

Regulatory Study on the Comparison of Disciplinary Punishments for Village Officials and Civil Servants Who Are Absent from Work

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Abstract

Introduction: Employee discipline is essential to ensuring accountable, professional, and effective governance. In Indonesia, civil servants and village officials perform different functions within the governmental system and are subject to distinct legal regimes. Civil servant discipline is primarily regulated by Government Regulation Number 94 of 2021 concerning Civil Servant Discipline, while village officials are regulated by Law Number 6 of 2014 concerning Villages, as amended by Law Number 3 of 2024. A significant regulatory difference concerns absenteeism and the imposition of dismissal sanctions.

Purposes of the Research: This study aims to examine the differences in disciplinary regulation between civil servants and village officials and analyze whether the existing legal framework provides legal certainty, proportionality, justice, and an effective deterrent effect in enforcing discipline.

Methods of the Research: This study employs normative juridical research using statutory, conceptual, comparative, and analytical approaches. The research examines primary and secondary legal materials, including legislation, legal literature, scholarly books, and academic journal articles concerning disciplinary sanctions for government officials.

Results Main Findings of the Research: The findings indicate that the different regulatory regimes governing civil servants and village officials create a disparity in the enforcement of disciplinary sanctions, particularly regarding prolonged absenteeism. Although the different legal statuses and institutional functions of the two categories of officials justify certain distinctions, the existing framework requires greater consistency, proportionality, and clarity in determining disciplinary sanctions. The study proposes regulatory reform through a more coherent and graduated disciplinary mechanism for village officials, including clearer standards for absenteeism, proportional sanctions, procedural safeguards, and stronger enforcement mechanisms. Conclusion. The current regulatory framework has not sufficiently established a coherent and proportionate disciplinary system for village officials. Reform is necessary to strengthen legal certainty, accountability, and deterrence while respecting the distinctive legal status and functions of village government.

Keywords: Government Officials; Village Officials; Civil Servants; Disciplinary Sanctions; Legal Certainty.

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INTRODUCTION

Indonesia, as a unitary state, has a complex and hierarchical government structure. In carrying out government duties, public services, and development, the government involves two main types of employees: the State Civil Apparatus (ASN) and village officials. Both have complementary functions, with ASN playing a role at the central and regional

levels, while village officials play a role in governance at the village level. However, although both play a role in implementing government functions, there are fundamental differences in disciplinary regulations. ASN has a more structured and hierarchical disciplinary mechanism, ranging from reprimands to dismissal, as stipulated in Government Regulation Number 94 of 2021. Meanwhile, village officials have more flexible disciplinary regulations and are often delegated to the authority of the village head or regional government. For village officials, Law Number 6 of 2014 concerning Villages, as amended by Law Number 3/2024, applies. This difference presents challenges in creating uniform ethical and professional standards among government employees.

Work discipline is crucial for an organization in achieving its goals. Without strong employee discipline, it is difficult for an organization to achieve optimal results. Work discipline reflects a strong sense of responsibility for the tasks assigned to them. This fosters work enthusiasm, which in turn helps achieve organizational goals. It can be argued that work discipline is key to an organization's success in achieving its goals.¹

Discipline is a necessary attitude and requires the attention of every village official in an effort to improve performance. Discipline is the most important operational function of human resource management because the better the employee's discipline, the higher the work performance they can achieve. Without good discipline, it is difficult for a company organization to achieve optimal results.² Discipline is closely related to performance. Running the wheels of government requires excellent service from its officials. Service will certainly be hampered if officials are frequently absent from work.

In the government structure, we can see a stark difference between village officials and civil servants, both of whom are part of the government, yet their regulations are very different. The regulations regarding village official discipline, as stipulated in Law Number 6 of 2014 concerning Villages, as amended by Law Number 3 of 2024 concerning Villages, stipulate the obligations and prohibitions of village officials.

