

ISCC MEMORANDUM

DATE: July 27, 2023
TO: Eric McDonough, Correctional Corporal
FROM: Randy Valley, Warden
SUBJECT: Notice of Contemplated Action

PURPOSE OF THIS NOTICE

The purpose of this memorandum is to notify you that the Idaho Department of Correction, Prisons Division, Idaho State Correctional Center ("ISCC" or "the Department"), is contemplating disciplinary action against you in accordance with Idaho Code § 67-5300, *et. seq.* and the Rules of the Idaho Division of Human Resources ("DHR Rules"). This notice will inform you of the contemplated action and of the factual basis and evidence relied upon in support of the contemplated action. This notice also informs you of your right to respond to the contemplated disciplinary action and the time period in which you must respond.

I. CONTEMPLATED DISCIPLINARY ACTION

At this time, the Department is contemplating the disciplinary action of temporary reduction in pay from your current hourly rate of \$30.17, to a reduced level of \$28.53 for a total of one (1) pay period. This reduction in pay is equivalent to a one (1) day suspension without pay or eight (8) hours. If you work a holiday during this time frame you will receive credit towards this eight (8) hour disciplinary suspension at the holiday rate of time and a half based on the \$28.53 rate. The Department has not yet made a final decision regarding what disciplinary action, if any, should be taken against you as a result of the alleged conduct outlined below. The Department however reserves the right to carry out all available disciplinary actions, up to and including termination, when making its final determination.

II. BASIS FOR THE CONTEMPLATED DISCIPLINARY ACTION

You have been employed with the Department since August 13, 2007. As an employee of the Department, you are expected to demonstrate the highest standards of integrity, honesty, and professionalism, and adhere to policy. It appears you have failed to meet those standards and adhere to policy when you chose to not follow Utility Port procedures as defined in the unit post orders.

A. Violation of IDOC Policy 217

1. Applicable Policy or Rule

IDOC Policy 217, Ethics and Standards of Conduct, Standard Operating Procedure (SOP) 217.07.01.001, Purpose, at page 1 of 6, provides in part that:

The department intends that the conduct of IDOC employees reflect the highest standards of public service. This standard operating procedure (SOP) provides employees with guidance to use whenever an employee is faced with a decision regarding duties, actions, conduct, or interaction with others both on and off the job. The department does not intend to regulate off-duty behavior of employees except when it endangers the safe and orderly operation of the department or brings discredit to the department.

...

IDOC Policy 217, Ethics and Standards of Conduct, SOP 217.07.01.001, Standard Procedures, Code of Ethics, at page 2 of 6, provides in part that:

Employees of IDOC are expected to adhere to and positively exemplify the values as established by the department. The values include having respect for one another, bringing a positive attitude to work each day, and having integrity to do the right thing.

Each employee must conduct himself in a manner that will not discredit the department or the state of Idaho. Each employee must demonstrate the highest standards of integrity, honesty, objectivity, impartiality, and professionalism to promote public confidence, understanding, and trust in the department and its employees. An employee must not engage in any activity that might compromise the mission, vision, or values of the department; safety of its employees, offenders, and the public; or his ability to carry out assigned duties and responsibilities in an efficient, unbiased, and professional manner.

...

Employees must protect privileged and confidential information, including that pertaining to offenders and employees, to which they have access in the course of official duties.

Employees must maintain mutual respect and professional cooperation in relationships with other staff members, supervisors, offenders, and outside agencies.

Employees must strive for professional excellence and obey lawful orders from a supervisor or any superior in charge, and properly and safely carry out the duties of the position, including making every reasonable effort to ensure community safety.

IDOC Policy 217, Ethics and Standards of Conduct, SOP 217.07.01.001, Standard Procedures, Requirements for Personal Conduct, at pages 2-3 of 6, provides in part that:

Employees must adhere to applicable laws, rules, regulations, policies, standard operating procedures, division directives, field memorandums, post orders, etc. in the performance of assigned duties.

...

IDOC Policy 217, Ethics and Standards of Conduct, SOP 217.07.01.001, Standard Procedures, Consequences for Violations, at page 6 of 6, provides in part that:

Violation of this policy may result in corrective or disciplinary action up to and including dismissal. The severity and extent of the discipline will be determined by the totality of the facts.

...

