



STATE OF COLORADO

PersonnelBoard - DPA, State <dpa_state.personnelboard@state.co.us>

Trooper Spencer Davis v. Dept. of Public Safety (New Appeal) (Electronic Filing)

1 message

Todd Sharp <tsharp@tamlegal.com>

Fri, Jul 8, 2022 at 1:03 PM

To: "dpa_state.personnelboard@state.co.us" <dpa_state.personnelboard@state.co.us>

Cc: Reza Rismani <rismani@tamlegal.com>, Kate Johnson <kjohnson@tamlegal.com>

State Personnel Board,

Please consider the attached new appeal by Spencer Davis electronically filed by his attorneys, Reza D. Rismani and Kathleen J. Johnson. Also attached are supporting documents to his appeal.

As per the instructions, the appeal form and attachments have been mailed certified to the Respondent: Colorado State Patrol- Department of Public Safety, Major David Rollins, 554 Jurassic Court, Fruita, CO 81521.

Please confirm upon receipt. If you have deemed this appeal deficient in any way, please advise us as soon as possible.

Thank you.

Todd Sharp

Paralegal

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T | A | M

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3 attachments

DAVIS Consolidated Appeal and Dispute Form- Davis (v3).pdf
4635K

Attachment to Davis Appeal (v2).pdf

7/8/22, 1:14 PM

State.co.us Executive Branch Mail - Trooper Spencer Davis v. Dept. of Public Safety (New Appeal) (Electronic Filing)

 12121K

 **oledata.mso**
3K



COLORADO

**Consolidated Appeal & Dispute Form
Colorado State Personnel Board and State Personnel Director**

This consolidated form is provided for employees and/or job applicants who are filing appeals or disputes with the State Personnel Board or State Personnel Director. A copy of the Board Rules and Director's Administrative Procedures can be found at <https://spb.colorado.gov>. If you have a Partnership Agreement dispute, do not use this form. Instead please contact Colorado WINS at info@cowins.org or visit <https://cowins.org>.

Please follow the INSTRUCTIONS provided for completing the Consolidated Appeal and Dispute Form.

PART 1 - General Information and Disputed Employment Action

(1) INFORMATION ABOUT EMPLOYEE/JOB APPLICANT ("COMPLAINANT")

NAME: Spencer Davis
ADDRESS: [REDACTED] CITY: [REDACTED] ZIP: 80435
EMAIL (REQUIRED) - (Please print clearly): [REDACTED] PHONE [REDACTED]

(2) I am/was a certified state employee Yes No (3) I am/was a probationary employee Yes No

(4) Have you retained an attorney to assist you in this matter? Yes No

(4.1) If yes, provide attorney's information below:

NAME: Reza D. Rismani, Esq. and Kathleen J. Johnson, Esq.
ADDRESS: 633 17th St., Ste 2200 CITY: Denver ZIP: 80202
EMAIL (REQUIRED) - (Please print clearly): rrismani@tamlegal.com, kjohnson@tamlegal.com PHONE: 303-292-2700

(5) THE DEPARTMENT/COLLEGE/UNIVERSITY WHOSE ACTION IS BEING APPEALED OR DISPUTED ("RESPONDENT")

DEPARTMENT/COLLEGE/UNIVERSITY: Colorado State Patrol - Department of Public Safety
NAME OF PERSON TAKING ACTION: Major David Rollins
ADDRESS: 554 Jurassic Court CITY: Fruita ZIP: 81521

State of Colorado: Consolidated Appeal & Dispute Form

(6) SPECIFIC ACTION YOU BELIEVE WAS IMPROPER and REASON(S) YOU DISAGREE WITH THE ACTION

Appeal of Discipline Imposed: Termination of Employment. Hearing Requested. Reasons include but are not limited to: The discipline imposed was arbitrary, capricious, contrary to rule and not within the reasonable range of alternatives. Complainant disputes that immediate discipline, pursuant to Board Rule 6-2, was appropriate based on the facts. Contrary to the disciplinary action letter, Complainant was truthful and complete in his account and report. Complainant did not violate policy for which he was disciplined.

(7) Were you notified in writing of the action? Yes No - If verbal, please describe

Yes.

(7.1) Date you received notification: June 28, 2022 (You must attach a copy of any written notification of the action that you received)

(8) RELIEF REQUESTED (What do you want as a result of this appeal?)

Complainant seeks an award of all damages to make him whole including: reinstatement to the rank of Trooper back and front pay lost as a result of the disciplinary action, and reinstatement of any other lost benefits.

If you require additional space to answer questions 6 through 8, please do so in question 10 or attach a separate page.

State of Colorado: Consolidated Appeal & Dispute Form

PART 2 - Filing an appeal with the State Personnel Board

(9) TYPE OF APPEAL WITH THE STATE PERSONNEL BOARD

- 9.1 **Discipline/Actions That Impact Pay, Status, or Tenure.** A certified state employee may appeal a disciplinary action (such as a termination or demotion). A certified state employee may also appeal other actions that adversely affect the employee's pay, status, or tenure.
- 9.2 **Grievance:** An employee may file an appeal of a Step Two Grievance Decision to the Board. Check if you believe the Step Two Grievance Decision violates:
- An employee's rights under the federal or state constitution;
 - The Colorado Anti-Discrimination Act (CADA);
 - The Whistleblower Act (you must attach a separate whistleblower complaint form); or
 - The Board's grievance rules or the department's grievance procedures.
- 9.3 **Colorado Anti-Discrimination Act (CADA) and CADA Retaliation:** Employees and applicants may appeal employment actions that violate CADA. Please check all that apply:
- | | |
|--|---|
| <input type="checkbox"/> Disability | <input type="checkbox"/> Race |
| <input type="checkbox"/> Creed | <input type="checkbox"/> Color |
| <input type="checkbox"/> Sex | <input type="checkbox"/> Sexual Orientation |
| <input type="checkbox"/> Religion | <input type="checkbox"/> Age |
| <input type="checkbox"/> National Origin | <input type="checkbox"/> Ancestry |
- 9.4 **Whistleblower Retaliation:** Employees may appeal employment actions that violate the State Employee Protection Act (commonly referred to as the "Whistleblower Act"). For example, the employee claims the action occurred in retaliation for disclosing a waste of public funds. You must attach a separate whistleblower complaint form.
- 9.5 **Director's Decision regarding Comparative Analysis:** A certified employee is requesting a discretionary review after receiving the final decision of the State Personnel Director regarding their removal from consideration for selection during the comparative analysis process.
- 9.6 **Other:**
- Forced Resignation:** You believe you were forced or coerced to resign.
 - Layoff:** Your position was eliminated; or upwardly/downwardly allocated to a different class in the course of a layoff.
 - Administrative Discharge:** You were separated administratively.
 - Other:** Please Describe _____

State of Colorado: Consolidated Appeal & Dispute Form

(10) ANY FURTHER INFORMATION TO DESCRIBE YOUR APPEAL WITH THE BOARD.

Complainant disputes the conclusions of the Colorado State Patrol Investigation: Blue Team Case Number: L12022-001.

