

## Memorandum

*Serious drought.  
Help save water!*

**To:** CHERYL D. McNULTY, Chief  
Division of Safety and Management Services

**Date:** November 10, 2015

**File:** P3010-0624

**From:** WILLIAM E. LEWIS  
Assistant Director  
Audits and Investigations



**Subject:** FINAL AUDIT REPORT OF THE EMPLOYEE DISCIPLINE PROCESS

Attached is Audits and Investigations' (A&I's) final audit report on the Employee Discipline Process. Your response has been included as part of our final report. This report is intended for your information and Caltrans management.

Please provide our office with status reports on the implementation of your audit finding dispositions 60-, 180-, and 360-days subsequent to the report date. If all findings have not been corrected within 360-days, please continue to provide status reports every 180-days until the audit findings are fully resolved. As a matter of public record, this report and the status reports will be posted on the Caltrans website.

We thank you and your staff for their assistance provided during this audit. If you have any questions or need additional information, please contact Zilan Chen, Chief, Internal Audits, at (916) 323-7877, or me at (916) 323-7122.

Attachment

c: Malcolm Dougherty, Director  
Kome Ajise, Chief Deputy Director  
Norma Ortega, Chief Financial Officer  
Cristiana Rojas, Deputy Director, Administration  
Lincoln Horst, Assistant Division Chief (Acting), Division of Safety and Management Services  
Debbie Fredricks, Chief, Office of Discipline Services, Division of Safety and Management Services  
Zilan Chen, Chief, Internal Audits, Audits and Investigations  
Douglas Gibson, Manager, Internal Control Audits, Audits and Investigations

**Department of Transportation  
Employee Discipline Process Audit**

**P3010-0624**

**November 2015**

Prepared By:

Audits and Investigations

California Department of Transportation

# TABLE OF CONTENTS

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<b>SUMMARY</b>	<b>1</b>
<b>OBJECTIVES, SCOPE, AND METHODOLOGY</b>	<b>1</b>
<b>BACKGROUND</b>	<b>2</b>
<b>CONCLUSION</b>	<b>2</b>
<b>VIEWS OF RESPONSIBLE OFFICIALS</b>	<b>3</b>
<b>FINDINGS AND RECOMMENDATIONS</b>	
<b>FINDING 1 – Lack of Sufficient Procedural Guidelines</b>	<b>4</b>
<b>FINDING 2 – Untimely Processing and Notification of Adverse Actions</b>	<b>6</b>
<b>FINDING 3 – Missing Case Files</b>	<b>7</b>
<b>ATTACHMENT</b>	
<b>1) Response to the Draft Audit Report from the Division of Safety and Management Services</b>	

# **SUMMARY, OBJECTIVES, SCOPE, METHODOLOGY, BACKGROUND AND CONCLUSION**

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## **SUMMARY**

Audits and Investigations (A&I) has completed an audit of the California Department of Transportation's (Caltrans) employee discipline process. The purpose of the audit was to determine whether the employee discipline process is adequate to ensure disciplinary actions are properly processed.

Our audit disclosed that Caltrans has some policies and procedures to process disciplinary actions and administer and monitor appeals of such actions. However, we found the following deficiencies:

- Lack of Sufficient Procedural Guidelines.
- Untimely Processing and Notification of Adverse Actions.
- Missing Case Files.

## **OBJECTIVES, SCOPE, AND METHODOLOGY**

The audit was performed in accordance with the International Standards for the Professional Practice of Internal Auditing. The objectives of the audit were to determine whether:

- The employee discipline program has adequate policies, guidelines, and criteria in place to handle, process, and appeal disciplinary actions.
- Procedures are established and effectively implemented in compliance with policies, guidelines, and criteria.
- Disciplinary actions are processed timely with justification support in compliance with the California Department of Human Resources Supervisors Guide.
- The penalties proposed by Caltrans for disciplinary actions are reasonable, appropriate, and consistently applied.
- Employee appeals of disciplinary actions are adequately monitored and administered by Caltrans.

