

ANNEXURE: A

**LABOUR RELATIONS SANCTIONING GUIDELINES
FOR THE PUBLIC SERVICE**

**DEPARTMENT OF PUBLIC SERVICE AND
ADMINISTRATION**

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1. INTRODUCTION

The requirement that an employer must act consistently when taking disciplinary steps is deeply ingrained in the concept of disciplinary fairness. The most common form of inconsistency occurs in the application of disciplinary sanctions. Other forms of inconsistency occur when an employer decides to institute disciplinary action against one employee but not against another employee for similar acts of misconduct, or where differing disciplinary charges are brought against different employees whose alleged actions were similar in nature.

The primary principle is that employees who are similarly situated must be treated in the same way when disciplinary measures are applied or taken. Nevertheless, there is an acknowledgement that it is often difficult to apply this principle in practice as opinions may differ as to what factors can be taken into account in determining whether employees are similarly situated.

The determining factor in measuring whether disciplinary processes are managed consistently are the sanctions imposed for similar acts of misconduct notwithstanding that each case must be dealt with on its own merits. Whilst mitigating and aggravating circumstances are considered during disciplinary hearings, the sanctions that are imposed for similar acts of misconduct should be reasonably consistent. The outcomes of the disciplinary processes are normally subjected to litigation which departments may struggle to defend especially where there are elements of inconsistencies.

Consistent discipline management is not aimed at a selected few departments but transversally across the public service. The public service must therefore be seen to apply sanctions in a fair and consistent manner relating to acts of misconduct which are similar and where there are comparable circumstances relating to the transgressions.

2. PREAMBLE

These guidelines are not intended to interfere with the powers of the presiding officers but to ensure consistency and also act as a deterrent for the potential transgression of the Disciplinary Code and Procedure for the Public Service.

This is merely a sanctioning guideline for the public service, however national departments and provinces may still develop their own disciplinary policies and procedures which are aimed at ensuring fair and consistent application of discipline in their respective departments. In addressing the issue of consistency departments may develop a matrix of cases of misconduct and the sanctions applicable to them, together with extenuating and aggravating circumstances which could be considered as a guide by the chairpersons of the disciplinary hearing.

3. PROCEDURAL FAIRNESS

Item 4 of the Code of Good Practice: Dismissal (LRA) provides that, normally an employer should conduct an investigation to determine whether there are grounds for a dismissal, but that this need not be a formal enquiry. The employer should notify the employee of the allegations against him or her using a language and form that the employee can reasonably understand.

The employee should also be allowed an opportunity to state a case in response to the allegations, and the employee is entitled to the assistance of a shop steward or a fellow employee. After the enquiry, the employer should communicate the decision taken to the employee and preferably furnish the employee with written notice of that decision.

Disciplinary measures should not be instituted against a shop steward or an office-bearer of a trade union without first informing the union concerned and consulting with it. If an employee is dismissed, he or she should also be informed of his or her right to challenge the dismissal. Lastly, it is provided that in exceptional cases, an employer may dispense with pre-dismissal procedures.

4. PRINCIPLES OF CONSISTENCY

This guideline should not be seen as an end in itself but a means to an end. There may be a need from time to time to deviate from the requirements of this guideline in exceptional cases, as each case is dealt with on its own merits.

In striving for consistency in the sanctions imposed for similar acts of misconduct, it should always be noted that the mitigating and aggravating circumstances which apply differ from case to case, and there may be justification for different sanctions. However, in cases where the circumstances considered during disciplinary hearings are similar, the sanctions imposed should be reasonably consistent.

Employers to some degree apply value judgements in determining the fairness of a sanction imposed for acts of misconduct. They may be justified in differentiating between employees, guilty of the same offence. The differentiation largely depends on the personal circumstances of the employees. As long as the sanctions imposed by the employer for the same or similar offence are reasonably similar, the principle of consistency will be met.

Whereas consistency in determining the appropriate sanction is a fundamental rule of fair labour practice, the Code of Good Practice contained in Schedule 8 of the LRA reiterates the common law principle that each case must be judged on its merits. In determining the sanction, the chairperson of the disciplinary hearing must take into account aggravating and mitigating circumstances.

