, falsifying, destroying, removing, tampering or withholding any property or evidence associated with any alleged misconduct, investigation, arrest, or other administrative or enforcement action. **CLASS 5**

SS. Removing, copying, concealing, altering, falsifying, destroying, stealing, or tampering with any record, report, or other official document maintained by the State, Department or any other criminal justice agency. (Official Department reports may be removed and/or copied only as allowed by law and Department policy/procedure.) **CLASS 5**

TT. Leaving an assigned post while on duty without authorization of a supervisor. **CLASS 5**

UU. Failure to meet Peace Officer Standards & Training (POST) requirements. **CLASS 5**

VV. Failure to maintain a valid driver's license when it is a condition of employment. **CLASS 5**

WW. Failure to maintain license, certification, etc. when condition of employment. **CLASS 5**

XX. Introduction of a telecommunication device as described in NRS 212.165. **CLASS 5**
When the introduction of the telecommunications device is immediately self-reported by the employee, no calls have been made or received through the device during the time it has been inside the institution, and the employee has been discipline-free during the previous 12 months. **CLASS 2**

YY. Possession and/or Introduction of non-intoxicant contraband. Contraband is any item not issued by the State to properly perform job duties. An employee must obtain written approval of the Warden or designee to possess any personal items while on duty. **CLASS 4**

ZZ. Possession and/or introduction of an intoxicant contraband, including narcotics and alcohol. **CLASS 5**

AAA. Failure to cooperate with official investigations conducted by the Department or other criminal justice agencies, when such failure does not violate an accused's Constitutional self-incrimination protection. **CLASS 3**

BBB. Failure to safely operate motor vehicles while on duty – When the failure results in significant damage, bodily injury or death. **CLASS 5** When the failure results in minimal damage and/or minor injuries. **CLASS 3**

16. **SEXUAL ABUSE**

A. Any sexual contact including but not limited to, oral sexual contact, including kissing any body part or sexual penetration, masturbation, or physical contact with the clothed or unclothed genitals or pubic area to arouse, appeal to or gratify sexual desires involving any individual other than an inmate on State time and/or involving State property or equipment. **CLASS 5**

B. Custodial Sexual Misconduct defined as sexual abuse is any behavior or act of a sexual nature, either consensual or non-consensual, directed toward an inmate by an employee, volunteer, contractor, official visitor, or agency representative. These acts include but are not limited to:

- 1) Unauthorized, intentional touching of the clothed or unclothed genitalia, anus, groin, breast, inner thigh, or buttocks with the intent to abuse, arouse or gratify sexual desire;
- 2) Unauthorized, intentional touching, fondling, or caressing of an inmate's person, directly or indirectly, related to a "romantic" relationship;
- 3) Completed, attempted, threatened, or requested sexual acts; or
- 4) Occurrences of indecent exposure, invasion of privacy or staff voyeurism. **CLASS 5**

Voyeurism by a staff member, contractor, or volunteer is defined as: invasion of privacy of an inmate, detainee, or resident by staff for reasons unrelated to official duties, such as peering at an inmate who is using a toilet in his or her cell to perform bodily functions; requiring an inmate to expose his or her buttocks, genitals, or breasts; or taking images of all or part of an inmate's naked body or of an inmate performing bodily functions.

C. Staff on inmate sexual harassment includes staff, volunteers, or contractors who have contact with an inmate. Prohibited conduct includes but is not limited to repeated instances of:

- 1) Verbal comments of a sexual nature to an inmate;

- 2) Demeaning references to gender;
- 3) Sexually suggestive or derogatory comments about body or clothing; or
- 4) Profane or obscene language or gestures, first offense **CLASS 3-5, second or any subsequent offense Class 5**

D. Failure to report an inmate's sexual activity. **CLASS 5**

17. **UNAUTHORIZED USE OF FORCE**

- A. Willfully employing or permitting the use of unnecessary, unauthorized, or excessive force. **CLASS 4-5**
- B. Creating a situation where force must be used unnecessarily. **CLASS 4**
- C. Failing to report any use of force either as a participant or a witness. **CLASS 3-4**

18. **UNBECOMING CONDUCT**

- A. Engaging in horseplay with co-workers. **CLASS 3** With inmates. **CLASS 4-5**
- B. Gambling on State property or while on duty or gambling while in uniform. **CLASS 2**
- C. Unprofessional remark to an inmate. **CLASS 1**
- D. Providing contraband to an inmate. **CLASS 5**
- E. Abuse of sick leave. **CLASS 2**
- F. Misuse and/or abuse of supervisory authority or privilege. **CLASS 2**
- G. Any violation of AR 345 regarding unauthorized relationships. **CLASS 1-5**
- H. Divulging criminal records, medical records, or other legally protected information of one person to another, except when necessary to conduct the Department's business. **CLASS 5**
- I. Unauthorized disclosure of confidential Department matters. **CLASS 4**
- J. Compromising the confidentiality of inmate affairs. **CLASS 3-5**
- K. Conducting unauthorized transactions with an inmate or an inmate's family. **CLASS 5**
- L. Transmitting prohibited messages to or for inmates. **CLASS 3-5**