2. Background Information Relevant to Contemplated Level of Discipline

A review of your performance history shows the following relevant background information that was taken into consideration for this contemplated action:

- Hired on August 13, 2007
- Promoted to Correctional Corporal April 17, 2022
- January 2023 A Block Post Order Sign-off Sheet signed on January 11, 2023
- February 2023 A Block Post Order Sign-off Sheet signed on February 1, 2023
- On February 14, 2023, a unit email to staff was sent out regarding expectations for Cell searches, Pat searches, Tool sign offs, Post Orders, COCs, RHOs, and Roster management in the unit. On that same day an email was sent to Unit Corporals regarding setting the

example for their counterpart in unit, managing that officer, encouraging them, and addressing issues with them.

- March 2023 A Block Post Order Sign-off Sheet signed on March 1, 2023
- April 2023 A Block Post Order Sign-off Sheet signed on April 5, 2023
- May 2023 A Block Post Order Sign-off Sheet signed on May 3, 2023
- On May 25, 2023, you initiated a conversation with your Sergeant and asked him "How he would like breakfast feeding to be done". The Sergeant told you that, "we open one cell at a time" and the Sergeant referenced that it was in the A Block Post Order
- On May 26, 2023, the Officer you work with began opening multiple Utility Ports at a time during feeding. Your Sergeant immediately addresses this and directed the officer that only one Utility Port was to be opened at a time, again referencing the A Block Post Orders.
- Then on May 27, 2023, you were feeding breakfast on the upper deck of A Block and you chose to open all the Utility Ports on the uppers to feed and did not close any of the Utility Ports until you were finished collecting the breakfast trays. Due to you not closing the Utility Ports and not monitoring the Officer you supervise; a Resident became agitated and began throwing items out of his Utility Port into the middle of the unit.
- On May 31, 2023, you had a conversation with your Sergeant regarding the previous dates and why you did not follow the directives given to you and A Block Post Orders.
- On June 1, 2023, Your Sergeant sent you an email to recap the conversations you had about proper Port Utility procedures, a breakdown of the incident on May 27, 2023, and a recap on your conversation on May 31, 2023, about why directives were not followed, requesting a response from you by June 2, 2023
- On June 2, 2023, you admitted in your response to your Sergeant that there was no excuse for your actions further stating that you did it unconsciously because of doing it in that fashion for the past 6 months. Also on this day, you failed to follow a Operational Order outlining utility port precautions for a resident that has shown dangerous behavior.
- On June 3, 2023, the on-shift Lieutenant witnessed you serving a DOR's specifically to a certain resident with your face too near the Utility Port opening. This resident had an operation order due to showing dangerous behavior.
- On June 15, 2023, the Lieutenant sent you a follow-up email regarding the June 3, 2023 incident attaching the DOR policy and the A-Block Post Orders. He asked you to read both documents and respond to him upon completion. You responded stating that you read and understood both documents agreeing with the point of the email and the verbal discussion but not the content stating that you did not have your face in the utility port but off to the side.

3. Factual Basis of Contemplated Action

The following relevant information was taken into consideration for this contemplated action.

4. Conclusion

Based on the foregoing, it appears that you have violated Policy 217 as referenced in paragraph A.1., by failing to follow both written and verbal orders by your supervisors, and contained with Post Orders, therefore, putting yourself and others at risk. It appears that you have failed to demonstrate the integrity, honesty, and professionalism required of Department employees; have risked discredit or embarrassment to the Department or the State of Idaho; and have failed to adhere to applicable laws, rules, regulations, policies, standard operating procedures, division directives, field memorandums, and/or post orders in the performance of your duties.

B. Violation of ISCC A-Block Post Order 504-10-037

1. Applicable Policy or Rule

ISCC A-Block Post Order 504-10-037, Utility Port Guidelines, Purpose, at page 1 of 14, provides in part that:

The purpose of this Post Order is to provide specific guidelines that are unique for this post and/or area of assignment.

...

Post orders are general or specific instructions for the operations of every security post; however, they cannot cover every incident or eventuality that might occur. Correctional staff assigned to a post must use good judgement, discretion, pay careful attention to detail, and discharge duties in line with Departmental and Institutional policies and procedures.

ISCC A-Block Post Order 504-10-037, Utility Port Guidelines, Standard Procedures, Utility Port Guidelines, at page 7 of 14, provides in part that:

Secure utility ports when not in use. Utility ports will not be left open and unattended at any time. One (1) officer per utility port that is unsecured.