Based on these regulations, village officials can be dismissed if they are absent from work for 60 consecutive days. This rule is very weak, allowing employees, in this case village officials, to be absent for a relatively long period of time before being dismissed. This is very different from State Civil Apparatus, also government officials, who can be dismissed if they are absent for 10 consecutive days, according to Government Regulation Number 94 of 2021 concerning Civil Servant Discipline. With such significant differences in sanctions for village officials and ASN, is it in accordance with the concept of justice? The function of the personnel regulations that regulate the duties and functions and provide sanctions for violators should be able to provide a deterrent effect for violators, so that in the future employees will think more if they will commit disciplinary violations, thus whether the sanctions from Government Regulation Number 94 of 2021 concerning Civil Servant Discipline and Law Number 3 of 2024 concerning Villages provide a deterrent effect for violators, and what efforts can be made to align the disciplinary mechanism to create a more accountable and professional government.

¹ Al Jundi & Abdullah Izzat. "Disiplin Kerja Perangkat Desa Handapherang Kecamatan Cijeungjing Kabupaten Ciamis." *Unigal Repository* (2022).

² Gea, Sonitehe, and Victorinus Laoli. "Pengaruh Disiplin Kerja terhadap Kinerja Perangkat Desa Kecamatan Gunungsitoli Idanoi." *Jesya* 3, no. 2 (2020): 464-470.

METHODS OF THE RESEARCH

The type of research used in this study is normative juridical research, namely research that uses a literature review or examination of library resources (secondary data), which uses a critical analysis of laws and regulations, scientific texts, academic journals, and other relevant literature related to the investigation of the types and characteristics of legal regulations in Indonesia, especially Law Number 6 of 2014 concerning Villages as amended by Law Number 3 of 2024 concerning Villages and Government Regulation Number 94 of 2021 concerning Civil Servant Discipline. The Data Collection Method in this study is a literature study, namely a technique for collecting data and information by reviewing literature or written sources. In terms of research methodology, the initial approach adopted was a conceptual approach, namely a conceptual approach is a research method that uses the latest literature to investigate a phenomenon. This approach is based on the views and doctrines that have developed in legal science. Because in this study will explore the definition of disciplinary punishment based on literature such as regulations, journals, articles. Next, using a statutory approach, because this study seeks to examine the legal provisions governing the discipline of village officials and ASN. The next methodological approach is a comparative approach, namely comparing regulations on disciplinary punishment of village officials and ASN. The final approach is an analytical approach to examine whether the current rules truly provide justice for village officials and ASN, and whether they provide a deterrent effect for village officials and ASN who commit disciplinary violations. The findings of this study will explain the mechanism for imposing disciplinary punishment on village officials and ASN and the impact of differences in disciplinary punishment on the performance of village officials and ASN in carrying out their duties and responsibilities. This study will also provide suggestions regarding disciplinary punishment for village officials and ASN. The data presentation method used in this study is a systematic description. The Data Analysis Method in this study is Normative Qualitative.

RESULTS AND DISCUSSION

A. What is the mechanism for imposing disciplinary sanctions on village officials and ASN?

As explained in the introductory chapter, village officials and State Civil Apparatus (ASN) have different regulations regarding disciplinary sanctions. Village officials are subject to Law Number 6 of 2024 concerning Villages, as amended by Law Number 3 of 2024, while ASN are subject to Government Regulation Number 94 of 2021 concerning Civil Servant Discipline. Jimly Asshiddiqie, in his scientific work "Towards a Democratic Legal State," argues that a legal framework based on the democratic paradigm still envisions an ideal structure in which the rule of law is inherently democratic, and conversely, a democratic framework must be supported by legal principles. He argues that from a horizontal perspective, the concept of law-based democracy (constitutional democracy) encompasses four basic principles, namely: a) Guarantee of justice and consistency in national life; b) Recognition and appreciation of diversity or multiplicity; c) The existence of regulations that function as a basis for joint reference and; d) The establishment of a mechanism for resolving disputes is based on the framework mentioned above.³ As

³ Jimly Asshiddiqie, *Menuju Negara Hukum Demokratis*, (Jakarta: Sekretariat Jenderal Mahkamah dan Kepaniteraan Konstitusi, 2008).

mentioned above, Indonesia is a democratic nation, one of the principles of which is the guarantee of justice in national life. In the context of enforcing disciplinary sanctions for village officials and civil servants, this study will examine whether these two regulations, when implemented, provide a sense of justice for them. In addition to adhering to democratic principles, Indonesia is also a nation based on the rule of law, upholding legal certainty.