State of Colorado: Consolidated Appeal & Dispute Form

PART 3 - Filing an appeal or dispute with the Director (State Personnel Director)

(11) TYPE OF APPEAL WITH THE DIRECTOR

- 11.1 An allocation of your position to a lower pay grade, that you currently occupy and you are currently certified.
- 11.2 You are an applicant and object to the removal of your application from further consideration in a selection process. Please check all that apply:
- | | |
|---|---|
| <input type="checkbox"/> Comparative Analysis Process | <input type="checkbox"/> Not Selected after Interview |
| <input type="checkbox"/> Background Check | <input type="checkbox"/> Examination |
| <input type="checkbox"/> Minimum Qualification | <input type="checkbox"/> Suitability Screening |
| <input type="checkbox"/> Probationary Employee | <input type="checkbox"/> Non-classified Employee |
| <input type="checkbox"/> Not Eligible to Apply | <input type="checkbox"/> Not a State Resident |
- 11.3 A general matter of administration of the state personnel system or as mandated by law. These include alleged violations to the Fair Labor Standards Act and Family Medical Leave Act.
- | |
|---|
| <input type="checkbox"/> Fair Labor Standards Act |
| <input type="checkbox"/> Family Medical Leave Act |
| <input type="checkbox"/> Other |

(12) TYPE OF PERFORMANCE MANAGEMENT EXTERNAL DISPUTE WITH THE DIRECTOR

- 12.1 Your individual final overall performance evaluation, including a lack of an individual overall annual performance evaluation; or
- 12.2 Application of a department's performance management program to your individual annual final overall evaluation.

(13) ANY FURTHER INFORMATION TO DESCRIBE YOUR APPEAL or DISPUTE WITH THE DIRECTOR.

State of Colorado: Consolidated Appeal & Dispute Form

PART 4 - Signature and Certification of Delivery

You (the "Complainant") must sign this form or, if applicable, a legal representative.

Your signature also certifies that a copy of this appeal has been provided to the Department/College/University (the "Respondent") as identified by you in *PART 1 - General Information and Disputed Employment Action*.

Signature by a legal representative constitutes an entry of appearance for an appeal. All documents and correspondence will be sent to the person signing this form.

DATE: 7/8/2022 SIGNATURE: Spencer Davis Digitally signed by Spencer Davis
Date: 2022.07.08 10:43:35 -06'00'

State of Colorado: Consolidated Appeal & Dispute Form

INSTRUCTIONS

The Consolidated Appeal/Dispute Form is required for filing an appeal with the State Personnel Board or a State Personnel Director's external review as laid out in the Code of Colorado Regulations (CCR), 4 CCR 801-1, *State Personnel Board Rules and Director's Administrative Procedures* (Rules), in Chapter 8, *Resolution of Appeals and Disputes*. The entire Rules document is published on the Colorado Secretary of State's website: State Personnel Board Rules and State Personnel Director's Administrative Procedures.

The Consolidate Appeal/Dispute Form can be found on the State Personnel Board's website:
<https://spb.colorado.gov/forms-and-filing>.

Pursuant to the Americans with Disabilities Act (ADA), accommodations for completing the form are available. For questions please contact the State Personnel Board for assistance at (303) 866-3300.

I. DEADLINES FOR FILING PERIODS

Appeals to the State Personnel Board or the State Personnel Director must be received or postmarked within the filing period:

Appeals shall be filed with the Board no later than ten (10) days after receipt of the written notice of the action, or if no notice was received, no later than than (10) days after the employee knew or should have known of the alleged improper action.

Performance External Disputes to the State Personnel Director must be received or postmarked within the filing period:

Director's External Dispute for performance shall be filed with the Board within five (5) days from when the employee received the final department decision regarding the internal dispute. The first day of the count is the day after the date on the department's notification and each calendar day thereafter.

II. FILLING OUT THE FORM

PART 1 - General Information and Disputed Employment Action

The form may be printed out and filled in by hand, or completed online and saved to your personal computer and printed out. You may attach additional sheets if necessary, but please note which numbered question the information on the additional sheets applies to.

(1) Identification of Employee/Job Applicant ("Complainant"). YOU are the Complainant.

- Clearly print your name, your mailing address, your telephone number and your email address.
- You **MUST** provide an email address where you can promptly receive orders and notices that the Board will send you.
- If you do not have an email address, you must request permission in writing to use only a postal mailing address.
- It is your responsibility to notify the State Personnel Board or, if your matter is referred, the State Personnel Director, of any change in your contact information. Failure to do so may result in dismissal of your action.

State of Colorado: Consolidated Appeal & Dispute Form

(2) (3) Certified or Probationary Status.

- “Certified” refers to a state employee who has completed the probationary or trial service period.
- Indicate whether you are or were a probationary employee or a certified state employee.

(4) Attorney Representation.

- You may obtain legal counsel at any time to represent you OR you may represent yourself.
- If you retain an attorney, please provide the attorney’s name, mailing address, email address and phone number.

(5) The Department/College/University Whose Action is Being Appealed or Disputed (“Respondent”).

- The department, agency, college or university whose action you are appealing is the Respondent. Provide their full name.
- Provide the name of the person who took the final action that you are appealing, and the business address of the department, agency, college or university.

(6) Specific Action you believe was Improper and Reasons you Disagree with the Action.

- Describe the action taken against you and the reason(s) for your appeal or dispute.

(7) Notification of Action.

- If you received written notification of the action, indicate “yes” and provide the date you received that notification.
- You must attach a copy of the written notice of the action you are appealing or disputing.
- If you cannot provide a copy of the written notification, you must explain why you cannot do so.
- If the notification was verbal, please describe how you were notified, who notified you, when you were notified and describe the conversation.

(8) Relief Requested.

- What remedy do you want as a result of your appeal?

PART 2 - Filing an appeal with the State Personnel Board

(9) Type of Appeal with the State Personnel Board.

- Check the boxes next to the type of appeal that you believe apply.

(10) Any Further Information to Describe Your Appeal with the State Personnel Board.

- Please provide any additional information about your appeal.

PART 3 - Filing an appeal or dispute with the State Personnel Director

(11) Type of Appeal with the Director.

- Check the boxes next to the type of appeal that you believe apply.

(12) Type of Performance Management External Dispute with the Director.

State of Colorado: Consolidated Appeal & Dispute Form

- Check the boxes next to the type of dispute that you believe apply.
- (13) Any Further Information to Describe the Type of Action You are Filing with the Director.
- Please provide any additional information about your appeal/dispute.

PART 4 - Signature and Certification of Delivery

Signature and Certification of Delivery.

- The form must be signed by you (the “Complainant”), or your attorney.
- Signing the form is certifying that the delivery of information was also provided to the Respondent.
- You must provide a copy of your appeal to the Respondent (the department, agency, college or university) whose action you are appealing as identified by you in *PART 1 - General Information and Disputed Employment Action*.

III. INSTRUCTION FOR FILING THE APPEAL

Filings can be by mail, hand-delivery, fax or email. Send the completed form with all supporting attachments to the State Personnel Board and provide a copy to the Department/College/University (the “Respondent”) identified by you (the “Complainant”) in *PART 1 - General Information and Disputed Employment Action* of this document.

State Personnel Board
1525 Sherman Street, 4th Floor, Denver, Colorado 80203
Fax Number: 303-866-5038
Email filings: dpa_state.personnelboard@state.co.us

ACCEPTABLE METHODS OF FILING THE FORM

All filings must be delivered to the State Personnel Board within the filing period in one of the following methods:

- **United States Postal Service (USPS) or Commercial Delivery Service:** postmark must be on or before the last day of the filing period.
- **Hand-delivery:** by close of business 5:00 p.m. on or before the last day of the filing period.
- **Fax:** by close of business 5:00 p.m. on or before the last day of the filing period.
- **Email:** by close of business 5:00 p.m. on or before the last day of the filing period. Subject lines of the filings should include: (a) case name; (b) case number (if a new appeal, write “New Appeal”); and (c) the phrase “Electronic Filing.” Example: “Doe v. Roe (2020B879) (Electronic Filing).”