M. Identified self, displayed badge or identification, appeared in uniform, or made improper use of your status as a Department employee other than is necessary, whether on or off duty. **CLASS 2-5**

N. Retaliated against another employee or an inmate for reporting a complaint of misconduct, to include sexual harassment or sexual abuse of an inmate, or retaliated against another employee or an inmate who cooperates with an official PREA investigation. **CLASS 4-5**

O. Inciting another to fight. **CLASS 4**

P. Unauthorized use, misuse, destruction or waste of property belonging to the State of Nevada, another employee, a citizen, or an inmate. **CLASS 1-5** (Such misconduct may subject the employee to financial liability for replacement of the property, whether attributable to negligence, lack of reasonable care, or failure to follow proper procedures.)

Q. Displaying pornographic or adult pictures, movies, videos or text to inmates, employees or to persons outside of the Department while on paid status or on State property. **CLASS 5**

R. Any conduct whether on or off duty which may negatively reflect upon the image of the State of Nevada or the Department of Corrections. **CLASS 1-5**

S. Verbal threats or display of intimidating behavior towards a staff member. **CLASS 3**

T. Acts of workplace violence, threats, harassment, intimidation, aggression and/or disruptive behavior in the workplace by an employee(s) to another. **Class 4-5**

1) Acts of aggression will include oral or written statements, gestures or expressions that communicate a direct or indirect threat of physical or mental harm or, indirect acts such as damage to personal property.

2) The "workplace" is defined as any location, either permanent or temporary, where an employee performs any work-related duty. This includes, but is not limited to the buildings and the surrounding perimeters and parking lots, and field location.

339.08 ADJUDICATION

1. After the assigned investigator or supervisor completes the final case report, the Appointing Authority will adjudicate the matter within the time assigned, designating the final applicable Class of Offense Guidelines, using the appropriate form, and in coordination with the Office of the Inspector General.

2. The Appointing Authority shall prepare the Result of Adjudication Form, DOC-1096. Thereafter, the Appointing Authority should meet with the accused employee to advise the employee of the findings and recommendations.

339.09 IMPOSING CORRECTIVE or DISCIPLINARY ACTION

1. Employee performance issues should be addressed at the lowest appropriate level of supervision beginning with verbal counseling and through Specificity of Charges.

2. Corrective action includes a verbal or written counseling, which may be recorded on the performance card, as well as a Letter of Instruction or a Written Reprimand.

3. Before issuing corrective action, the Appointing Authority should make certain that no formal investigation related to the performance or misconduct issue is still pending. While performance issues or low-level misconduct will not usually be subject to a formal investigation, the impartial fact-finding process may determine that an issue appearing to be more serious at the outset does not require discipline.

4. Except for PREA-related matters, prior to an investigation, verbal or written counseling may be used to immediately correct safety or security issues. This counseling should include an acknowledgment that further investigation leading to discipline may follow in due course.

5. Verbal or written counseling and Letters of Instruction may be used to supplement the evaluation process, between regularly scheduled reports on performance.

6. An impartial fact-finding investigation is required before imposition of a suspension, demotion, or dismissal.

7. When a suspension, demotion or dismissal is warranted, a Specificity of Charges (NPD-41) should be drafted, utilizing the appropriate format located on the Stewart shared drive.

339.10 CONFIDENTIALITY OF PERSONNEL RECORDS

1. All documents assembled or produced in support of this regulation are confidential.

2. Files may be reviewed by a subject employee pursuant to applicable sections of NRS Chapters 284 and 289.

3. Files may be copied by a subject peace officer pursuant to applicable sections of NRS Chapter 289.

A. Once an appeal has been filed, a peace officer may request a copy of the investigative file, using the DOC-1066 form.

B. The DOC-1066 form is available on the shared drive and should be submitted to the Department's Human Resources Division.

APPLICABILITY

1. This regulation applies to all employees of the Department.
2. This regulation does not require an Operational Procedure.
3. This regulation does not require an audit.

REFERENCES:

ACA Standards 4-4048, 4-4067, and 4-4069; 2008 Supplement 4-4069; 2010 Supplement 4-4069; and 2012 Supplement 4-4067 and 4-4069

Director

Date