Legal certainty is a fundamental objective underlying the enforcement of legal norms. This principle of legal certainty is not only the basis for individuals in their actions and efforts. In addition, legal certainty is very important for the formation of applicable legal norms.⁴ Legal certainty is one of the objectives of the validity of a legal norm. Legal certainty does not only serve as a basis for the power to act or for citizens in doing and carrying out something.⁵ Consequently, if the Rule of Law is conceptualized as a governance system whose structure is limited by or based on previously formulated, institutionalized, and disseminated regulations, then its foundation lies in regulations enforced by designated authorities empowered to establish them, making the quality of the regulations irrelevant. Conversely, if the Rule of Law is articulated as the implementation of effective governance within the state, it relies on sound and fair regulations, which, according to Fletcher, is referred to as 'law in the high sense'.⁶

Article 51 letter l of Law Number 6 of 2024 concerning Villages states that Village Officials are prohibited from leaving their duties for 60 (sixty) consecutive working days without clear and irresponsible reasons, while Article 4 of Government Regulation Number 94 of 2021 concerning Civil Servant Discipline states that In addition to fulfilling the obligations as referred to in Article 3 letter f, Civil Servants are required to: Come to work and comply with the provisions of working hours. From both regulations it is clear that village officials and ASN are subject to the provisions of working hours that have been regulated by their respective regulations. Then what about the sanctions imposed on these two positions if they violate working hours/ do not come to work?

Article 52(1) of Law Number 6 of 2024 concerning Villages states that Village Apparatus who violate the prohibitions as referred to in Article 51 shall be subject to administrative sanctions in the form of verbal and/or written warnings and in Article 52(2) of Law Number 6 of 2024 concerning Villages states that in the event that administrative sanctions as referred to in paragraph (1) are not implemented, temporary suspension shall be taken and may be continued with dismissal. For Civil Servants, it is regulated in Article 11 of Government Regulation Number 94 of 2021 concerning Civil Servant Discipline, honorable dismissal not at their own request as Civil Servants for Civil Servants who do not come to work without valid reasons continuously for 10 (ten) working days.

From these two regulations, we can see very different sanctions applied to village officials and ASN for the same case, namely disciplinary violations in the form of absence from work. We can observe that village officials who are absent from work for a relatively long period of time, namely 60 consecutive working days, are only given administrative sanctions in the form of verbal and/or written warnings. If the administrative sanction still violates the

⁴ Nurus Zaman, "Pembukaan Undang-Undang Dasar 1945 Dalam Perspektif Kepastian Hukum." *Jurnal Legislasi Indonesia* 20, no. 1 (2023): 79-89.

⁵ *Ibid*

⁶ Bambang Kesowo, "Negara Hukum: Program Legislasi Nasional dan Kebutuhan Desain Besar Bagi Perencanaannya." *Arena Hukum* 6, no. 1 (2012): 12-20.

disciplinary penalty of not coming to work, temporary suspension is carried out and can be continued with dismissal. This is very different from ASN who are absent from work for 10 consecutive days who are immediately given sanctions in the form of honorable dismissal as ASN.

Given these vastly different sanctions, does it provide justice for both? John Rawls introduced two principles of justice: a) Equal freedom for all; b) Economic inequality is only acceptable if it benefits the least advantaged. Meanwhile, according to Aristotle (384–322 BC), he introduced the theory of distributive and corrective justice. Aristotle distinguished two types of justice: a) Distributive: Justice in the distribution of goods or rewards based on proportion; b) Corrective: Justice that corrects injustice, especially in transactions or conflicts. Judging from the theory of justice put forward above, the application of very different sanctions is not in accordance with the principle of justice where justice must be equal or in accordance with proportion (proportional).

B. How What is the impact of differences in disciplinary punishment on the performance of village officials and ASN in carrying out their duties and responsibilities?