YOU MUST PROMPTLY NOTIFY the Board in writing of any changes to your contact information.

NOTE You will receive copies of Board Orders and Director’s correspondence by email ONLY, and therefore, providing an email address is mandatory. If you do not have access to email or a computer, you must request an exemption in writing from the Board.

IV. AFTER FILING YOUR APPEAL

After a Consolidated Appeal/Dispute Form is filed, your appeal or dispute will be reviewed and will either proceed with the State Personnel Board or will be referred to the State Personnel Director’s office for further action as appropriate.

State of Colorado: Consolidated Appeal & Dispute Form

You will receive notification via email advising you of the next step in the process.

If you have any questions about the appeal process, please contact the State Personnel Board at 303-866-3300. The State Personnel Board cannot provide legal advice.

V. EXCLUSIONS

Appeals to the State Personnel Board Exclusions

Employees do not have the right to a hearing in the following situations:

- Discipline of probationary employees for unsatisfactory performance;
- Reversion of trial service employees for unsatisfactory performance;
- Demotion of conditional employees to the class in which last certified; and
- Resignations in lieu of a disciplinary action.

However, employees may ask the Board to grant a discretionary hearing in the above-listed situations if the situation falls under Chapter 8, Part A, Section IV.

The following items are not subject to the grievance process:

- Disciplinary actions;
- Any action that adversely affects pay, status, or tenure;
- Selection disputes;
- Performance management disputes that do not result in a disciplinary action;
- Coverage designation disputes;
- In-range salary movements;
- Issues pertaining to leave sharing;
- Discretionary pay differentials; and
- Hazardous duty premium pay

Appeals to the State Personnel Director Exclusions

The State Personnel Director shall not review actions filed under the jurisdiction of the State Personnel Board which include grievances, discipline or any actions that impact pay, status, or tenure, or claims that allege whistleblower, discrimination or retaliation. Refer back to Chapter 8, Part A, the State Personnel Board's summary.

The State Personnel Director shall not review the following actions:

- Hiring once an applicant has advanced to referral and an applicant received an offer to interview;
- Personal services contracts;
- Job evaluation system and actions;
- Disciplinary actions;
- Any action that adversely affects pay, status, or tenure;
- Performance management disputes that result in a disciplinary action;
- In-range salary movements;
- Issues pertaining to leave sharing;
- Discretionary pay differentials; and
- Hazardous duty premium pay.

State of Colorado: Consolidated Appeal & Dispute Form

Performance Management External Disputes Exclusions

The State Personnel Director shall not review actions filed under the jurisdiction of the State Personnel Board which include grievances, discipline or any actions that impact pay, status, or tenure, or claims that allege whistleblower, discrimination or retaliation.

The State Personnel Director shall not review the following actions:

- The content of a department's performance management program;
- Matters related to the funds appropriated; and
- The performance evaluations and merit pay of other employees.

If you have a Partnership Agreement dispute, do not use this form. Instead please contact Colorado WINS at info@cowins.org or visit <https://cowins.org>.

[Back to Top](#)



Completed Internal Investigation Summary Colorado State Patrol

Date of alleged misconduct: 1/3/2022

Title and name of the subject of the investigation: Trooper Spencer Davis

Name of the complainant: Internal Complaint

Investigator(s): Sergeant Ryan Barba

Blue Team Case Number: L12022-001

Completed by Appointing Authority: Major David Rollins

Date Completed: 6/9/2022

Allegation(s):

(Failure/Neglected/Incompetent) to Perform Duties
Lying/Dishonesty

Summary of the Allegation(s):

On January 3, 2022, Trooper Spencer Davis was making a left-hand turn from Peak One Boulevard into the parking lot of the Frisco Troop Office. Trooper Davis activated his Digital Video Evidence System believing he had struck a hard piece of snow that caused damage to the front bumper of his patrol car. Trooper Davis allegedly failed to report the traffic crash immediately to an on-duty supervisor.

Trooper Davis was directed to author a memorandum describing the traffic crash and the damage to his patrol vehicle. It was determined by Corporal Manning and Sergeant Jessica Bruce that there seemed to be inconsistencies with Trooper Davis's account of how the damage occurred to his patrol vehicle.

Statement of Fact(s) and the Investigative Process:

Sergeant Ryan Barba investigated the complaint. He reviewed the video, interviewed witnesses, inspected photographs, and listened to audio recordings. Below are his investigative findings.

It is more likely than not DAVIS lied or was dishonest in his written accounts of a patrol vehicle traffic crash. This conclusion is derived upon the following information:

- DAVIS authored an email to BRUCE and MANNING regarding, amongst other things,

damage to his patrol vehicle. In the email, DAVIS wrote, "I performed my vehicle inspection last night as I went on duty. I noticed a lot of snow build up on the front base of my vehicle from the weather, so I could not see the lower plastic portion. I had no indication of any damage."

Additionally, in a memorandum DAVIS authored and signed, he wrote "I inspect my vehicle everyday as I start my shift. I did not observe any cracked piece missing from the same area that was damaged as I started my shift on January 3, 2022, at approximately 1700 hours."

The implication of the written statements by DAVIS is that he checked his patrol vehicle for damage. However, DAVIS admitted he did not check his patrol vehicle for damage during his pre-shift inspection as he indicated in both his email and memorandum.

- DAVIS also indicated there was a large buildup of snow and ice on the front bumper of his patrol vehicle, specifically at the location of the damage, as an explanation as to why he could not see the damage. However, a picture of his patrol car 58 minutes after his shift began, confirmed that his vehicle was free of any snow or ice in the damaged area. This appears to be a dishonest statement in an official document written by DAVIS.

- When asked why he reported that his patrol vehicle was snow-packed, DAVIS stated, "Yeah, so I had remembered it being" a lot of snow buildup on my vehicle whenever I started my shift that day." I specifically remember it being" on the front end of my push bumper as ice and snow. Obviously, I'm wrong in that. There is no ice and snow. I can see that (referring to a picture of his patrol car captured by the Frisco Police Departments' body camera). {L12022-001 Subject Interview pg. 36, ln. 11-15}

It is more likely than not DAVIS failed, neglected, or was incompetent while performing his duties when reporting a patrol vehicle crash. This conclusion is derived upon the following information:

- DAVIS admitted he did not report the traffic crash correctly. DAVIS stated, "I was wrong in that (referring to his failure to properly notify supervision of a patrol vehicle crash). I didn't inspect my vehicle. I didn't report it correctly, and I've been really clear about that, and I take full ownership of that." {L12022-001 Subject Interview pg. 32, ln. 32-33, pg. 33, ln. 1-2}

- DAVIS admitted to violating General Orders 2 and 9 when he failed to inspect his patrol vehicles as required per policy.

Finding(s):

SUSTAINED: The allegation is found to be factual and substantiated by competent evidence.

NOT SUSTAINED: Insufficient evidence exists to prove or disprove the allegation. This disposition shall also be assigned to any anonymous complaint which, after investigation, lacks corroborative information or evidence.

UNFOUNDED: The allegation is not supported by the facts, or is determined to be a false allegation.

EXONERATED: The allegation is factual and did occur, however, the member acted lawfully and properly within State Patrol policy and the scope of acceptable conduct.

CLOSED: Investigation of the allegation was terminated. The reason for closing the case file will be stated.