5. SCOPE OF APPLICATION

The sanctioning guidelines are applicable to all public service disciplinary cases except where contrary legislative framework or legislation prescribes otherwise.

6. ENABLING LEGISLATION

SOURCE	PROVISION
The Public Service Act, 1994 (as amended)	<p>Section 17: This section allows for the termination of an employee's services as a result of misconduct.</p> <p>Section 16: This section deals with the management of the disciplinary process and relevant authorities</p>
The Public Service Regulations	<p>Chapter 2: Code of Conduct for the Public Service, prescribes to employees regarding what is expected from them from an ethical point of view, both in their individual conduct and in their relationship with others.</p> <p>Chapter 4, Part VIII D: The Minister for the Public Service and Administration may, subject to the LRA issue directives to establish misconduct and incapacity procedures for the Senior Management Service</p>
The Senior Management Handbook	<p>Chapter 7: The chapter contains the procedures that must be applied in cases of misconduct, incapacity due to poor performance and ill-health of members of the Senior Management Service of the Public Service</p>
PSCBC Resolution 10 of 1999	<p>The Incapacity Code and Procedure for the Public Service was agreed to through Resolution 10 of the PSCBC. The Code provides a framework in respect of the management of poor performance in the public service</p> <p>In terms of this Resolution an employer is compelled to provide written reasons if it is of the view that an employee is not performing in accordance with the job that the employee has been employed to do. The employer is also compelled to consider the employee's reasons in not meeting the desired level of performance. During this process the employee may involve an employee representative, should the employee so choose.</p> <p>The procedure for meetings to deal with employees' incapacity is further outlined.</p>

	An employer can ultimately consider, after consulting with the employee, to institute formal misconduct proceedings if all interventions that have been agreed upon have failed to deal with the poor performance.
SSSBC Agreement Number 3 of 2005/ 1 of 2006	<p>Any of the following sanctions may be imposed:</p> <ul style="list-style-type: none"> • Counselling • A written warning valid for six months • A final written warning valid for six months • Suspension without pay for no longer than three months, subject to the consent of the employee • Demotion by one salary level for a period not exceeding twelve months provided that the member retains his/her rank • Dismissal • Suspended dismissal for a period not exceeding 6 months • A suspended suspension of any sanction listed for a period not exceeding 6 months • A fine of up to R500.00 be deducted in instalments • A combination of the above
PSCBC Resolution 1 of 2003	<p>This Resolution prescribes the disciplinary procedure for the public service. It describes what is meant by procedural and substantive fairness. An outline is provided of the informal procedure that may be followed to address misconduct that is not regarded as serious. A procedure is also provided for serious misconduct warranting formal action. The following sanctions for misconduct in the public service are also provided:</p> <ul style="list-style-type: none"> • Corrective counselling • Verbal warnings • A written warning valid for six months • A final written warning valid for six months • Suspension without pay, for longer than three months • Demotion • A combination of the above; or • Dismissal

	<p>The Disciplinary Code does not provide a framework of recommended sanctions for particular offences, however, and departments have the discretion to decide on the sanctions to be imposed.</p>
Labour Relations Act 66 of 1995 (as amended)	<p>Schedule 8 of the LRA contains the Code of Good Practice which inculcates a system of fairness for both substantive and procedural elements of discipline. In essence, the Code of Good Practice sets out the minimum criteria for employers to meet in establishing fairness in disciplinary procedures.</p>
Precedents set by courts of law and other quasi-judicial decisions	<p>Although the most important role of courts is to interpret the law, there are instances where during such interpretation, law is developed by the courts. The hierarchy of the courts in South Africa develops a precedent system on decided cases. For example, decisions of the Supreme Court of Appeal set procedures for all high courts and lower courts in similar matters</p> <p>Each High Court and Labour Court also sets precedents for matters that are brought before such courts. Awards of the Commission for Conciliation, Mediation and Arbitration (CCMA) set precedents to be considered when handling similar cases. Similarly the precedents set in sanctions imposed in departmental disciplinary hearings may have a bearing on what may be determined a “fair sanction”.</p>
Education Law and Policy Handbook	<p>Section 17 in Chapter 5: Incapacity and misconduct on serious misconduct states that an educator must be dismissed if he or she is found guilty of:</p> <ul style="list-style-type: none"> • Theft, bribery, fraud or an act of corruption in regard to examinations or promotional reports • Committing an act of sexual assault on a learner, student or other employee • Having a sexual relationship with a learner of the school where he or she is employed • Seriously assaulting, with the intention to cause grievous bodily harm to, a learner, student or other employee • Illegal possession of an intoxicating, illegal or stupefying substance, or • Causing a learner or a student to perform any of the above acts

