

Title: #IV-28. Employee Disciplinary Procedure

Date: July 11, 2017 (Replaces #IV-28A dated July 7, 2000)

A. INTRODUCTION

These procedures are established pursuant to Board of Governors [Policy B-21](#), *Employee Discipline*. The purpose of disciplinary action is to correct, not to punish, work-related behavior. Each employee is expected to maintain standards of performance and conduct as outlined by the immediate supervisor and to comply with all applicable policies, procedures and laws. When an employee does not meet the expectations set by the supervisor or other appropriate authority, counseling and/or disciplinary action may be taken to address the employee's behavior.

B. COUNSELING

1. Counseling is not discipline. Counseling makes the employee aware of the concern and provides the employee with information regarding expectations, basis and measures. The supervisor must listen to the employee's explanation for the behavior in question, consider management options, explain what is unsatisfactory, what is expected and how to avoid recurrence and/or improve performance.
2. Counseling may or may not be documented, at the discretion of the supervisor. Documented counseling may or may not be submitted to the employee's personnel file, at the discretion of the supervisor. Documented counseling should confirm the concern, the operational expectation, and the time line for attainment of objectives.

C. DISCIPLINARY ACTION

1. Discipline may be issued to an employee at the discretion of his/her supervisor following an investigation of the matter. Such investigation would include discussions with the employee. Disciplinary actions inform the employee of what is operationally expected and what the consequences are if improvement to a sustained, satisfactory level does not occur.
2. Discipline may be warranted when the employee fails to meet the performance or conduct standards for his/her position or does not adhere to policy or law requirements.

3. Disciplinary action may be taken whenever the behavior of an employee violates a statute, rule, policy, regulation or agreement that adversely affects the efficient and effective operations of his/her unit or brings discredit to WVU at Parkersburg or a subdivision. Dependent upon the actual and potential consequences of the offense, employee misconduct may be considered minor misconduct or gross misconduct.
 - a. **Minor misconduct** is generally of limited actual and potential consequence and deemed by the supervisor as correctable by counseling and/or instruction through progressive discipline for subsequent similar behavior. Progressive discipline requires notice of concern and expectations to the employee through letter(s) of warning. These warning letters are provided progressively for subsequent similar offenses and may provide for suspension, demotion and ultimately termination.
 - b. **Gross misconduct** is of substantial actual and/or potential consequence to operations or persons, typically involving flagrant or willful violation of policy, law, or standards of performance or conduct. Gross misconduct may result in any level of discipline up to and including immediate dismissal at the supervisor's discretion.

D. BEFORE DISCIPLINARY ACTION IS TAKEN

1. Before disciplinary action may occur, the supervisor must give the employee ~~oral or~~ written notice of the charges against him/her, why the behavior is unsatisfactory, an explanation of the employer's evidence, and an opportunity to present his/her explanation of the behavior in question.
2. Written notice of intent must be issued for situations impacting wages and/or terms of employment, i.e. demotion, suspension, or termination, with an opportunity for the employee to present his/her explanation of the behavior in question, prior to any disciplinary action being taken.
3. All disciplinary action taken will be confirmed in writing to the employee.

E. DOCUMENTATION

1. All disciplinary actions are to be documented. The documentation should include the issue(s) of concern and the impact; the policy, law or standard violated; the operational expectation; the improvement/corrective plan and time line; and the specific level of subsequent discipline for failure to improve and sustain behavior at a satisfactory level.
2. A copy of the disciplinary documentation is to be forwarded to the Director, Human Resources for inclusion in the employee's personnel file.

When a year has passed since disciplinary action was initiated, and there has not been a subsequent disciplinary action for a similar or related offense, that action may be considered inactive and not used for the purpose of furthering progressive discipline with an employee.

F. TYPES OF DISCIPLINE

1. Written Warnings

- a. Written warnings may be issued without counseling for minor misconduct, if the employee knows the standard of performance or conduct, policy or law violated.
- b. A non-probationary employee with more than six (6) months of consecutive service with the college may be dismissed under progressive discipline after the prior issuance of two (2) written warnings for similar offenses.
- c. In absence of six (6) months of consecutive service within the college, an employee may be dismissed under probationary separation after prior issuance of one (1) written warning for a similar offense.
- d. Gross misconduct may result in a notice of intent to terminate.