(Failure/Neglected/Incompetent) to Perform Duties - SUSTAINED
Lying/Dishonesty - SUSTAINED

Rationale for Finding(s):

Trooper Davis claimed he inspected his vehicle prior to his shift on January 3, 2022. The manner in which he claimed he inspected his vehicle changed several times through the investigation. Eventually, during the PSS interview, Davis admitted that he did not perform a complete and proper inspection of his vehicle prior to his shift. Trooper Davis also expressed that he started doing daily vehicle inspections after the incident on January 3, 2022, but he worked at least six shifts between when the damage occurred to the push bumper on January 5, 2022, and the day he reported the damage on January 16, 2022. Trooper Davis explained to PSS, "I just neglected to do what I was supposed to do."

Clearly, Trooper Davis neglected to perform his duties. By his own admission, he did not perform the vehicle inspections as expected of him, as he was trained, or as he previously reported in writing to his supervision through email and memo format. Additionally, Trooper Davis misled his supervision when he claimed he performed a vehicle inspection and did not see damage prior to his shift on January 3, 2022. Trooper Davis' account of performing a pre-shift vehicle inspection on January 3, reporting it at least twice to his supervisors, was dishonest. Therefore, both allegations are sustained.



Appointing Authority Signature

Copy Sent to:

- | | |
|--|---------------|
| <input type="checkbox"/> Complainant (Internal conduct complaint) | By: |
| <input checked="" type="checkbox"/> Member 6/28/2022 | By: In Person |
| <input type="checkbox"/> Requester | By: |
| <input checked="" type="checkbox"/> Regional Commander 6/23/2022 | By: Blue Team |
| <input checked="" type="checkbox"/> Professional Standards Case File 6/23/2022 | By: Blue Team |

Information contained within this document is being released pursuant to Colorado Revised Statute 24-72-303, which requires that a completed internal investigative case file regarding allegations of misconduct of a peace officer involving a member of the public be open to public inspection.



COLORADO

State Patrol

Department of Public Safety

Colorado State Patrol- District 4
554 Jurassic Court
Fruita, CO 81521

Trooper Spencer Davis

[REDACTED]

[REDACTED] CO 80443

DISCIPLINARY ACTION

HAND DELIVERED

June 28, 2022

Dear Trooper Davis,

This disciplinary action is taken under the authorization of the State Personnel Board Rules, chapter six. For the reasons set forth below, I have decided to terminate your employment from the Colorado State Patrol, effective today, June 28, 2022.

On March 14, 2022, we met to conduct an informal, information-gathering meeting pursuant to Board Rule 6-10. You attended this meeting in person without a representative. I was present with my representative, Captain Jared Rapp. The purpose of the meeting was to discuss information concerning your decisions, behavior, and manner of reporting regarding patrol car damage that you claimed happened on January 3, 2022, including other damage to your patrol vehicle and vehicle inspections. The meeting also gave you an opportunity to provide me with any explanation or mitigating information.

At the meeting, we discussed the following:

- We reviewed the Professional Standards Section investigation and report, the memos from Sgt. Bruce, Cpl. Manning, and Trooper Bourlet.
- You explained that you have made some mistakes and that is what got you at the point we were meeting and that you take full accountability for the things you did wrong.
- You said that you were only required to report the damage to a supervisor, not an on-duty supervisor.
- Looking back on it, you don't believe that the location where you reported the damage was actually the location at which the damage occurred. You said it is obvious now, both from information from Internal Affairs and with what Cpl. Manning pointed out. You held to the belief that you don't know where the damage occurred, and you aren't trying to hide any information. You said you don't make things up.
- You asked for me to consider you being a new trooper, how much overtime you have worked, and that you are improving and learning.
- We discussed when you perform vehicle inspections, and you stated you are doing them on the inspection form now to make sure you are checking everything. You explained that you should not have written in your memo that you had completed a vehicle inspection because you did not previously do a full inspection as required.
 - During the PSS interview, you explained you were taught how to complete vehicle inspections in the Academy by following the Vehicle Inspection Form CSP59. You informed your supervision in two forms of written communication to them that you performed a pre-shift vehicle inspection on January 3, 2022.
- You stated, "If you think I did that damage, and I'm hiding it, I want you to fire me."
- When I asked if you have been dishonest at any point in this process, you said that you think you used words that meant one thing to the Patrol, and you were not trying to be deceitful. You said that you can understand how it can be interpreted that you were dishonest, and you take accountability for that. You said you don't have anything to hide in this. You claim that you should have chosen your words more wisely. You said you don't lie,

or try to lie. You said that you have lived that way in the past, but you're not that way now. You explained that you didn't intentionally lie.

- You said you're sure you violated policy, but you just don't know which ones.

I gave you until COB of March 21, 2022, to provide me with additional verbal/written information. You responded with two follow-up emails. One email included a 21-page attachment with documentation of OT you had completed with a reference to DUI enforcement during some of those shifts. The other email included information about DUI enforcement and statistics regarding impaired driving violations you have had during your career.

The Professional Standards Investigation revealed the following investigative findings:

It is more likely than not DAVIS lied or was dishonest in his written accounts of a patrol vehicle traffic crash. This conclusion is derived upon the following information:

- *DAVIS authored an email to BRUCE and MANNING regarding, amongst other things, damage to his patrol vehicle. In the email, DAVIS wrote, "I performed my vehicle inspection last night as I went on duty. I noticed a lot of snow build up on the front base of my vehicle from the weather, so I could not see the lower plastic portion. I had no indication of any damage."*

Additionally, in a memorandum DAVIS authored and signed, he wrote "I inspect my vehicle everyday as I start my shift. I did not observe any cracked piece missing from the same area that was damaged as I started my shift on January 3, 2022, at approximately 1700 hours."

The implication of the written statements by DAVIS is that he checked his patrol vehicle for damage. However, DAVIS admitted he did not check his patrol vehicle for damage during his pre-shift inspection as he indicated in both his email and memorandum.

- *DAVIS also indicated there was a large buildup of snow and ice on the front bumper of his patrol vehicle, specifically at the location of the damage, as an explanation as to why he could not see the damage. However, a picture of his patrol car 58 minutes after his shift began, confirmed that his vehicle was free of any snow or ice in the damaged area. This appears to be a dishonest statement in an official document written by DAVIS.*
- *When asked why he reported that his patrol vehicle was snow-packed, DAVIS stated, "Yeah, so I had remembered it being" a lot of snow buildup on my vehicle whenever I started my shift that day." I specifically remember it being" on the front end of my push bumper as ice and snow. Obviously, I'm wrong in that. There is no ice and snow. I can see that (referring to a picture of his patrol car captured by the Frisco Police Departments' body camera). {L12022-001 Subject Interview pg. 36, ln. 11-15}*

It is more likely than not DAVIS failed, neglected, or was incompetent while performing his duties when reporting a patrol vehicle crash. This conclusion is derived upon the following information:

- *DAVIS admitted he did not report the traffic crash correctly. DAVIS stated, "I was wrong in that (referring to his failure to properly notify supervision of a patrol vehicle crash). I didn't inspect my vehicle. I didn't report it correctly, and I've been really clear about that, and I take full ownership of that." {L12022-001 Subject Interview pg. 32, ln. 32-33, pg. 33, ln. 1-2}*
- *DAVIS admitted to violating General Orders 2 and 9 when he failed to inspect his patrol vehicles as required per policy.*

At a minimum, you were in violation of the following:

- Board Rule R-6-12 (B) 1-3:
 - Failure to perform competently;
 - Willful misconduct;
 - Failure to comply with the Board Rules, Director's Procedures, department's rules and policies, state universal policies, or other departmental directives
- Agency and Department Policy:
 - CSP 1.01.0102 Code of Ethics
 - CSP 1.01.0101 General Orders
 - CSP 1.01.0106 Core Values
 - CDPS 1.06.006 Code of Ethics and Professional Conduct
- Colorado State Patrol Policy 1.01.0103 - General Orders:
 - (2) Members will obey lawful orders and directions. Orders may appear as, but are not limited to, verbal directives, written directives, memoranda, policies, rules, procedures, goals,

mission and vision statements.

