

Relevant Legislation	Fijian Civil Service Discipline Guideline, Employment Regulation Promulgation
Commencement Date	26 October 2017
Review Date	The review date is 12 months after the commencement date and every three years after that.

POLICY STATEMENT

1 Intent

The purpose of the disciplinary policy and procedure is to set and maintain appropriate standard of conduct within the Office the Auditor General (OAG), and in doing so, ensure that all staff are treated fairly and consistently.

This policy is designed to help and encourage all staff to achieve and maintain satisfactory results in accordance with their work plan and any abuse will be dealt with strictly.

The guideline supports the requirement for staff to understand their responsibilities fully with regards to relevant Audit Client, Public Service Values and individual standards of work performance.

The disciplinary procedure is normally used where other interventions have failed to produce the required improvement or when the conduct matter is sufficiently serious to require immediate formal action.

The purpose of discipline is to correct behavior and to improve poor performance.

Any disciplinary action is not intended to be used to punish or embarrass a staff.

2 Scope

This policy and procedure applies to all staff of the OAG.

For newly appointed staff who are in their initial period (first 3 months), the OAG retains the discretion to vary the procedure accordingly in respect of formal warnings, up to and including termination for a first breach of conduct rules.

3 Principles

a) Where appropriate, informal action will be considered before recourse to the formal procedure.

b) The procedure may be implemented at any stage if the staff is alleged to have participated in misconduct.

- c) For formal action, the staff will be told of the nature of the complaint and an investigation will be undertaken before any decision to hold a disciplinary hearing.
- d) This procedure sets timescales to ensure that any disciplinary matter is dealt with quickly and efficiently. However, they may be extended in further consultation to ensure a fair process.
- e) All information will be retained on a confidential basis.
- f) In principle, any disciplinary action that is undertaken must be:
- Prompt;
 - Transparent
 - Fair and impartial;
 - Consistent
- g) Decisions made will be with staff understanding and where appropriate, after the staff is given the opportunity to improve.
- h) This guideline does not replace any role provided by the Office of the Solicitor General in providing legal advice on the action to be taken with regards to disciplining employees. OAG may seek legal opinion from the Office of the Solicitor General with regards to any potential disciplinary action.

4 Definitions and Acronyms

Policy Maker	Auditor General
Management	Approval of Management Committee Meeting

5 Supporting Documents/References

Fijian Civil Service Discipline Guideline 2017
Ministry Of Labour, Industrial Relations & Employment

6 Key Words

Discipline

Misconduct

Complaint

7 Supporting Procedures and Guidelines

The guidelines to the policy are attached as Annexure I to this policy. This information will provide the background to the development of the policy should Officers need clarification.

RESPONSIBILITIES	
Implementation	The management are responsible for implementing the policy.
Compliance	All staff are responsible for complying with the policy.
Monitoring and Evaluation	The Supervisors and Directors are responsible for monitoring and evaluating the policy.
Development and/or Review	The Corporate Services division will be responsible for developing and/or reviewing the policy
Interpretation and Advice	The Deputy Auditor General (DAG) is responsible for interpreting and advice on the policy.



ANNEXURE 1

1.0 Definitions

- a) Discipline in the workplace is the means by which Heads of Department address poor or underperformance, failure to uphold the Public Service Values, breaches of the Code of Conduct or failure to follow the OAG policies and procedures.
- b) Underperformance or poor performance indicates performance of duties at a lesser standard than that which is required in the position description.
- c) The Code of Conduct is the Public Service Code of Conduct in the Public Service Act and any other Code of Conduct issued through legislation.
- d) "Remove" is defined as invoking the contractual clause to remove a staff from the workplace and terminate the contract.
- e) "Misconduct" means:
 - Breach of the express or implied terms of the staff duties or failure to discharge those duties in accordance with proper care and responsibility.
 - Conduct so seriously in breach of the staff's position that by standards of fairness and justice the OAG should not be bound to continue the employment; or
 - Conduct which constitutes a serious impediment to the staff carrying out his or her OAG duties.
 - Conduct which may amount to a breach of the law, employment contract, rules, regulations, policies.
- f) "Gross misconduct" means conduct so seriously in breach of the conditions of service that it results in a breakdown of the relationship of trust and confidence between a staff and the office, and if proved, warrants an immediate dismissal.
- g) "Summary dismissal" means the immediate termination, normally within 48 hours of the matter brought to the attention, approval and instruction of the Auditor General (AG) and Deputy Auditor General (DAG), for gross misconduct and offenses recognized under the Employment Relations Promulgation 2007.

ERP Section 33 Summary dismissal

No employer may dismiss a worker without notice except in the following circumstances-

- (a) where a worker is guilty of gross misconduct
 - (b) for wilful disobedience to lawful orders given by the employer
 - (c) for lack of skill or qualification which the worker expressly or by implication warrants to possess
 - (d) for habitual or substantial neglect of the worker's duties
- h) Panel members must be trained Investigation Panel member, current Civil Servant who has completed an approved Investigation Panel Training program for the public sector.