2. Demotion

- a. Demotion occurs when an employee is voluntarily or involuntarily moved to a vacant position in a lower pay grade than his/her former position for disciplinary reasons. Demotion may occur when an employee unsatisfactorily performs on the job, however, can satisfactorily accomplish the responsibilities of a vacant position within the control, and at the discretionary approval, of the supervisor or higher administrative authority. The employee's salary will be ~~reduced~~ adjusted consistent with compensation policy. A new probationary period begins the day the new employee begins his/her new position.
- b. Demotion shall only occur after consultation with the Director, Human Resources. The Director, Human Resources may consult with General Counsel regarding the situation prior to any disciplinary action.
- c. Before disciplinary action may occur, the supervisor must give the employee written notice of the intent to demote, the charges against him/her, why the behavior is unsatisfactory, an explanation of the employer's evidence, and an opportunity to present his/her explanation of the behavior in question within a reasonable timeframe.

d. Any demotion action taken will be confirmed in writing to the employee.

3. Suspension

a. Depending upon the severity of the offense and the employee's previous record, the supervisor may suspend a non-exempt employee without pay for a period of 1-15 working days when, in the judgment of the supervisor, improved performance is attainable without resorting to discharge.

b. Exempt employees may be suspended without pay for a period of 1-15 working days for a major safety violation. In all other circumstances, exempt employee suspensions must be in week-long increments to a maximum of three weeks. Suspension shall only occur after consultation with the Director, Human Resources. The Director, Human Resources may consult with General Counsel regarding the situation prior to any disciplinary action.

c. Before disciplinary action may occur, the supervisor must give the employee written notice of the intent to suspend, the charges against him/her, why the behavior is unsatisfactory, an explanation of the employer's evidence, and an opportunity to present his/her explanation of the behavior in question within a reasonable timeframe.

d. Any suspension action taken will be confirmed in writing to the employee.

4. Dismissal

a. An employee with less than six (6) months of consecutive service with the college may be dismissed under a probationary separation after prior issuance of one (1) written warning for a similar offense.

b. A non-probationary employee with more than six (6) months of consecutive service with the college may be dismissed under progressive discipline after the prior issuance of two (2) written warnings for similar offenses.

c. Gross misconduct may result in immediate dismissal.

d. Dismissal shall only occur after consultation with the Director, Human Resources. The Director, Human Resources may consult with General Counsel regarding the situation prior to any disciplinary action.

e. Before disciplinary action may occur, the supervisor must give the employee written notice of the intent to terminate (dismiss), the charges against him/her, why the behavior is unsatisfactory, an explanation of the employer's evidence, and an opportunity to present his/her explanation of the behavior in question within a reasonable timeframe.

- f. Upon notice of intent to terminate the employee may be assigned work to take place outside of the workplace until the projected date of termination.
- g. Any dismissal action taken will be confirmed in writing to the employee.
- h. When disciplinary dismissal occurs, the employee is entitled to receive pay for any earned annual leave, compensatory time off and personal days.

G. VIOLATIONS CONSIDERED GROUNDS FOR DISCIPLINARY ACTION

1. Any policy, law or standard of performance or conduct violation may result in disciplinary action.
2. Behaviors considered gross misconduct and subject to immediate dismissal include, but are not limited to:
 - Insubordination and/or disobedience
 - Illegal activities
 - Neglect of duties, including failure to properly report off work for two (2) consecutive workdays; sleeping on the job; leaving the work site without authorization; disguising or removing defective work; willfully limiting production and/or influencing others to do the same
 - Jeopardizing the health, safety or security of persons or college property; verbal or physical assault, bringing weapons to the work site, arson, sabotage
 - Reporting to work under the influence of alcohol or narcotics, using, possessing or distributing same in the course of employment
 - Dishonesty and/or falsification of records
 - Convictions with a rational employment nexus
 - Causes for dismissal of a faculty member as specified in Section 12 of WV Council for Community and Technical College Education Procedural Rule, Title 135, [Series 9](#)

H. APPEALS

An employee who believes he/she has been disciplined unjustly may pursue a grievance pursuant to [W.Va. Code § 6C-2. et seq.](#)

Responsible Administrator: Director, Human Resources, 304-424-8212