- o (3) Members will be truthful and complete in their accounts and reports.
- o (5) Members will conduct themselves to preserve public trust and will utilize their authority appropriately.
- o (6) Members will avoid any conduct that may bring discredit upon, or undermine the credibility of themselves, the Colorado State Patrol, or the police profession.
- o (9) Members will see to the proper care and maintenance of all property and will make no unauthorized alterations.

As a result, I have decided to take the following disciplinary actions outlined below. In making this decision, I considered the factors in Board Rule 6-11, including:

1. The nature, extent, seriousness, and effect of the performance issues or conduct:
 - Being a Colorado State Trooper comes with significant responsibility to the public and our own members. Troopers must be held to the highest standard of trust, honesty, accuracy, and accountability. Members of the Colorado State Patrol owe it to our communities, courts, and fellow members to be honest in word, deed, and action. Inconsistencies, omissions, untruthfulness, guessing, and misleading reports or testimony can and will undermine the credibility of our organization and law enforcement in general. By being misleading to your supervisors about your vehicle inspections, perceived lack of damage prior to starting your shift, and neglecting to thoroughly and properly investigate a patrol car crash (ultimately ignoring the lack of evidence and common-sense crash investigation), you have created an environment of doubt, distrust, and apprehension about your ability to accurately and reliably report facts in the future. This directly undermines your ability to continue to serve in a law enforcement capacity as Trooper for the Colorado State Patrol. Additionally, although you claim to have started vehicle inspections every shift after the incident on January 3, 2022, you worked at least six shifts in which you did not observe the damage to your push bumper which occurred on January 5, 2022 (reported on January 16). Neglecting your duty to properly inspect your patrol vehicle casts further doubt on your ability to perform higher-risk functions of the Agency. It is crucial that every detail of a State Trooper's duties is performed at an exceptional level and reported with accuracy and complete honesty so as to preserve public trust.
2. Type and frequency of prior unsatisfactory performance or conduct, including any prior performance improvement plans, corrective actions, or disciplinary actions:
 - You have no corrective or disciplinary actions in your personnel file since you were hired on January 10, 2021.
3. The period of time since any prior unsatisfactory performance or conduct:
 - You were involved in a patrol car crash on November 10, 2021, and verbally counseled by supervision on how to report patrol car damage.
4. Prior performance evaluations:
 - You were rated "Successful" on your most recent performance review.
5. Mitigating circumstances:
 - I considered all of the information provided, including our conversation during the 6-10 meeting, and your prior performance. You asked for me to consider you being a new trooper, how much overtime you have worked, and that you take full accountability for your actions.
 - You explained that since you reported this damage, you have started doing your vehicle inspections every shift.
 - You said you know you messed up, and you do not know how you damaged your car. You said this is not what you have been trained and you are embarrassed by it.
 - You said you are dependable and work hard every shift, that you do not lack integrity, and that you are not incompetent.
6. Information you provided in your response: Two emails with the below information.
 - One email included a 21-page attachment with documentation of OT you had completed with a reference to DUI enforcement during some of those shifts.
 - The other email included information about DUI enforcement and statistics regarding impaired driving violations you have had during your career.

Ultimately, after carefully weighing these factors, I arrived at my decision because your behavior and actions were not acceptable and did not meet the expectations of the Colorado State Patrol. Your explanation of how and when you inspected your vehicle was inconsistent throughout this process. It changed several times throughout the investigative process, and ultimately it was determined that you did not inspect the outside of your vehicle as you reported twice to your supervision before this internal investigation began. Your lack of investigation into your self-reported crash shows one of two things: gross neglect of proper investigation and overlooking the significant lack of evidence, or misleading and dishonest reporting about the damage to your patrol vehicle which happened well before you reported the crash. Furthermore, after two previous incidents of patrol vehicle damage, and your claim that you changed your pre-shift inspection habits after the January 3 incident, you failed to notice additional damage that occurred on January 5 for 11 days and at least six working shifts. Your inconsistent and inaccurate reporting, deceptive explanation of your vehicle inspection, and lack of proper investigation give me considerable trepidation about your reliability to give truthful and accurate testimony in criminal or civil cases in the future and to uphold the core values and tenets of the Patrol. In addition, the results of this investigation created a lack of trust from your supervision and concerns over your accountability and the accuracy of reports you generate during work. Therefore, your actions warrant disciplinary action, as described below.

DISCIPLINARY ACTION

I have decided to take disciplinary action in the form of termination of employment from the Colorado State Patrol, effective today, June 28, 2022.


You may protest this action by filing an appeal. Personnel Board Rules, Procedures, and standard appeal forms are available at the agency personnel office, at the State Personnel Board, and online for your information and use. You can also obtain these forms at the Personnel Board's website, <https://spb.colorado.gov/>. The appeal must be in writing, signed by you or your representative, and must be mailed, emailed to dpa_state.personnelboard@state.co.us or hand-delivered no later than ten (10) calendar days after the date you receive the notice of your right to appeal. Your appeal should be addressed as follows: State Personnel Board, Attention: Appeals Processing, 1525 Sherman St., 4th Floor, Denver, CO 80203. The Personnel Board's fax number is 303-866-5038, and its telephone number is 303-866-3300. The ten-day deadline and these appeal procedures also apply to all charges of discrimination.

If you have health and/or dental insurance provided by the State of Colorado, that coverage will continue until the end of the current month. After your benefits expire, you may purchase continued coverage through COBRA. COBRA insurance information will be forwarded to you following the termination of your current coverage. Please contact the Public Employee's Retirement Association (PERA) at (303)832-9550 or 1-800-759-7372 to receive information on benefits that may be available to you.

Further, please be advised:

- You will be paid for a full day today, June 28, 2022.
- Arrangements to prepare your final paycheck have been made. Your final check will be mailed to your address of record in your personnel file, within three (3) days from the date of separation. Should you wish to pick up your check and not have it mailed to your address of record in your personnel file, you may contact Sally Bouwman at 303-239-4466 to make the appropriate arrangements.
- For information regarding benefits, please contact Rhonda Johnson at 303-239-5761.
- Contact the Public Employee's Retirement Association (PERA) at 1-800-759-7372 for information concerning your retirement account.

Respectfully,


Major David Rollins
District 4 Commander
Colorado State Patrol

[REDACTED]
[REDACTED]
[REDACTED]

Cc: Lieutenant Colonel Barry Bratt
Captain Jared Rapp
CDPS Human Resources
CSP Professional Standards Section
CDPS Payroll

Received by: _____ Date: _____
Trooper Spencer Davis



COLORADO

State Patrol

Department of Public Safety

Colorado State Patrol- District 4
554 Jurassic Court
Fruita, CO 81521

February 24, 2022

Delivered via State Email

Trooper Spencer Davis

[REDACTED]
[REDACTED] 80443

Re: Notice of Rule 6-10 Meeting

Dear Trooper Davis:

I have received information about your performance or conduct that concerns me, and I am considering taking disciplinary action. I am scheduling a meeting with you pursuant to State Personnel Board Rule 6-10, to be held on March 14, 2022, at 10:00 am at the Fruita State Patrol office located at 554 Jurassic Court in Fruita.