In order to create quality human resources, it is necessary to implement high levels of work discipline, because discipline in work is very important for an organization, because without discipline there is no constructive joint effort in achieving common goals.⁷ In order for the government to provide good services to the public, it is necessary for government officials to have high mobility to work with full awareness as public servants.⁸ Indonesia's vast territory means that each region has its own governmental structure, whether at the provincial, district, sub-district, or village level, within the framework of the unity of the Indonesian State. The Indonesian nation gained its independence through a long and tireless struggle. After independence was achieved, it must of course be filled with development in all areas with a strong and unyielding spirit and will. The State's objectives are stated in the Preamble to the 1945 Constitution, namely to protect all the people and all of Indonesia's homeland, advance public welfare, educate the nation's life, and implement world order. Human resources in Indonesia play a very important role in assisting the government system, one of which is Civil Servants. Article 6 of the Republic of Indonesia Law Number 5 of 2014 concerning the State Civil Apparatus (hereinafter written as Law No. 5 of 2014) states that the State Civil Apparatus consists of Civil Servants (PNS) and Government Employees with Work Agreements (PPPK).⁹

The position of Civil Servants (PNS) has a strategic role in the administration of government. PNS as a government tool is very central to its existence because it carries out and implements components of government regulations and policies to realize the goals of the state. These components are manifested in the form of distribution of tasks, functions and responsibilities for PNS.¹⁰ To carry out these tasks and responsibilities, work discipline is the basic capital of every PNS. PNS who are disciplined, have moral integrity, are

⁷ Awaludin Megawati dan Abdul Rahman. "Analisis Kedisiplinan Aparatur Desa di Kantor Desa Lariang Kecamatan Tikke Raya Kabupaten Pasangkayu." *Jurnal Kolaboratif Sains* 4, no.7 (2021): 395-402.

⁸ H. Febriadi, "Motivasi Pimpinan Terhadap Kinerja Pegawai Pada Dinas Pemberdayaan Perempuan dan Perlindungan Anak Kabupaten Hulu Sungai Utara." *Administraus* 5, no.1 (2021): 1-17.

⁹ Gusti Ayu Ade Sukma Surya Putri, I Nyoman Gede Remaja, I Nyoma Surata. "Penerapan Peraturan Pemerintah Nomor 94 Tahun 2021 tentang Disiplin Pegawai Negeri Sipil Dalam Meningkatkan Disiplin Pegawai Negeri Sipil di Kabupaten Buleleng." *Kertha Widya Jurnal Hukum* 10, no. 2 (2022): 117-136.

¹⁰ Firna Novi Anggoro, "Penyalahgunaan Wewenang oleh Pegawai Negeri Sipil (Ratio Legis Pasal 36 Peraturan Pemerintah Nomor 94 Tahun 2021 tentang Disiplin Pegawai Negeri Sipil)", *Jurnal Rechtsvinding* 11, no. 2 (2022): 221-221-228.

professional, and accountable, require PNS disciplinary regulations that serve as guidelines in enforcing discipline so as to be able to encourage PNS to be more productive based on a career system and work performance system. Good work discipline reflects the great responsibility of a PNS towards the tasks given to him so as to encourage the spirit of performance and ultimately be able to realize the goals of the organization.¹¹

Village government is the leading unit and strategic spearhead for the success of a goal. Therefore, efforts to improve the discipline of village officials are one step to accelerate the realization of the village government's goal of improving community welfare. In village government, there is a village head and village officials who have the responsibility to protect, care for, and serve the community.¹² Likewise with village officials. Village officials are the driving force for village government, which of course has a large duty and responsibility to provide services to the community. To realize good service (good governance), of course, discipline is needed. Therefore, regulations were issued that also regulate discipline for village officials. Although both civil servants and village officials have the function of driving public services, both have different rules and of course have different impacts on each of them. In this study, we will discuss one by one the rules for both and whether they have indeed provided a deterrent effect for civil servants and village officials who commit indisciplinary actions in the form of not showing up for work.

Work discipline is an important asset that must be possessed by state apparatus (PNS) because it concerns public service, but ironically the quality of work ethic and work discipline of state apparatus (PNS) in general is still relatively low, this is due to the many problems faced by employees, in an effort to establish employee discipline concerning the determination of working hours, rest hours and home time, the government has provided a regulation by issuing government regulation number 53 of 2010 concerning Civil State regulations.¹³ From the above, we can see that employee work discipline is a crucial issue in government. Therefore, to improve the work ethic of civil servants, the government initially issued Government Regulation Number 53 of 2010 concerning Civil Service Discipline. This regulation explicitly stipulates that civil servants who fail to adhere to working hours will be subject to disciplinary sanctions ranging from light to severe, as detailed in the following table:

No.	No Entry (Workdays)	Types of Disciplinary Punishment
1.	5	verbal reprimand
2.	6-10	written warning
3.	11-15	written statement of dissatisfaction
4.	16-20	postponement of periodic salary increases for 1 year
5.	21-25	postponement of promotion for 1 year
6.	26-30	demotion by one level for 1 year
7.	31-35	demotion by one level lower for 3 (three) years

¹¹Ibid.