<p>Employment of Educators Act 76 of 1998</p>	<p>An educator appointed in a permanent capacity who:</p> <ul style="list-style-type: none"> • Is absent from work for a period exceeding 14 consecutive days without permission of the employer • While the educator is absent from work without permission of the employer, assumes employment in another position • While suspended from duty, resigns or without permission of the employer assumes employment in another position, or • While disciplinary steps are taken against the educator have not yet been disposed of, resigns or without permission of the employer assumes employment in another position <p>shall, unless the employer directs otherwise, be deemed to have been discharged from service on account of misconduct</p>
<p>Employment of Educators Act 76 of 1998 (section 16)</p>	<p>If it is alleged that an educator is unfit for the duties attached to the educator's post or incapable of carrying out those duties efficiently, the employer may appoint in writing a person to inquire into the relevant allegations.</p> <p>If the person conducting the enquiry has found that the educator concerned is unfit for the duties attached to the educator's post or incapable of carrying out those duties efficiently, that educator may, within 14 days after the day on which the educator was informed of that finding, submit to the employer representations in writing regarding the steps which may be taken. After having considered the documents relating to the enquiry and any representations submitted to the employer, the employer may:</p> <ul style="list-style-type: none"> • Take no further steps in the matter • Transfer the educator concerned to another post for which the educator is suitable or direct that the educator be employed additional to the educator establishment • Reduce the educator's salary or grade or both the salary and the grade to such extent as the employer may determine • Combination of the above (second and third) bullets • Discharge the educator from service with effect from such date as the employer may determine
<p>Employment</p>	<p>If the disciplinary tribunal has found that the educator concerned is guilty of the</p>

of Educator's Employment Act (section 24)	<p>misconduct with which the educator has been charged, or if the educator concerned admits the charge, the employer may, after having considered the documents relating to the inquiry, where applicable:-</p> <ul style="list-style-type: none"> • Caution or reprimand the educator concerned • Impose upon the educator a fine not exceeding R6 000 • Reduce the educator's salary to such an extent as the employer may determine • Discharge the educator from service with effect from such date as the employer may determine
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7. NATURE OF TRANSGRESSIONS IN RELATION TO SANCTIONS

The state is a single employer for all government officials, hence norms and standards apply to ensure consistency in the management of the career incidents of all public servants. The nature of transgressions and relevant sanctions imposed are varied which allows for an appropriate comparison of the consistency of sanctions imposed and fairness in the management of discipline.

7.1 Inappropriate or unacceptable behaviour, including sleeping on duty

The gravity of the progressive sanction will depend on the nature of misconduct. An employee is expected at all times to render his or her services to the best of his or her ability and act in the interest of the employer. Progressive discipline must be considered depending on the merits of the case.

7.2 Gross dereliction of duty

Gross dereliction of duty may lead to poor performance which should be managed on its own. Employees should be counselled at an early stage especially for first time offenders because dereliction of duty may result in the ultimate sanction of dismissal. Mitigating and aggravating circumstances must inform the appropriate sanction. As a result, slight variations in sanctions can

be expected, and do not necessarily point to inconsistency *per se*. Given this consideration, the slight variations are not reason for concern as the general trend was to sanction the misbehaviour by means of warnings as a distinct category of sanctioning.