At that meeting, we will discuss the information that causes me to believe that disciplinary action may be appropriate, which includes, but is not limited to, the following: Allegations of lying/dishonesty and failure/neglected/incompetent to perform duties, stemming from an incident on January 3, 2022, in which you claimed you had damaged your patrol car. A subsequent investigation by your supervision found inconsistencies in your account of how the damage occurred. The Colorado State Patrol Professional Standards Section investigated the aforementioned allegations, referenced in PSS Internal Administrative Investigation Report L12022-001.

While the Board Rules do not require providing you materials prior to our meeting, I will be available at the Fruita office an hour before our meeting to provide a copy of the PSS case file for you to review, which I will discuss with you during our meeting.

The reason for this meeting is to gather all relevant information and to provide you with an opportunity to present any information and mitigating circumstances you would like me to consider before I make a decision. You have the right to present information at this meeting and to have a representative of your choice accompany you to the meeting. You may also bring any documents that you want me to review prior to making my decision. You will be allowed seven (7) days after the meeting to provide me with any additional information relating to the issues we will discuss.

Please contact me before the meeting at 719-937-1054, or Captain Rapp if you have questions.

Respectfully,

[REDACTED]


Major David Rollins
District 4 Commander
Colorado State Patrol
554 Jurassic Court



Fruita, CO 81521
970-858-2250

Cc: Lieutenant Colonel Barry Bratt
Captain Jared Rapp
CDPS Human Resources
CSP Professional Standards Section



	<h2>Member Conduct Complaints and Administrative Investigations</h2>	Policy Number:
		2.02.0302
		Effective Date:
		10/06/2017
		Current Revision Date
		12/09/2021
Related Policies:	1.02.0105, 1.02.0205, 2.02.0201, 2.02.0301, 3.01.1503	

PURPOSE

This policy provides guidelines for member conduct complaints and administrative investigations.

DEFINITION(S)

Administrative Investigation (AI) means an investigation initiated following any alleged act of member misconduct that meets Level 1 or Level 2 criteria. The Chief, or his designee, may also initiate an AI to investigate other matters of consequence to the agency.

Administrative Review is a documented review of an incident or occurrence prepared for the Chief or Chief's designee. The review should indicate whether policy, training, equipment, or policy-compliance issues should be addressed.

Complaint means an allegation of member or agency misconduct, which can be allegations of less than professional demeanor, improper or excessive use of force, inappropriate language, criminal activity, abuse of authority, or protest regarding the actions of a member in the performance of that member's duties. A disagreement over the validity of a traffic citation or criminal charge is not a complaint. Such disagreements should be directed to the proper court having jurisdiction in the matter.

Completed Internal Investigation Summary for the purposes of meeting the CALEA standard, is equivalent to the required conclusion of fact.

Inquiry means a request for information or an explanation of facts, principles, or practices that may deal with an incident or contact involving an action or non-action, which upon review, does not allege misconduct on the part of the member. Inquiries are often questions concerning State Patrol operations that may not be understood by the general public.

Unduly Influence means the improper use of power or trust in a way that deprives a person of free will and substitutes another's objective by improper, unjust, or excessive means.

POLICY STATEMENT(S)

In order to maintain integrity and public trust, the State Patrol will hold all members to a high standard and expects members to conduct themselves in a professional manner at all times. The provisions of the procedures listed below will apply to any matter concerning a member's actual and/or alleged misconduct, whether brought to the State Patrol's attention from an internal or an external source. Members who witness misconduct of another member have a duty to

report it to a supervisor or through BlueTeam. The State Patrol will investigate all complaints, including anonymous complaints, made against the State Patrol or any member of the State Patrol.

Uniformed members who witness another peace officer use physical force that exceeds the degree of physical force permitted pursuant to C.R.S. § 18-1-707 must report such use of force to their immediate supervisor. Uniformed members who are on-duty shall intervene to prevent or stop another peace officer from using physical force that exceeds the degree of physical force permitted, if any, pursuant to C.R.S. § 18-1-707 without regard for chain of command. Members shall not discipline or retaliate in any way against a uniformed member for reporting or intervening to prevent use of unlawful force pursuant to C.R.S. § 18-8-802.

Uniformed members who witness another peace officer use, direct the use of, or unduly influence the use of ketamine or any chemical restraint or behavioral sedative upon another person shall report such use to the P.O.S.T. Board within ten (10) days of the occurrence of the use of ketamine or any chemical restraint or behavioral sedative pursuant to C.R.S. § 18-8-805. Uniformed members who are on-duty shall intervene to prevent another peace officer from using, directing the use of, or unduly influencing the use of ketamine or any chemical restraint or behavioral sedative upon another person without regard for chain of command. Members shall not discipline or retaliate in any way against a uniformed member for reporting or intervening to prevent the use, the direction to use, or the undue influence to use ketamine or any chemical restraint or behavioral sedative upon another person pursuant to C.R.S. § 18-8-805.

The State Patrol will make available information to the public on procedures to be followed in registering complaints against the State Patrol or its members. The State Patrol will also make available information to the public on procedures to be followed in registering compliments and commendations in support of the State Patrol or its members.

Members are entitled to all the rights and privileges guaranteed by the laws and Constitution of the United States and of the State of Colorado. Appointing authorities, in consultation with the Professional Standards Section, may refer complaints that implicate criminal activity to another criminal justice entity for disposition and/or resolution. Investigation of a member conduct complaint will be specifically directed and narrowly related to the performance of the member's official duties or fitness for office.

Members will cooperate fully during the course of an administrative investigation and will preserve the integrity of the investigation through maintaining the confidentiality of any information learned or provided to an investigator. Any member could be considered a victim or witness as the investigation unfolds and any member found to have hindered or obstructed an administrative investigation, or to have been misleading or untruthful when required to provide a written or verbal statement as part of an administrative investigation, or to have attempted to unduly influence a complainant, victim, or witness associated with an administrative investigation, may be subject to corrective and/or disciplinary action, up to and including termination.

The Commander of the Professional Standards Section (PSS) will be responsible for the State Patrol's internal affairs function and will have the authority to report directly to the Chief. Members assigned to the Professional Standards Section are charged with conducting investigations at the direction of the Chief or designee.

Members will notify the Chief, through channels, of any complaint against the agency or a member when the complaint involves a question as to the agency's liability or which may result in heightened community interest. See Policy 1.02.0205 (Incident Notification).

When members are notified that they have become the subject of an administrative investigation, the State Patrol will issue the member a CSP 240 (Administrative Notification of Allegations) that includes the allegations and the member's rights and responsibilities relative to the investigation. The CSP 240 shall be issued within ten (10) days prior to, including the day of, the scheduled interview with the member, excluding weekends and holidays.

The PSS Commander will review the information provided in the initial complaint to determine the complaint classification (Level 1 or Level 2). The PSS commander will assign Level 1 complaints to be investigated. The responsible appointing authority will assign Level 2 complaints to be investigated, including whether or not it falls under the guidelines of a Member Dispute per Policy 2.02.0201 (Member Disputes). Appointing authorities may request the use of Professional Standards Section resources to investigate member disputes.

The State Patrol will maintain a record of all complaints against the State Patrol or its members and will protect the confidentiality of these records by maintaining them in a secure area. Members will not be provided copies of any documentation pertaining to an administrative investigation until the investigation has been completed and/or upon approval of the appointing authority or the Office of the Attorney General.

For each administrative investigation into an allegation of misconduct, appointing authorities will compose a CSP 403 (Completed Internal Investigation Summary) that will document the findings and disposition of the investigation. The CSP 403 will be maintained as part of the record of the complaint and investigation.

Annually, the Chief will receive statistical summaries on records of complaints and administrative investigations within the State Patrol. The statistical summaries will be made available to the public and State Patrol members. For additional annual reporting requirements, see Policy 3.01.1503 (Executive Accreditation Reports).