The audit focused on the requests for disciplinary action processed by the Office of Discipline Services (ODS) during the period July 1, 2013, to December 31, 2014. We completed our field work on April 21, 2015. Changes after this date were not considered, and accordingly, our conclusion does not pertain to changes arising after April 21, 2015.

In order to achieve the audit objectives, we surveyed and interviewed ODS officials to obtain an understanding of the employee discipline internal controls and processes. We also surveyed district administrative staff. Finally, we performed substantive tests on disciplinary actions.

## **BACKGROUND**

The primary purpose of the discipline process is to provide an employee with the opportunity to correct a performance or conduct issue in a fair and consistent manner. A performance issue is defined as “poor performance” by an employee involving completion of the job requirements in a substandard way or in completing some aspect of the job poorly. A conduct issue is defined as “misconduct” by an employee involving behavior contrary to the nature of the job or state rules.

ODS is part of the Division of Safety and Management Services and is the point of contact for Caltrans supervisors or managers requesting employee disciplinary action. In addition, ODS advises on determining the appropriate disciplinary action, coordinates legal assistance in preparing cases, and provides representation in appeals to the State Personnel Board.

ODS provides the following services related to employee performance and conduct:

- Consultation and Advice – These are services to assist supervisors identify, address, and discuss performance issues with employees to solicit improvement.
- Adverse Actions – These are disciplinary legal actions referred to ODS in response to serious or continued failure to meet the rules of conduct. Adverse actions may be appealed to the State Personnel Board and the California Department of Human Resources (CalHR) and are defined as dismissal, demotion, suspension, or other disciplinary action. Examples of behavior constituting cause for adverse action are described in Government Code section 19572.
- Personnel Action – Actions that may result in the termination of employment or restriction of salary increase; however, these are not considered adverse actions and are not in response to employee misconduct. Examples include rejection during probationary period, absent without leave, and medical actions. Although they are not considered to be adverse actions, they are referred to ODS for processing due to the employee’s right to appeal to the State Personnel Board and CalHR.
- Appeal Hearing Representation – Adverse action that is appealed to the State Personnel Board and CalHR. The employee has the right to be represented by counsel or any other person or organization of the employee’s choice.

During the calendar years 2013 and 2014, ODS had over 363 discipline actions in process submitted by approximately 30 districts and programs. In late July 2015, the discipline process was nominated as one of Caltrans’ Lean Six Sigma projects for process improvement.

## **CONCLUSION**

Based on our audit, some policies and procedures exist to process disciplinary actions and to administer and monitor appeals of such actions. We found the following deficiencies:

- Lack of Sufficient Procedural Guidelines.
- Untimely Processing and Notification of Adverse Actions.
- Missing Case Files.

## **VIEWS OF RESPONSIBLE OFFICIALS**

We requested and received a written response to our findings from the Chief, Office of Discipline Services, Division of Safety and Management Services. This official concurred with our findings. Please see Attachment 1 for the response.

A handwritten signature in blue ink, appearing to read "William E. Lewis", with a long horizontal flourish extending to the right.

**William E. Lewis**  
**Assistant Director**  
**Audits and Investigations**

**October 12, 2015**

## FINDINGS AND RECOMMENDATIONS

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### **FINDING 1 – Lack of Sufficient Procedural Guidelines**

Although the Office of Discipline Services (ODS) has some policies and procedures for processing discipline actions, these were not always complete or sufficient to address all aspects of its operations. Our audit found that there is currently no written procedures manual instructing staff on processing and monitoring requests for disciplinary action or maintaining complete documentation. ODS uses the Skelley and the California Department of Human Resources (CalHR) handbooks when processing discipline cases; however, these do not always have guidelines specific enough regarding the maintenance of files and databases, and other procedures necessary for the smooth and efficient functioning of ODS. Other procedural documents developed by ODS includes the case file procedures and the Staff Expectations Memorandum that ODS requires for its employees.