7.3 Fraud

This is a serious form of misconduct which must be reported to the police accordingly. It is linked to corrupt practice and must therefore be dealt with through the guiding principles on corruption and may lead to instant dismissal.

7.4 Unauthorised absence

The manner of dealing with unauthorised absence varies from one department to another depending on the nature of functions performed by the employee. It should, however, be noted that unpaid leave for unauthorised absence is not a sanction as the principle of “no work no pay” automatically applies notwithstanding the outcome of the disciplinary process.

An employee enters into a contract of employment with an employer and the terms of such a contract include the employee's working hours and leave entitlement. Where an employee arrives late for work or leaves early, such an employee is breaching the terms of his or her employment contract.

Instances of late coming are normally dealt with as minor offences and a first offence normally warrants a warning. A system of progressive discipline suggests that an employee should be given the opportunity to remedy his or her behaviour.

The length of time for which the employee is absent is relevant in determining the appropriate sanction. Once again, progressive discipline should apply and it is unlikely that a first offence would warrant dismissal.

Whether absence from work can justify dismissal will depend on factors such as the length of the absence, the nature of the employee's job, previous warnings, the reasons for the absence,

whether the employee attempted to contact the employer during the period of the absence and whether there was an element of insubordination involved.

The employer may, in appropriate circumstances, be required to attempt to contact the employee prior to dismissal. It may be appropriate that the employer holds a disciplinary hearing if the employee later reports for work.

7.5 Assault

As with fraudulent behaviour, assault should not be condoned at all in the workplace. It can create an unpleasant environment that affects service delivery and impacts negatively on the main business of the employer. There cannot be any justifiable reason to punish this serious transgression leniently.

Grogan defines assault as the unlawful and intentional application of force to a person, or threat of such application of force. Thus, force can take a number of forms of threats of violence which could also constitute assault. The labour courts accept that such conduct may be a ground for dismissal, subject to the employer taking into account mitigating factors. A common mitigating factor is provocation which arguably diminishes the employee's culpability. The individual circumstances of every employee engaged in an act of assault or a fight must be considered prior to the employer determining the appropriate sanction.

Violence, threats of violence and intimidation will usually, but not always, justify dismissal.

7.6 Contravention of policies or prescripts

This type of transgression generally appears to be sanctioned in a consistent manner with written warnings imposed, however the degree and intent of contravention will determine the outcome.

Policies and procedures may contain rules with which employees must comply. Failure to do so may result in an employee being charged with failing to comply with such rules or contravening such rules. Other than the ordinary mitigating and aggravating circumstances which an employer

should take into account, the importance of the policies and procedures and the impact of non-compliance would also be a factor for consideration.

7.7 Alcohol and drugs related transgressions

The most obvious of the disciplinary offences relating to drugs or alcohol is that of being under the influence of alcohol or drugs whilst at work.

As with fraudulent behaviour and assault, alcohol related transgressions can never be condoned, and there can be no justifiable reason to punish this transgression leniently when pre-intervention measures were applied in line with the provisions of schedule 8 of the LRA. Typically, this will justify dismissal unless it is established that the employee is addicted to alcohol or drugs. If this is the case the principles of dismissal due to incapacity will apply.

An employee is expected to render his or her services to the best of his or her ability whilst at work. An employee is prohibited from being intoxicated whilst executing his or her duties. The type of work being performed by an employee is an important factor to consider when determining the appropriate sanction for an offence of this nature. For instance, an employee who drives a vehicle whilst under the influence of alcohol may receive a harsher sanction than an employee who simply sits at his or her desk whilst intoxicated.

Employers also sometimes identify other disciplinary offences relating to the consumption of alcohol or drugs. Here the offence is committed even if the employee is not under the influence of alcohol or a drug. These include drinking on duty, having an amount of alcohol in the bloodstream higher than that prescribed and failing to co-operate, in or undergo tests aimed at establishing whether the employee has consumed alcohol or is under the influence of alcohol. However, employees cannot be compelled to undergo tests.

7.8 Financial misconduct

An accounting officer commits an act of financial misconduct by wilfully or negligently failing to comply with his or her financial responsibilities.