For additional requirements regarding complaints alleging biased policing, see Policy 1.02.0105 (Biased Policing).

For information regarding the State Patrol's system for maintaining member discipline, including elements of the disciplinary system, focus on training and counseling where appropriate, criteria for consideration, and roles and responsibilities for supervisors, commanders, and appointing authorities within the State Patrol disciplinary system, see Policy 2.02.0301 (Disciplinary System).

OPERATIONAL PROCEDURES

A. Complaint Source

1. Members will accept any complaint that alleges the improper conduct of the State Patrol or a member of the State Patrol.
2. Complaints will be accepted from any internal or external source, including written communication, telephone call, and anonymous tip.
3. If circumstances are unclear whether the source is making an inquiry or complaint, the member receiving the information will treat the situation as a complaint until disposition is obtained from the appointing authority.

B. Confidentiality

1. Any allegation of misconduct filed against a member is merely an accusation. An allegation can be unjustifiably damaging to a member's integrity and credibility if the allegation is not handled appropriately and with confidentiality.
2. All facts surrounding an allegation, special circumstances, and contents of the investigation file will be regarded as confidential and treated accordingly.
3. Information regarding any allegation and subsequent investigation will not be discussed with or disseminated to any member except the appointing authority or the investigator.
4. All investigation files are confidential.

C. Complaint Procedure

1. Receiving a complaint of agency or member misconduct should be delegated to a supervisory level.
 - a. Supervisors will add a new incident via a BlueTeam within forty-eight (48) hours of receipt of the complaint, excluding weekends and holidays.
 - b. Every effort should be made to refer a complaint against a member to the member's supervisor; however, should the member's supervisor not be available, the receiving member will record the complaint within BlueTeam.
 - c. A complaint against a supervisor will be referred to a higher-ranking supervisor, or in cases where exigent circumstances exist, a member may make the report directly to the Professional Standards Section.
 - I. When a report is made directly to the Professional Standards Section, the Chief will determine who will conduct the investigation.
 - d. If a supervisor is not available to record a complaint, the member receiving the complaint will obtain the complainant's name, address, and telephone number. The complainant will be informed that a supervisor will contact them as soon as one is available.
 - e. If a complaint is received directly by the Professional Standards Section, the Professional Standards Section investigator will be responsible for completing the BlueTeam entry as needed.
2. Based upon the nature of the complaint, and at the discretion of the immediate commander, a CSP 159 (Complaint Form) may be provided to the complainant.
 - a. The Chief has statutory authority to require the complainant to provide a written and signed complaint.
 - b. The CSP 159 should only be used when the commander determines that the complainant is comfortable and willing to complete the form.
 - c. The CSP 159 may be mailed or hand delivered to the complainant within 48 hours of receipt of the complaint.
 - I. When mailing the CSP 159 to the complainant, the troop/section commander will include a self-addressed, stamped envelope for the complainant.
 - II. The front of the envelope will contain the following:

- i. "Attention: (name of immediate commander of the affected member)" as the first line of the recipient field; and
 - ii. "Confidential" stamped or written in capital letters on the top left of the envelope.
 - III. Note: The above procedure will not apply in those instances where the original complaint was received in the form of a letter, unless the complainant is a third party.
 3. The immediate commander may proceed immediately with an investigation without a CSP 159.
 4. A complaint in which the complainant requests no investigation or further action will be noted as such in the BlueTeam Incident Report.
 5. The PSS Commander, or in their absence a designee, will review the complaint information to determine whether it is a Level 1 or 2 complaint.
 - a. Level 1 Complaint: The PSS Commander will consult with the appointing authority and assign the complaint to an investigator.
 - b. Level 2 Complaint: The PSS Commander will consult with the appointing authority who will assign the complaint to an investigator.
 - c. The decision regarding whether a case is an inquiry or a complaint is at the discretion of the appointing authority.
- D. Designation and Assignment
1. Level 1 Complaint
 - a. A Level 1 complaint is serious in nature and includes, but is not limited to:
 - I. All criminal violations;
 - II. Civil rights violation allegations, such as false arrest and/or illegal search and seizure;
 - III. Allegations of biased policing;
 - IV. Excessive force;
 - V. A uniformed member's failure to report or to intervene in the use of excessive force;
 - VI. A uniformed member's intentional failure to activate or tampering with a body-worn or dash camera;
 - VII. A uniformed member's failure to report or to intervene in the intentional failure to activate or tampering with a body-worn or dash camera;
 - VIII. Use of or direction to use ketamine or any chemical restraint or behavioral sedative on a person;
 - IX. A uniformed member's failure to report or to intervene in the use of or direction to use ketamine or any chemical restraint or behavioral sedative on a person;
 - X. Retaliation against uniformed members who report information that shows a danger to public health or safety or a violation of law or policy committed by another peace officer;
 - XI. Workplace violence and threats of violence;
 - XII. Harassment or sexual harassment;

- XIII. Dishonesty or integrity matters (allegations of untruthfulness, false reporting, false statements including court testimony); and
- XIV. Misappropriation/misuse of state government resources or monies.
- b. The Professional Standards Section will keep the Chief, region commander, and appointing authority informed of the progress and status of the investigation.
- 2. Level 2 Complaint
 - a. A Level 2 complaint is less serious in nature and may concern a member's attitude, language, neglect of duty, discourtesy, minor policy/procedure violation, or manner in which a particular situation was handled.
 - b. The appointing authority may designate a line supervisor or troop/section commander to investigate a Level 2 complaint.
 - c. If during the course of an investigation the complaint is discovered to be a Level 1 complaint, the investigator will notify the appointing authority.
- E. Notification
 - 1. The appointing authority or designee will provide the member with a CSP 240 (Administrative Notification of Allegations).
 - a. Prior to questioning the member, the CSP 240 will be signed by the appointing authority or designee, the member, and the investigator.
 - I. The appointing authority or designee and the member shall sign upon serving of the CSP 240.
 - II. Investigators will sign the CSP 240 in front of the member prior to any interviews.
 - 2. If the complainant is identified, the appointing authority or designee will provide the complainant with notification and information as follows:
 - a. Verification of receipt and processing of the complaint shall be acknowledged by the appointing authority within five (5) business days;
 - b. If the complaint investigation is not concluded within sixty (60) days, then status reports every thirty (30) days; and
 - c. Notification of the results of the investigation upon conclusion.
 - 3. Initial notification and information may be accomplished by providing the complainant with a CSP 159 or formal letter. The complainant will be provided a point-of-contact should they have any questions or require additional information.
 - a. Subsequent updates, short of final disposition, may occur via letter, telephone, or electronic message.
 - b. Notification method(s), dates, and times will be documented within IAPro or the notes section of BlueTeam.
 - 4. The appointing authority or designee will notify the involved member and complainant of the results of the investigation as soon as practical.
 - a. Complainants and members will be notified via a CSP 403.