¹² Megawati, *Op. Cit.*

¹³ Herry Febriadi, *Op. Cit.*

8.	36-40	transfer in the context of a lower level of position for civil servants who hold certain structural or functional positions
9.	41-45	release from office for civil servants who hold certain structural or functional positions
10.	46 working days or more	honorable dismissal not at one's own request or dismissal not at with respect as a civil servant

In 2021, the government again issued regulations regarding civil servant discipline, namely Government Regulation Number 94 of 2021 concerning Civil Servant Discipline. This regulation further tightens the rules regarding work attendance, as can be seen in the following table:

No	No Entry (Workdays)	Types of Disciplinary Punishment
1.	3	verbal reprimand
2.	4-6	written warning
3.	7-10	written statement of dissatisfaction
4.	11-13	25% performance allowance cut for 6 months
5.	14-16	performance allowance cut of 25% for 9 (nine) months for civil servants
6.	17-20	25% reduction in benefits for 12 (twelve) months
7.	21-24	reduction to a lower level of office for 12 (twelve) months and 14 working days in 1 (one) year;
8.	25-27	release from his position to an acting position for 12 (twelve) months
9.	28 working days or more	honorable dismissal not at one's own request or dishonorable dismissal as a civil servant

We can compare that in the previous regulations, civil servants were dismissed if they did not come to work for 45 working days or more, whereas in the latest regulations, it is stricter. Where not coming to work for 28 days was immediately dismissed, whereas in the previous regulations, 28 days of not coming to work was subject to disciplinary punishment in the form of a demotion to a lower rank for 1 year. In addition to the provisions above, Article 15 of Government Regulation Number 94 of 2021 concerning Civil Servant Discipline states that "Civil servants who do not come to work and do not comply with the provisions of working hours without valid reasons continuously for 10 (ten) working days as referred to in Article 11 paragraph (2) letter d number 4) will have their salary payments terminated starting from the following month." This article provides a significant difference with the previous regulation where there was no clause that 10 consecutive days of civil servants were immediately dismissed.

To ensure that the rules regarding civil servant discipline are truly implemented in every regional apparatus organization, the two Government Regulations have provided strict sanctions for direct superiors who do not conduct inspections of civil servants who commit indiscipline, which we can explain as follows: a) Article 21 of Government Regulation Number 53 of 2010 concerning Civil Service Discipline states that: (2) "If the official who has the authority to punish as referred to in paragraph (1) does not impose a disciplinary penalty on the civil servant who commits a disciplinary violation, the official will be given a disciplinary penalty by his superior. (3) The disciplinary punishment as referred to in paragraph (2) is the same as the type of disciplinary punishment that should be imposed on civil servants who commit disciplinary violations. b) Article 28 of Government Regulation Number 94 of 2021 concerning Civil Servant Discipline: (1) *Direct superiors who do not summon and examine civil servants suspected of committing disciplinary violations, and/or report the results of the examination to the authorized officer who is authorized to punish, will be subject to disciplinary punishment. (2) The Authorized Official who is authorized to impose a heavier disciplinary penalty on the direct superior as referred to in paragraph (1) is carried out after going through an inspection process.* It can be seen that if in the old rules the direct superior who did not conduct an inspection and impose disciplinary sanctions on civil servants who committed indiscipline would be given the same punishment as the civil servant who committed indiscipline, then in the latest rules it is even stricter where the direct superior is given a punishment that is one level heavier than the civil servant who committed indiscipline. This of course will result in superiors who try to cover up civil servant mistakes will not dare and of course have an impact on civil servants who want to commit indiscipline will think more, because they feel supervised by their direct superior.