An accounting officer is required to take effective and appropriate disciplinary steps against any official who makes or permits unauthorised, irregular or fruitless and wasteful expenditure in terms of the Financial Management Act

7.9 Misuse of state property

The misuse of state property is an act of misconduct which cannot be tolerated and progressive disciplinary steps must be applied depending amongst other circumstances on the level of responsibility of the official involved. Payment of the damage as a result of misuse to state property should not be link to the sanction or considered as a form of punishment for wrongdoing.

7.10 Performance of remunerative work without permission

Every case must be dealt with on its merit taking into account both the mitigating and aggravating circumstances. Sanctions imposed will vary from one case to the other and repayment of undue benefits should not be mistaken for a sanction.

7.11 Insubordination and insolence

The employer's common law right to issue reasonable and lawful instructions, and the employee's obligation to comply with these instructions is a central element of the employment relationship. Without this right an employer would not be able to co-ordinate the running of its affairs.

Insubordination cannot be tolerated as it undermines organisational effectiveness. There will always be variation between sanctions imposed depending on the degree of intent.

An employee is obligated to obey an employer's lawful and reasonable instruction. Where the employee fails to do so, he or she commits an act of insubordination. Insubordination is considered a more serious offence than mere rudeness because it presupposes a calculated

breach by employees of their duty to obey their employer's lawful and reasonable instructions;
inter alia:

- wilful and verbal refusal to obey a lawful and reasonable instruction
- wilful disregard for managerial authority
- disrespectful or rude and rebellious gestures, manners or attitudes, and
- dismissive gesture or abusive language

Dismissal is appropriate where the insubordination is deliberate, sustained, and indicates an intention on the part of the employee to repudiate the authority of the employer.

The instruction which the employer gives, and for which the employee is accused of not obeying must be reasonable and fair, lawful, relating to the employment relationship and understood by the employee. The employee must wilfully disobey the instruction and there must be no justification for refusing to disobey the instruction. Further, the employer must not have condoned the disobedience either directly or indirectly.

7.12 Corruption

Harsher sanctions should be considered where there is evidence of corruption. The provisions of the Public Service Regulations should apply in so far as limitations and suspension periods on officials who were found guilty for corruption are concerned.

7.13 Gross Dishonesty

There are various forms of gross dishonesty in the employment relationship which include theft, fraud, lying or misrepresenting facts and other forms of deceitful and unacceptable conduct. Labour Courts regard theft as one of the most serious forms transgressions in the workplace which generally justify dismissal at the first instance. In *Central News Agency (Pty) Ltd v Commercial Catering & Allied Workers Union & Another*, the Labour Appeal Court held that the "trust which the employer places in his employees is basic to and forms the substratum of the relationship between them. A breach of this root of the contract of employment and of the relationship between the employer and employee"

An employer would be justified in dismissing an employee found guilty in any case involving gross dishonesty. Whilst the employer must take into account aggravating and mitigating circumstances, it is not easy for an employer to establish grounds to justify any sanction short of dismissal where the employee is guilty of an act of gross dishonesty.

7.14 Sexual harassment

Sexual harassment may be described as persistent, unsolicited and unwanted sexual advances or suggestions by one person to another. Where an employee is sexually harassed by a fellow employee, the employer is obliged to take the appropriate action which may result in dismissal if proved on the balance of probabilities.

7.15 Poor performance and dereliction of duties

Poor performance is not an act of misconduct and an employer must follow a different procedure when dealing with poor performance issues. Dereliction of duties means an employee fails to carry out his or her duties or carries out his or her duties in a particularly poor manner. The principles of dealing with poor performance apply.

7.16 Negligence/ failure to comply with policies and procedures

Negligence or gross negligence assumes an inadvertent (as opposed to an intentional) departure from a set norm or standard of conduct. Sometimes these are general standards which are not necessarily specifically set out in an employer's rules or policies e.g the negligent operation of machinery or the negligent driving of a vehicle. Employers may also set their own standards and prescribe specific forms of conduct for employees in policies and procedures. When employees fail to comply with these standards or procedures, disciplinary action may follow.