Whenever a utility port is opened, two (2) security staff must be in the unit. Staff should execute safe security practices when opening a utility port.

Assess inmates by their appearance, behavior, and demeanor, prior to opening a utility port.

2. Factual Basis of Contemplated Action

The factual basis for the contemplated action is described above, in section II.A.2 and II.A.3.

3. Conclusion

It appears you have violated ISCC A-Block Post Order 504-10-037 Utility Port Guidelines, as referenced above in section B.1, by failing to follow both written and verbal orders by your supervisors therefore, putting yourself and others at risk.

C. Cause for Discipline under Idaho Administrative Procedures Act (IDAPA) 15.04.01, Division of Human Resources (DHR) Rule 190

1. Applicable Rule or Policy

IDAPA 15.04.01.190, DHR Rule 190.01 states in part:

Dismissal, suspension, demotion, or the reduction in pay, of a classified employee, may occur for any of the following causes during the employee's employment:

(a) Failure to perform the duties and carry out the obligations imposed by the state constitution, state statutes, or rules of the agency or the Division of Human Resources and Idaho Personnel Commission.

(b) Inefficiency, incompetency, or negligence in performing duties, or job performance that fails to meet established performance standards.

...

(e) Insubordination or conduct unbecoming a state employee or conduct detrimental to good order and discipline in the agency.

...

2. Factual Basis of Contemplated Action

The factual basis for the contemplated action is described above, in section II.A.2 and II.A.3.

3. Conclusion

Based on the foregoing, it appears there is cause for discipline under IDAPA 15.04.01, DHR Rule 190.01, (a), (b), and (e), as referenced in paragraph C.1. above, for failing to perform the duties of your position pursuant to Department Policy 217 and ISCC Post Order 504-10-037 and failing to meet established performance standards. It also appears that your conduct is detrimental to the good order and discipline of the Department, is conduct unbecoming a state employee, and discredits the Department.

III. EVIDENCE RELIED ON

In contemplating the level of discipline, the Department relied on documentation in your personnel and working files, as well as Human Resource Preliminary Inquiry Summary and Information Reports.

Copies of the above-mentioned Rules and Procedures can be furnished to you upon request.

IV. OPPORTUNITY TO RESPOND

In accordance with Idaho Code § 67-5315, IDAPA 15.04.01.200 (DHR Rule 200), and IDOC Administrative Policy SOP 205.07.01.001, you have five (5) working days to respond to this Notice of Contemplated Action and address the allegations contained herein. You may respond to this Notice of Contemplated Action in one of two ways: (1) you can make an appointment with me to discuss your written response in person by calling (208) 614-6584; or (2) you can furnish me with your written response to any or all of the alleged charges. You have the right to have a representative of your choice present during the meeting if you wish.

If you choose not to provide a response to the allegations herein, the Department will make its determinations based on the information referenced herein.

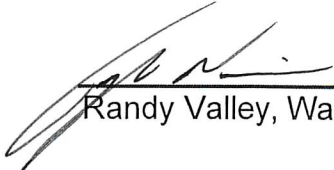
Whether or not you respond, you will be notified in writing of the Department's decision as soon as possible, but no later than ten (10) working days from your response, unless you and the Department agree to a longer response period. Should the decision favor disciplinary action, the Notice will be sent to you and to the Administrator of the Division of Human Resources concurrently.

Please submit your response to me by **August 3, 2022**.

V. APPEAL RIGHTS


Should you disagree with the final disciplinary action determined by the Department, you have the right to file an appeal with the Idaho Personnel Commission pursuant to Idaho Code § 67-5316(2) and IDAPA 15.04.01.201.03. If

you choose to resign from your position with the Department prior to receiving a Letter of Disciplinary Action you will forfeit your appeal rights with the Idaho Personnel Commission.




Randy Valley, Warden
7/27/23

Date



Approved: Chad Page, Chief of Prisons
7/29/23

Date



I acknowledge receipt – Eric McDonough
7-27-23

Date

cc: Christine Starr – Chief of Staff (e-mail)
Chad Page – Chief of Prisons (e-mail)
Amanda Gentry – Deputy Chief of Prisons (e-mail)
Liz Neville – Deputy Chief of Prisons (e-mail)
Ashley Spoerer – Human Resource Officer (e-mail)
Division of Human Resources
Personnel File