

POLICY OF STATE OF DELAWARE DEPARTMENT OF CORRECTION	POLICY NUMBER 9.6	PAGE NUMBER 1 of 4
	RELATED ACA STANDARDS: 2-CO-1C-04; 4-4069' 4-ACRS-3A-07	
CHAPTER: 9 HUMAN RESOURCES AND EMPLOYEE MANAGEMENT RELATIONS	SUBJECT: EMPLOYEE ARRESTS AND CONVICTIONS	
APPROVED BY THE COMMISSIONER AND EFFECTIVE DATE:		
		
APPROVED FOR PUBLIC RELEASE		

I. AUTHORITY: 11 *Del. C.* §1448, §6517; 29 *Del. C.* §5806; Merit Rules, Chapters 12 and 15.

II. PURPOSE: The DOC is a law enforcement agency and, therefore, employees of the DOC must avoid conduct that undermines the respect and confidence of the public and their faith in the criminal justice system. Conduct in violation of the law undermines the ability of this agency to enforce the laws. The purpose of this policy is to reinforce the ethical standards outlined in the DOC Code of Conduct and establish guidelines regarding employee arrests and convictions.

III. APPLICABILITY: All Department employees, volunteers, persons or organizations conducting business with the Department.

IV: DEFINITIONS:

Arrest: Detain in legal custody.

Crime: An activity that is in violation of a law for which punishment is imposed upon conviction. This includes serious motor vehicle offenses, such as DUI or reckless driving, but not minor traffic offenses. It may also include failure to comply with court orders or probation supervision.

Disciplinary Action: Corrective action in the form of a written warning, written reprimand, suspension, demotion or dismissal.

Disciplinary Investigation Report (210): document used to conduct investigations and provide documentation on which to base disciplinary decisions.

DOC Employee: Any person who receives compensation as an employee of DOC.

Investigating Officer: Immediate supervisor, or a designee, tasked with submitting a complete and thorough investigation of the facts surrounding an incident that may warrant disciplinary action.

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V: POLICY:

- A.** All DOC employees shall conduct themselves, whether on or off-duty, in accordance with the Constitution of the United States, the Constitution of the State of Delaware and all applicable laws, ordinances and rules enacted or established pursuant to the legal authority of the State of Delaware, the federal government, other states or commonwealths and local communities. Any employee arrested for any criminal offense, or convicted of or receives deferred adjudication for such an offense, shall be subject to disciplinary action. Each event will be investigated internally to determine whether just cause exists for disciplinary action. The determination shall be independent of the disposition of the criminal charges. If just cause is established, or if the employee is convicted of the offense, disciplinary action up to and including dismissal may result.

Employees must report, in writing, all police contact where the employee is the subject of a criminal investigation, any arrests, warrants for arrest and capias to their supervisor within five (5) working days following the event. The more serious driving violations, such as Driving under the Influence and Reckless Driving are included. Failure to report such events will be subject to disciplinary action.

Employees must report, in writing, all dispositions of all charges within five (5) working days of the disposition. Failure to report such dispositions will be subject to disciplinary action.

Supervisors must forward such dispositions through the appropriate chain of command to the Bureau Chief or Section Administrator with copies to the Department's Human Resources Office and Internal Affairs Unit. For offenses resulting in the employee being incarcerated or detained, absences from the workplace should be considered leave as without pay until the employee notifies the Department of such detention. Thereafter, the status of the employee is a separate issue from the disciplinary investigation for the behavior that led to incarceration. An employee may be terminated for unavailability for work due to incarceration.

- B.** Failure to self-report any arrest or detention, within five workdays of the event, may result in disciplinary action.
- C.** Once notification is received, an employee facing criminal charges may be removed from the workplace with pay, without pay or be reassigned to a less secure area, depending on the nature of the arrest and severity of the charges, until the Disciplinary Investigation is complete. An employee can only be removed without pay if the Department has conducted an investigation of the incident or the employee is incarcerated.

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- D.** Because criminal cases may be pled down, dismissed or defendants acquitted, whenever practical an internal investigation should be conducted, independent of the criminal action, to determine whether there is just cause for disciplinary action based on the event leading to the arrest or criminal charge. An Investigating Officer will initiate a Disciplinary Investigation Report (210) as soon as the arrest becomes known. In some circumstances, due to the nature of these charges and/or the evidence, it may not be feasible for the Department to conduct a thorough investigation. In these cases, the Department will rely upon the disposition of the criminal charges.
- E.** Criminal incidents may happen on the job or off the job. During the investigation, the Investigating Officer should utilize all available sources of information, such as:
1. Any available written documents such as police reports, citizen complaints or DOC Incident Reports.
 2. Interviews of supervisors, other employees, citizens, witnesses or police officers who may have knowledge of the incident.
 3. An explanation of the incident from the employee.
 4. Review of the employee's total work record for evidence of a tendency to exhibit detrimental behavior on the job that is similar to that exhibited in the arrest incident.
 5. If the Investigating Officer cannot complete the investigation due to unavailability of witnesses or other evidence then the employee shall remain on the job, be removed with pay or reassigned to a less secure work area until the resolution of the charges by the court. Disciplinary measures will then be based on the disposition of the criminal charges or a subsequent Departmental investigation.
 6. If the employee is convicted, or just cause for discipline is found in the internal investigation, the Department will consider dismissal under any of the following circumstances criteria:
 - Any felony offense
 - Any crime of violence in which the victim is a child under 16 years old, a senior citizen or a defenseless adult
 - Crimes involving repeated attacks or threats of violence
 - Crimes involving the use of a weapon

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- Crimes involving the use or sale of illegal substances
- Any misdemeanor where Level V time is imposed, even if the Level V time is suspended by the Court
- A determination by the Court that the employee is a “career criminal” or equivalent designation
- Misrepresentation of the employee’s authority as a member of the Department of Correction