Negligence or gross negligence can constitute a ground for instituting disciplinary steps against an employee. In the case of repeated instances of minor negligence, dismissal may be justified after the implementation of the principles of progressive discipline.

7.17 Racist insults and comments

The making of comments with offensive racist content is usually seen as being especially serious and will usually justify dismissal.

7.18 Name dropping

Using a name of a public figure to unfairly advantage oneself constitute serious misconduct and may lead to dismissal.

8. NATURE OF SANCTIONS

The SMS Handbook (Chapter 7) and Resolution 1 of 2003 recognizes both informal and formal processes in dealing with discipline and makes provision for the issuing of one of the following sanctions:

Sanctions for informal disciplinary hearings

- Corrective counselling
- Verbal warnings
- Written warnings
- Final written warnings

Sanctions for formal disciplinary hearings

- Counselling
- A written warning valid for six months

- A final written warning valid for six months
- Suspension without pay, for no longer than three months
- Demotion
- A combination of the above; or
- Dismissal

8.1 Counselling

This is considered to be the most progressive (lightest) form of sanction. Counselling is an informal consultation between the employer and employee during which the employee is informed of the alleged misconduct. Where the manager seeks to counsel an employee as part of the informal disciplinary process, the manager should:

- bring the misconduct to the employee's attention
- determine the reasons for the misconduct and give the employee an opportunity to respond to the allegations
- seek to achieve agreement on how to remedy the conduct
- take steps to implement the agreed course of action, and
- Counselling reflects the rehabilitative aspects of disciplinary action and is a useful tool to be used in attempting to correct an employee's behaviour. Records should be kept of the counselling session in the event an employee commits the same or similar offence in future

8.2 Verbal warnings

A verbal warning is where the employer orally informs the employee that he or she has committed an act of misconduct and requests that the employee refrains from committing such act of misconduct. It is usually appropriate for a very minor offence, where the matter is resolved at the lowest possible level. Where a verbal warning is warranted, it is not necessary to embark on formal disciplinary procedures, as an informal procedure culminating in a verbal warning will generally achieve the desired results.

As in every case, prior to issuing a warning the concerned manager must follow a fair procedure and allow the employee the opportunity to be heard. A verbal warning may then be imposed in the presence of a witness or elected representative from the relevant trade union, and the manager issuing the warning must ensure that the employee understands why the warning has been imposed and what action is required for the employee to rectify the situation. The employee should understand the consequences should the employee fail to take heed of the warning.

8.3 Written warnings

A written warning is a document written by the employer to the employee which records in writing the alleged misconduct and advises the employee to desist from committing such act of misconduct. It is usually resorted to when:

- a verbal warning has failed to produce the desired results, therefore necessitating stricter action
- the offence for which a verbal warning was imposed has been repeated
- the offence (even a first offence) is considered serious enough to warrant a written warning rather than verbal warning

It is important to note that a written warning should only be issued after having followed a fair procedure and affording the employee an opportunity to be heard.

8.4 Final written warnings

A final written warning is a more serious sanction than a written warning. As in a written warning, it is a document written by the employer and given to the employee which states the alleged act of misconduct and warns the employee that in the event a same or similar offence is committed within a particular period, the employee may face a more serious sanction such as dismissal.

Generally, where an employee is issued with a final written warning and repeats the same or similar offence during the period for which the final written warning is valid, the employee will be dismissed. Where the act of misconduct is of such a serious nature that a severe sanction is appropriate, a final written warning may be issued even though the employee has no previous disciplinary record.

8.5 Suspension without pay

Suspension without pay occurs when the employee is asked to leave the workplace for a particular period, during which time the employee is still employed by the employer but receives no remuneration and is not required to render any service to the employer. It is viewed as a serious sanction since the employee is faced with a financial penalty for the misconduct committed. In terms of Resolution 1 of 2003, a suspension without pay is limited to a three month period and no chairperson has the discretion to extend this period.