2.0 Performance Improvement Program

Where a staff is not performing to the required standard, the supervisor will:

- Advise the staff of the areas where their performance does not meet the required standard.
- Identify with the staff reasons for the underperformance and actions required to improve performance.
- Document the discussion and agreed plan for improvement
- The supervisor will monitor the staff performance and provide ongoing feedback to the staff.
- Within 5 days of conclusion of the period given for improvement, the Supervisor will collate all documentation and report on progress to the DAG with a recommendation on whether to conclude or continue the performance improvement program, or institute formal disciplinary action.
- The supervisor will advise the staff of their recommendation.
- The Auditor General will decide appropriate action and advise the staff and supervisor accordingly.

3.0 Confirm a Disciplinary Case to Answer

Where an issue that could result in a need for disciplinary action is identified, Auditor General together with Deputy Auditor General will follow the following broad steps:

- Notify the staff that an investigation is to be undertaken and how that process will work.
- Appoint an investigation panel of at least three, trained members, who are at or above the level of the employee being investigated
- All investigation panels will have gender balance.
- Appointment to an investigation panel is considered to be official duty, and is part of the staff's corporate responsibility. No additional allowances are payable.
- Appointment of the investigation panel will be in writing and will include the timeframe within which the investigation and reporting are to be completed.
- Management will decide on the budget amount to be allocated for team building activities every year.

4.0 Investigation Panel

- Establish the facts of the case and collect all relevant evidence related to the issue;
- Interview relevant people, including the staff concerned;
- Review relevant information;
- Provide a report giving the details of their investigation and conclusions on whether the allegations are well established or not;
- Make a recommendation on whether to provide time for improvement by giving a second chance, institute disciplinary action or remove the employee.

5.0 Suspension of an Staff

The office may suspend a staff at any stage during the process. In determining whether suspension is warranted, the Auditor General will consider whether:

- The presence of the staff could compromise safety in the workplace;
- The presence of the staff could compromise or hinder the investigation;
- There are concerns about the preservation or integrity of OAG's information, or service to the public.

- The written advice will include all relevant details of the suspension.
- Any period of suspension while the matter is under investigation by OAG is on full pay.

6.0 Institute Disciplinary Action

Where the investigation Panel and in consultation with the Auditor General decides there is a case to answer, investigation recommends that no immediate penalty be applied but that the staff be formally notified of the need to change their behavior or performance, with the issue of a formal written warning to the staff.

Written warning

A written warning is given if the seriousness of the misconduct is such that the matter cannot be suitably dealt with through informal means. This is in writing and details the complaint and the improvement required, with timescales. There are two written warning issued which shall inform the staff that a final written warning will be considered if there is no sustained satisfactory improvement or change.

- A copy of the written warning is kept on file but is disregarded for disciplinary purposes after 6 months of satisfactory conduct.

Final written warning

- A final written warning is given if the offence is sufficiently serious and if there are 2 warnings already on file. The warning also states that if there is any further misconduct, or if following review, there is continued unsatisfactory conduct the staff is likely to be dismissed.
- A copy of the final written warning is kept on file, but is disregarded for disciplinary purposes after 12 months of achieving and sustaining satisfactory conduct.
- In circumstances where a staff's conduct is satisfactory throughout the period a warning is in force, but lapses very soon thereafter, or there is evidence of a pattern of both satisfactory and unsatisfactory conduct depending on whether a warning is in force, this will be taken into consideration in deciding how long any future warning should last.

7.0 Dismissal

The Office shall dismiss staff in accordance with ERP Section 33 under Summary Dismissal and provide a written statement setting out the reasons for the dismissal.

Where staff is unhappy with the OAG's process they may follow the grievance procedures.

Right to wages on dismissal for lawful cause

If a staff is summarily dismissed for lawful cause, the worker must be paid on dismissal the wages due up to the time of the staff's dismissal.

8.0 What is Employment Grievance?

A grievance is that a staff, may have against the his employer because of the following claims-

- The staff has been dismissed;
- The employment, or one or more conditions of it, is or are affected to the worker's disadvantage by some unjustifiable action by the employer;
- The staff has been discriminated
- The staff has been sexually harassed
- The staff has been subject to duress in the worker's employment in relation to membership or non- membership of a union

9.0 Maintaining Confidentiality

When addressing disciplinary issues including poor performance or misconduct all those involved must respect and maintain confidentiality of the information obtained.

10.0 Criminal, Fraud and Corruptional Matters

Any potentially criminal matter is to be referred to the Police.

Any potentially fraudulent or corrupt matter (including any criminal matter that is potentially corrupt) is to be referred to FICAC.

Any internal disciplinary action may be carried out independently and parallel to any investigation by the relevant authorities.

8 Review

This policy will be reviewed 12 months after implementation and every 3 years after that.

9 Who to Contact About this Policy

Any queries is directed to Deputy Auditor-General.

10 Revision/Change Log

Version 1.0	
Policy endorsed by:	Executive Management Committee
Policy approved by:	Auditor-General
Policy effective from:	26 October 2017
Policy to be reviewed by:	27 October 2018
Manager responsible for policy:	Manager Corporate Services