5. If corrective and/or disciplinary action is contemplated, disposition will be communicated in accordance with State Personnel Rules and may serve as appropriate member notification.
 6. See Policy 2.02.0301 (Disciplinary System) for information regarding the State Patrol's system for notifications and procedures within the disciplinary system.
- F. Administrative Investigations (AI)
1. Allegations of misconduct must be investigated to the fullest extent possible to determine the validity of the complaint and gather information that may be needed in the event of litigation against the State Patrol or any of its members.
 2. The investigation should be completed within sixty (60) calendar days from the date the investigation was assigned. When extraordinary circumstances exist that will cause the investigation to exceed sixty (60) calendar days, the Chief, regional commander, or appointing authority may grant an extension.
 - a. If an extension is granted, the complainant should be notified of the extension.
 3. Appointing authorities will have forty-five (45) days after the investigation is complete to provide a CSP 403 (Completed Internal Investigation Summary).
 4. Appointing authorities may, if vital and specifically related to the administrative investigation, require members to file statements, testify at administrative hearings, and submit to tests or examinations, including, but not limited to:
 - a. Medical or laboratory examinations;
 - b. Blood, breath, or urine tests to determine alcohol and/or drug influence;
 - c. Psychological/fitness for duty examinations;
 - d. Substance abuse evaluations;
 - e. Polygraph examinations or other evaluations with instruments for the detection of deception;
 - f. Submitting financial disclosure statements and/or telephone records;
 - g. Participating in a lineup; and
 - h. Being photographed/fingerprinted.
 5. Member Interviews
 - a. Any member interview should be conducted during the member's normal working hours.
 - b. The interview will be in private and whenever possible, conducted at a State Patrol office.
 - c. No more than two investigators will be permitted to interview the member at any one time.
 - d. The member should be afforded periodic break time during the interview.
 - e. The content of the questions being posed in the interview will be specifically directed and related to the allegations set forth in the CSP 240 of the member's performance of official duties or their fitness for office.

2. Following an AI, the appointing authority will review and approve all investigative forms, reports, and recordings and will compile documentation into the investigative file.
 - a. If applicable, the appointing authority will utilize the investigative file for meetings or other activity described in Policy 2.02.0301 (Disciplinary System).
- H. Complaint Disposition, Categorization, and Completed Internal Investigation Summary (CSP 403)
 1. Upon completion of an investigation, the appointing authority will:
 - a. Assign one of the following dispositions to the case (via CSPN):
 - I. SUSTAINED: The allegation is found to be factual and substantiated by competent evidence;
 - II. NOT SUSTAINED: Insufficient evidence exists to prove or disprove the allegation. This disposition shall also be assigned to any anonymous complaint that after investigation, lacks corroborative information or evidence;
 - III. UNFOUNDED: The allegation is not supported by the facts or is determined to be a false allegation;
 - IV. EXONERATED: The allegation is factual and did occur; however, the member acted lawfully and properly within State Patrol policy and the scope of acceptable conduct; or
 - V. CLOSED: Investigation of the allegation was terminated. The reason for closing the case file will be stated.
 - b. Categorize the complaint using one or more of the following category classifications:
 - I. (Discourteous/Rude/Unprofessional/Inappropriate) Behavior or Comments;
 - II. (Failure / Neglected / Incompetent) to Perform Duties;
 - III. Abuse of Authority;
 - IV. Biased Policing;
 - V. Civil Rights Violation (Arrest);
 - VI. Civil Rights Violation (Search);
 - VII. Civil Rights Violation (Other);
 - VIII. Discrimination;
 - IX. Excessive Use of Force;
 - X. Harassment;
 - XI. Improper Use of Weapon;
 - XII. Lying/Dishonesty;
 - XIII. Member Arrested / Charged;
 - XIV. Off Duty Misconduct;
 - XV. Sexual Harassment;
 - XVI. Sexual Misconduct;
 - XVII. Theft; or
 - XVIII. Workplace Violence.

- c. Complete the Completed Internal Investigation Summary (CSP 403) and ensure it is maintained as part of the record.
2. Following final review, disposition, categorization, and completion of the CSP 403, the appointing authority will compile all documentation into the investigative file.
 - a. The appointing authority will provide the investigative file through BlueTeam to the Professional Standards Section.
 - b. The original investigation file will be retained in the Professional Standards Section for an amount of time as established in accordance with agency guidelines concerning minimum records retention and Professional Standards Section local directives, if any.
 - c. The investigation file and its contents, including electronic and hard-copy elements, are considered confidential, and no portion of the file will be separated from the file, copied, reproduced, or disseminated for any reason without the written consent of the Chief or his designee.

ADMINISTRATIVE PROCEDURES

A. Member

1. Accept any complaint that alleges the improper conduct of the State Patrol or a member of the State Patrol.
2. Refer complainant to the appropriate supervisor.
3. Refer any complaint against a supervisor to a higher-ranking supervisor.
4. If a supervisor is not available to record a complaint, obtain the complainant's name, address, and telephone number and inform the complainant that a supervisor will contact them as soon as one is available.
5. In cases where exigent circumstances exist, report directly to the Professional Standards Section.

B. Supervisor

1. Complete a BlueTeam Incident Report within forty-eight (48) hours of receipt of the complaint, excluding weekends and holidays.
2. As directed by commanders, investigate complaints to the fullest extent possible to determine the validity of the complaint and gather information that may be needed in the event of litigation against the State Patrol or any of its members.

C. Immediate Commander

1. Ensure that all information has been entered into the BlueTeam Incident Report.
 - a. Provide a CSP 159 to the complainant, if appropriate.

D. PSS Commander

1. Determine whether the complaint is a Level 1 or a Level 2 complaint. If a Level 1 complaint, draft Level 1 allegations, and assign the BlueTeam incident report to the appointing authority for review.
2. On Level 1 complaints, assign the BlueTeam Incident Report for investigation.

E. Appointing Authority

1. On all complaints, review the BlueTeam Incident Report.
2. On Level 2 complaints, assign the BlueTeam Incident Report for investigation.
3. Prior to questioning the member, ensure that the member was provided with a completed CSP 240 (Administrative Notification of Allegations); if not, provide the member with a CSP 240.
4. Confirm whether or not the written notification and updates to complainant, including verification of receipt and processing of the complaint, periodic status reports, and notification of the results of the investigation upon conclusion have been completed and if not, provide the documents, as appropriate.
5. Close the investigation, if appropriate.
6. Review and approve the investigation.
7. If applicable, utilize the investigative file for meetings or other activity described in Policy 2.02.0301 (Disciplinary System).
8. Complete complaint disposition, categorization, and internal investigation summary documentation.
9. Notify the involved member and complainant of the results of the investigation as soon as practical.
 - a. Notify, or confirm notification of, complainant(s) via a formal letter;
 - b. Notify, or confirm notification of, member via a formal letter or memorandum.
10. Forward the approved, completed investigation, disposition, and internal investigation summary documentation to the Professional Standards Section and to the region commander.

F. Region Commander

1. Review completed investigations, dispositions, and internal investigation summary documentation.

G. Investigator

1. As directed by an appointing authority, investigate complaints to the fullest extent possible to determine the validity of the complaint and gather information that may be needed in the event of litigation against the State Patrol or any of its members.
2. Maintain a record of all complaints against the State Patrol or its members and protect the confidentiality of these records by maintaining them in a secure area.
 - a. Coordinate internal distribution of records as needed for official State Patrol business, redacting information as appropriate.
 - b. Retain records for an amount of time as established in accordance with agency guidelines concerning minimum records retention and Professional Standards Section local directives, if any.

H. Professional Standards Section

1. Annually (FY), provide the Chief with an administrative review and statistical summaries based upon records of administrative investigations of conduct complaints within the State Patrol.

2. Make the statistical summaries available to the public and to State Patrol members. See Policy 3.01.1503 (Executive Accreditation Reports).

I. Administrative Review

1. Policy 3.01.1503 (Executive Accreditation Reports) provides information regarding the annual administrative review of policy and training needs.

RELATED RESOURCES AND FORMS

Resource or Form Number	Title	Office of Professional Responsibility
CSP 159	Complaint Form	PAR
CSP 240	Administrative Notification of Allegations	PAR
CSP 403	Completed Internal Investigation Summary	PAR