8.6 Demotion

Demotion occurs when an employee is penalised by being employed at a lower grade to the one he/she occupied prior to being found guilty of misconduct. It is also a competent sanction in the public service. There are no prescriptions concerning the extent to which an employee may be demoted and the severity of the misconduct and also the availability of a vacant post will inform the extent to which an employee should be demoted.

8.7 A combination of the above

This means that the employer is at liberty to merge any or all of the above sanctions to mean one sanction as long as it will give practical and logical sense for implementation e.g combining verbal warning, written warning and final written warning might be confusing for implementation purpose.

8.8 Dismissal

Dismissal means that an employer terminates a contract of employment with or without notice. The dismissal of an employee must be in accordance with a fair reason and fair procedure. Dismissal is a statutory concept. The absence of a previous disciplinary record does not automatically render the dismissal unfair. One must always take into account aggravating and mitigating circumstances where relevant prior to determining the appropriate sanction.

9. SANCTIONING GUIDE

9.1 Less serious offences

Disciplinary Action

TRANSGRESSION	1 ST OFFENCE	2 ND OFFENCE	3 RD OFFENCE	RECOMMENDED SANCTION AFTER HEARING
Late reporting for duty/leaving work too early	Corrective Counselling /verbal warning	Written warning	Charge of misconduct	Final written warning
Absence from work without reason or permission	Corrective Counselling/verbal warning	Written Warning	Charge of misconduct	Final written Warning
Leaving a place of	Corrective	Written	Charge of	Final written

work during official hours without the necessary permission	Counselling /verbal warning	warning	misconduct	warning
In case of absence on account of illness ,failing to report this or having it reported to the supervisor	Corrective Counselling/ verbal warning	Written Warning	Charge of misconduct	Final written warning
Contravenes any prescribed Code of Conduct for the Public Service	Corrective counselling/verbal warning	Written warning	Charge of misconduct	Final written Warning
Performs poorly or in adequately for reasons other than incapacity	Corrective counselling/ verbal warning	Written Warning	Final written warning	Demotion
Without authorisation sleeps on duty	Corrective counselling/verbal warning	Written Warning	Charge of misconduct	Final written Warning
Display disrespect towards others in the workplace or demonstrate abusive behaviour	Corrective counselling/verbal warning	Written warning	Charge of misconduct	Final written Warning
Refuses to obey security regulations	Corrective counselling/ verbal warning	Written Warning	Charge of misconduct	Final written Warning
Fails to comply with or contravenes an Act, regulation or legal obligation	Corrective counselling/ verbal warning	Written warning	Charge of misconduct	Final written warning

9.2 Serious Offences

Disciplinary Action

TRANSGRESSION	1 ST OFFENCE	2 ND OFFENC	3 RD OFFENCE	RECOMMENDED SANCTION AFTER HEARING
The deliberate or negligent use of state property	Written warning	Final written warning	Charge of misconduct	Dismissal
Fraud / dishonesty ,with reference to making false declarations on official documents or making false declarations in the course of the service relationship	Charge of misconduct			Dismissal
Without authorisation sleeping on duty, having far reaching implications	Written warning	Final written warning	Charge of misconduct	Dismissal
Assault or attempt to assault another employee or person while on duty	Charge of misconduct			Dismissal
Serious dereliction of duty.	Written warning	Final written warning	Charge of misconduct	Dismissal
Fails to carry out lawful order or	Final written Warning	Charge of misconduct		Dismissal

routine instruction without just or reasonable cause.				
Undertake, without approval, remunerative work outside his /her official duties or use office equipment for such work	Written warning	Final written warning	Charge of misconduct	Dismissal
Corruption	Charge of misconduct			Dismissal
Wilfully or negligently mismanages the finances of State	Charge of misconduct			Dismissal
Without permission possesses or wrongfully uses the property of State, with another employee or a visitor	Written warning	Final written warning	Charge of misconduct	Dismissal
Being negligent or indolent in the carrying out his or her duties	Written warning	Final written warning	Charge of misconduct	Dismissal
Wilfully, intentionally or negligently damages the property of State	Final Written warning	Charge of misconduct		Dismissal
Endangers the lives of self or others by disregarding safety	Charge of misconduct			Dismissal