Government Code section 13403 states that all levels of management must provide active, ongoing oversight and monitoring processes for the prevention and early detection of fraud and errors in program administration, and must routinely monitor, evaluate, and improve internal controls when necessary. Internal administrative controls comprise the methods and procedures that address operational efficiency and adherence to management policies, and include "...An established system of practices to be followed in performance of duties and functions in each of the state agencies..." In addition, State Administrative Manual section 20050 requires entities to regulate and guide operations by using documented tools and methods such as narratives and desk procedures.

The lack of procedural manuals can contribute to inadequately maintained records and noncompliance with required procedures. For instance, we noted the following:

#### **Missing Documentation from Adverse Action Case Files**

The audit disclosed that adverse action case files tested did not contain pertinent documents. Specifically, of the 34 adverse action case file reviewed, we found:

- Thirteen (38 percent) had no route slip or indication of the adverse action approvals by the ODS Office Chief and/or Assistant Division Chief.
- Four (12 percent) either had no Requests for Review and Recommendation of Disciplinary Action documents (Action documents), or the Action documents did not include the reasons, supporting documents, or evidences for the requested action. An Action document is a request for employee discipline completed by a manager or supervisor that is submitted to ODS for penalty recommendation and implementation.
- Two (six percent) had no records of settlement when they were appealed for evidentiary hearing by the State Personnel Board or CalHR. The files also did not have pertinent disciplinary information regarding the employment status of the employees.

### **Case Status Sheets Not Properly Completed**

Our review found that 29 (85 percent) status sheets within the 34 case files tested, did not indicate case progress, including assignment of the case by the ODS office chief to the case manager. ODS uses case status sheets to record developments in cases. We were unable to determine the progress made on the cases because the assigned case managers did not always update the case status sheets. The survey we conducted disclosed that only three of the six case managers use case status sheets to monitor and track their cases' progress.

### **Database Deficiencies**

In January 2014, ODS created a new database to track and account for its cases. We found that the new database was incomplete. Specifically, it:

- Did not contain 29 cases.
- Did not contain pertinent data for reporting on its closed cases. Of the 13 closed cases tested, nine (69 percent) did not have the actual case completion or closure dates in the database.
- Had incomplete information regarding violations. Three of the 34 cases (9 percent) selected for testing had no indication of the type of violation; while four (12 percent) did not show an indication of the penalties.

ODS has no written guidelines or procedures on the use, maintenance, and accessibility of the database. Survey responses also indicate that case managers do not always use the database to monitor their cases.

ODS staff informed us that they are developing a comprehensive manual related to all tasks in the disciplinary process, from action request to closure.

### **RECOMMENDATION**

We recommend ODS' management:

1. Update the database to ensure its accuracy.
2. Complete and implement the procedures manual as soon as possible. These procedures should include written guidelines for maintaining relevant documentation and processing the adverse actions within the required timelines.
3. Instruct case managers to document in the manual and electronic files, the developments and observations of each adverse action.
4. Provide any training necessary related to these procedures.
5. Provide more frequent refresher training to the managers/supervisors to ensure that necessary documentation is provided with the Action document.
6. Require all necessary documentation be retained in the adverse action case files.
7. Develop comprehensive database procedures for use by all authorized users. These procedures should describe appropriate database use, include provision for training, and require that all cases accepted by ODS are updated by the case manager to include the most current case status.

## **DIVISION OF SAFETY AND MANAGEMENT SERVICES RESPONSE**

The Division of Safety and Management Services concurs with the finding and recommendations. Please see Attachment 1 for details of the response and action plan.

### **FINDING 2 - Untimely Processing and Notification of Adverse Actions**

Case managers did not always meet the required timelines for processing the adverse actions. Of the 34 files tested, 13 adverse actions (38 percent) were not processed within 45 to 60 days of receipt by ODS. The average processing time of the 13 actions was 140 days; 11 of the 13 took more than 100 days to process. Additionally, ODS did not notify the State Personnel Board or CalHR of two adverse actions (6 percent) within 15 calendar days after the effective date of the action as required by the Government Code.

