NEW YORK STATE Department of Corrections and Community Supervision **DIRECTIVE**	TITLE **Report of Employee Misconduct**		NO. 2111 DATE 11/17/2025
SUPERSEDES DIR #2111 Dtd. 01/11/23	DISTRIBUTION A	PAGES PAGE 1 OF 3	DATE LAST REVISED
REFERENCES (Include but are not limited to) Civil Service Law, § 75; Executive Order #187; PREA Standards; ACA Expected Practices 2-CI-6D-2, 2-CI-6D-5; Directives #0700, #2112, #2260	APPROVING AUTHORITY Lauren Bezotte		

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: All Department employees have a responsibility and affirmative duty to report employee misconduct to their respective supervisor and/or Department's Office of Special Investigations (OSI) in accordance with Directive #0700, "Office of Special Investigations," and #2260, "New York State Ethics." Upon receipt of this information, the Watch Commander, Regional Director, or other supervisory staff receiving the information shall immediately contact OSI for direction. OSI can be contacted by telephone during business hours at 518-457-2653 and via the Communication Control Center (CCC) after hours.

Similarly, allegations of employee misconduct involving discrimination, sexual harassment, or retaliation will be advanced to the Office of Employee Relations (OER) Anti-Discrimination Investigations Division (ADID) for investigation consistent with Executive Order #187. The reporting employee shall utilize the electronic NYS Employee Discrimination Complaint Form, located on the OER website at: https://antidiscrimination.oer.ny.gov.

The Superintendent's, Division Head's, or Regional Director's report will accompany any Unusual Incident Report filed. Under no circumstances shall an investigation into any of the types of misconduct specified in Directive #0700 be commenced unless and until OSI has been consulted; a coordinated response to allegations of employee misconduct leads to more efficient investigations.

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, they must prepare and submit a Report of Employee Misconduct and follow the below procedures.

In keeping with past practice, and in accordance with the National Prison Rape Elimination Act (PREA) Standards, Title 28 CFR Section 115.76, "Disciplinary Sanctions for Staff," termination of employment shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse of an incarcerated individual or releasee. Accordingly, any Notice of Discipline implementing disciplinary action based upon substantiated charges of staff sexual abuse committed by an employee regardless of bargaining unit shall seek termination of employment as the penalty. Disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) shall continue to be commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.

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).
   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.
   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.
7. When OSI conducts the investigation, a copy of the OSI investigative file or investigative report shall be submitted to the Bureau of Labor Relations in lieu of a Report of Employee Misconduct.

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, as well as referrals from OSI and ADID, and consider appropriate actions. If the Director of Labor Relations concludes that a Notice of Discipline is appropriate, they 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.