rules or regulations				
Prejudices the administration, discipline or efficiency of a Department ,office or institution of the State	Written warning	Final written warning	Charge of misconduct	Dismissal
Misuses his or her position in the public service to promote or prejudice the interest of any political party	Final written Warning	Charge of misconduct		Dismissal
Steal, bribes or commits fraud	Charge of misconduct			Dismissal
Accept any compensation in cash or otherwise from the public or another employee for performing her or his duties without written approval from the department	Charge of misconduct			Dismissal
Repeatedly absents himself/herself from work without reason or permission	Final written Warning	Charge of misconduct		Dismissal
Commits an act of sexual harassment	Charge of misconduct			Dismissal
Discriminates against others on the	Charge of misconduct			Dismissal

bases of race, gender, disability, sexuality or other grounds outlawed by the Constitution				
While on duty, is under the influence of an intoxicating, illegal, unauthorised, habit forming and stupefying drug, including alcohol	Counselling	Final written warning		Dismissal
Continuous absence from duty for a period longer than 3 days without obtaining prior leave from the employer	Final written warning	Charge of misconduct		Dismissal
Contravenes any prescribed Code of Conduct for the Public Service	Written warning	Final written warning	Charge of misconduct	Dismissal
While on duty, conducts herself or himself in an improper, disgraceful and unacceptable manner	Written warning	Final written warning	Charge of misconduct	Dismissal
Incites other personnel to non procedural and unlawful conduct	Charge of misconduct			Dismissal
Prevents other	Charge of			Dismissal

employees from being belonging to any trade Union or body	misconduct			
Operates any money lending scheme for employees for own benefit during working hours or from the premises of the employer	Written warning	Charge of misconduct		Dismissal
Carries or keep firearms or other dangerous weapons on state premises, without the written authorisation of the employer	Charge of misconduct			Dismissal
Gives false statements or evidence in the execution of his or her duties	Charge of misconduct			Dismissal
Name dropping	Charge of misconduct		Demotion	Dismissal

These are mere guidelines which serve as an easy reference and means to consistent application of discipline by national departments and provinces.

10. DELEGATION OF AUTHORITY ON DISCIPLINARY SANCTIONS

Item no.	Sanction	Level	Lowest graded post, the incumbent who will have authority to approve	Appeal authority
1	Counselling/ EAP	All ranks	Supervisor	Relevant manager
2	Warnings (written/ final) valid for six months	All ranks to the level of Deputy Director Director Chief Director Head of Department	Director Chief Director DDG Executive Authority	Relevant Chief Director No provision (SMS) No provision (SMS) No provision (SMS)
3	Suspension without pay for no longer than three months	All ranks up to the level of Director Chief Director and DDG Head of Department	Chief Director: Human resource Head of Department Executive Authority	DDG (No provision for Director) No provision (SMS) No provision (SMS)
4	Demotion	All ranks up to the level of Director Chief Director and DDG Head of Department	Chief Director: Human Resource Head of Department Executive Authority	DDG (No provision for Director) No provision (SMS) State President
5	A combination of the above	All ranks up to the level of Director Chief Director and DDG Head of	Chief Director: Human Resource Head of Department	DDG (No provision for Director) No provision (SMS)

Item no.	Sanction	Level	Lowest graded post, the incumbent who will have authority to approve	Appeal authority
		Department	Executive Authority	No provision (SMS)
6	Dismissal	All ranks to DDG Head of Department	Head of Department Executive Authority	Executive Authority (No provision for SMS) No provision (SMS)

11. CONCLUSION

It has been established that departments do not apply the disciplinary framework consistently, and do not treat discipline management with the appropriate level of seriousness. There is a need for departments to apply sanctions emanating from the disciplinary process consistently and equitably.

In promoting labour peace, departmental human resource and labour relations components should ensure that employees are familiar with their rights and obligations and that managers and supervisors are familiar with and skilled in exercising their responsibilities in respect of the management of discipline. This should be monitored on an ongoing basis.