ODS procedures require the processing of the disciplinary action within 45 to 60 days of receipt. Its Expectations Memorandum for the Staff Services Manager I states that the case manager is expected to focus on the oldest cases assigned to them every Friday. Government Code section 19574(a) states that a written notice of adverse action shall be filed with the board no later than 15 calendar days after the effective date of the adverse action.

A contributing factor for the untimeliness appears to be the level of experience of the staff and workload. Interviews with ODS staff revealed significant staff turnover: five of the six case managers have been with ODS for 14 months or less. Since 2013, 15 case managers have worked there. Case managers also described their workload as heavy.

Untimely processing of adverse actions can create morale, safety, performance, and hostile working environment problems for employees and supervisors. In addition, late notification of adverse action to the State Personnel Board or CalHR could jeopardize Caltrans' ability to have decisions upheld.

### **RECOMMENDATION**

We recommend that ODS management:

1. Ensure processing of disciplinary action is completed within the required timelines.
2. Explore ways to address high staff turnover and workload.

## **DIVISION OF SAFETY AND MANAGEMENT SERVICES RESPONSE**

The Division of Safety and Management Services concurs with the finding and recommendations. Please see Attachment 1 for details of the response and action plan.

### **FINDING 3 – Missing Case Files**

We selected a sample of 36 adverse action case files for testing, but could not locate two, despite the efforts of ODS staff. Adverse action files contain the documents pertinent to cases and the adverse actions taken. In their absence, Caltrans will be unable to support its position in appeals or lawsuits.

Government Code section 13401 states in part that “...active oversight processes, including regular and ongoing monitoring processes, for the prevention and early detection of fraud and errors in program administration are vital to public confidence and the appropriate and efficient use of public resources...”

Government Code section 13403 also states that all levels of management must provide active, ongoing oversight and monitoring processes for the prevention and early detection of fraud and errors in program administration, and must routinely monitor, evaluate, and improve internal controls when necessary.

State Administrative Manual section 1604 requires the head of each state agency to establish and maintain an active, continuing program for the economical and efficient management of the records and information practices of the agency.

### **RECOMMENDATION**

We recommend ODS management locate the two missing files and institute measures for safeguarding and tracking adverse action files.

### **DIVISION OF SAFETY AND MANAGEMENT SERVICES RESPONSE**

The Division of Safety and Management Services concurs with the finding and recommendations. Please see Attachment 1 for details of the response and action plan.

## AUDIT TEAM

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Zilan Chen, Chief, Internal Audits

Douglas Gibson, Audit Manager

Kathy Brooks, Auditor

**ATTACHMENT 1**  
**RESPONSE TO THE DRAFT AUDIT REPORT FROM**  
**THE DIVISION OF SAFETY AND MANAGEMENT SERVICES**

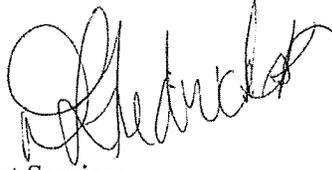
## M e m o r a n d u m

*Serious drought.  
Help save water!*

To: WILLIAM LEWIS  
Assistant Director  
Audits and Investigations

Date: November 2, 2015

From: Debbie Fredricks, Office Chief  
Office of Discipline Services  
Division of Safety and Management Services



Subject: **Office of Discipline Services Auditee Response Report**

Attached please find the Office of Discipline Services Auditee Response to the Audit Report dated October 14, 2014.

Please feel free to contact me at 916-227-7862 if you have any question.

Thank you.