What about village officials? We can look at the rules governing the discipline of village officials, namely Law Number 6 of 2014 concerning Villages as amended by Law Number 3 of 2024 concerning the Second Amendment to Law Number 6 of 2014 concerning Villages. Article 51 letter l of Law Number 6 of 2014 concerning Villages states that "Village officials are prohibited from: leaving their duties for 60 (sixty) consecutive working days without clear and irresponsible reasons." Then the sanctions are expressly stated in Article 52 of Law Number 6 of 2014 concerning Villages which states that: *Article (1) Village officials who violate the prohibitions as referred to in Article 51 shall be subject to administrative sanctions in the form of verbal warnings and/or written warnings. Article (2) If the administrative sanctions as referred to in paragraph (1) are not implemented, temporary suspension will be taken and may be followed up with dismissal.*

We can see that from the above regulations, that the enforcement of discipline regulated in Law Number 6 of 2014 concerning Villages is very loose, where an employee in this case is a new village apparatus can be subject to disciplinary sanctions if he does not come to work for 60 working days which if in a calendar of 3 months or even more and even then only gets disciplinary punishment in the form of an administrative penalty, namely a verbal warning. New sanctions can be given if the village apparatus after receiving a verbal and/or written warning sanction, but still repeats it again, so that only a penalty in the form of temporary suspension is imposed and can then be increased to dismissal. In addition to the very weak punishment, Law Number 6 of 2014 concerning Villages also does not regulate provisions regarding direct superiors having an obligation to conduct inspections of village apparatus who violate provisions such as those in Government Regulation Number 53 of 2010 concerning Civil Servant Discipline as amended to Government Regulation Number 94 of 2021 concerning Civil Servant Discipline. With no obligation for direct superiors to

conduct inspections, the implementation of this rule is increasingly weak and of course is a breath of fresh air for village officials who want to take disciplinary action in the form of not coming to work, so what happens after Law Number 6 of 2014 concerning Villages was amended by Law Number 3 of 2024 concerning the Second Amendment to Law Number 6 of 2014 concerning Villages? Are there any changes that can ensnare village officials who commit disciplinary actions by not coming to work more firmly? Unfortunately, when we look at Law Number 3 of 2024 concerning the Second Amendment to Law Number 6 of 2014 concerning Villages, of the many articles that were amended and added, none of them change or add provisions regarding disciplinary sanctions for village officials who do not come to work more firmly. Village officials remain with the old rule that village officials can be subject to sanctions if they do not go to work for 60 consecutive days.

In addition to the lack of stricter sanctions for village officials who fail to report for work, the latest regulations also fail to include a provision that direct superiors of village officials are not required to conduct inspections of absent village officials. Consequently, the regulations regarding disciplinary sanctions for absent village officials remain weak and unsupervised. We can imagine that if an employee were absent for up to 60 consecutive days, it would significantly hamper not only the employee's personal workload but also the performance of the entire office. Furthermore, village officials are the driving force behind village services. If their officials were frequently absent, it would significantly hamper public services and the development of the village.

No	Type of violation	Indisciplined Perpetrators	Duration (days)	Types of Punishment
1.	Not Going to Work	Village Apparatus	60 consecutive working days	Termination
2.	Not Going to Work	ASN (PNS and PPPK)	10 consecutive working days	Termination

As we can see in the table above comparing civil servants' and village officials' legal punishments, we see a significant difference between the two. The differences in disciplinary punishments, not only do not provide a sense of justice for both parties, but also do not create an equal deterrent effect for both parties. Village officials will naturally be more relaxed when committing disciplinary violations, such as prolonged absences, as they can only be dismissed for a prolonged period of absence, namely 60 days, in contrast to civil servants, who are immediately dismissed after 10 working days.

CONCLUSION

Village officials and State Civil Apparatus (ASN) are subject to different disciplinary regulations. Village officials are regulated under Law Number 6 of 2014 concerning Villages, as amended by Law Number 3 of 2024, while ASN are governed by Government Regulation Number 94 of 2021 concerning Civil Servant Discipline. A significant difference concerns dismissal for prolonged absence: village officials may be dismissed after 60 consecutive days of absence, whereas ASN may face dismissal after 10 consecutive days. Although both provide public services and have similar governmental responsibilities, this disparity raises concerns regarding fairness and the effectiveness of disciplinary enforcement. Therefore, disciplinary standards for village officials should be strengthened to ensure a stronger deterrent effect and continuity of public services. Effective enforcement also requires

supervision by Village Heads, local governments, inspectors, and the community. Similarly, ASN discipline requires integrity and consistency from supervisors in investigating unauthorized absence and from fellow civil servants in reporting violations through established procedures.

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