## Audits and Investigations (A&amp;I) - Response to Draft Audit Report

Attachment 1

Audit Name: Employee Discipline Process Audit

Audit No. P3010-0624

Auditee: Office of Discipline Services

A&I Audit Recommendation	Auditee Response to Draft Report	Estimated Completion Date	Staff Responsible	A&I Analysis
<b>Audit Report Finding # 1</b> <b>Lack of Sufficient Procedural Guidelines</b>				
1. Update the database to ensure its accuracy	ODS has hired a student assistant to develop a database that utilizes software that will meet the specific needs of the Office of Discipline Services.	April 1, 2016 & ongoing	SSMIII, SSMII, Student Assistant	
2. Complete and implement the procedures manual as soon as possible. These procedures should include written guidelines for maintaining relevant documentation and processing the adverse actions within the required timelines.	Lean 6-Sigma Process Improvement Study is being performed to identify areas in the process that can be improved. These process improvements will be included in a procedures manual for both Case Managers and support staff outlining their required job duties.	March 15, 2016	Division Chief, SSSMIII, SSMII, Case Managers, Support Staff	
3. Instruct case managers to document in the manual and electronic files, the developments and observations of each adverse action.	The creation of a new database will enable case managers to electronically input required information for all assigned actions. Prior to the development of the database, the information will be manually logged in the case file. Supervisors will perform bi-annual audits of case files to ensure the procedures are being followed.	April 1, 2016	SSMIII, SSMII, Case Managers, Student Assistant	
4. Provide any training necessary related to these procedures.	Once database is built and implemented, necessary training will be provided to ensure it is used effectively and efficiently. These steps will be outlined in case manager and support staff desk manuals.	March 1, 2016	SSMIII, SSMIII, Case Managers, Student Assistant	

## Audits and Investigations (A&amp;I) - Response to Draft Audit Report

Attachment 1

Audit Name: Employee Discipline Process Audit

Audit No. P3010-0624

Auditee: Office of Discipline Services

A&I Audit Recommendation	Auditee Response to Draft Report	Estimated Completion Date	Staff Responsible	A&I Analysis
5. Provide more frequent refresher training to the managers/supervisors to ensure that necessary documentation is provided with the Action document.	Ensure that progressive discipline refresher training is provided at least once a year in every district. Develop eLearning training for <i>How to be a Skelly Officer</i> and <i>How to Submit a Request for Formal Discipline</i> ; Redeveloping request for discipline form and checklist.	April 1, 2016 & ongoing	SSMII, Case Managers	
6. Require all necessary documentation be retained in the adverse action case files.	Management trained and already required	Completed	SSMII, Case Managers	
7. Develop comprehensive database procedures for use by all authorized users. These procedures should describe appropriate database use, include provision for training, and require that all cases accepted by ODS are updated by the case manager to include the most current case status.	Desk manual for Case Managers will be developed and implemented as the database is developed.	April 1, 2016 & ongoing	SSMIII, SSMII, Case Managers, Support Staff	

**Audit Report Finding # 2****Untimely Processing and Notification of Adverse Actions**

1. Ensure processing of disciplinary action is completed within the required timelines	The Lean 6-Sigma team is currently studying the process and timelines. When completed, management will work with case managers on implementation.	4/1/2016	Division Chief, SSMIII, SSMII, Case Managers, Support Staff	
2. Explore ways to address high staff turnover and workload.	Currently at full staff capacity which improves morale as workload is spread more evenly. Moved remote AGPA position from Southern California to HQ to centralize it and to provide better oversight and utilization.	Ongoing	Division Chief, SSMIII, SSMII	

**Audit Report Finding # 3****Missing Case Files**

**Audits and Investigations (A&I) - Response to Draft Audit Report**

**Attachment 1**

**Audit Name: Employee Discipline Process Audit**

**Audit No. P3010-0624**

**Auditee: Office of Discipline Services**

<b>A&amp;I Audit Recommendation</b>	<b>Auditee Response to Draft Report</b>	<b>Estimated Completion Date</b>	<b>Staff Responsible</b>	<b>A&amp;I Analysis</b>
We recommend ODS management locate the two missing files and institute measures for safeguarding and tracking adverse action files.	Developed checkout system through support staff to ensure all files are monitored and tracked.	Completed	SSMII, Case Managers, Support Staff	