

Article X Discipline and Dismissal for Just Cause

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Section 1. Policy

It is the policy of the County to provide a fair and consistent process for correcting and improving performance problems and to take necessary disciplinary action when performance does not improve or when incidents occur involving unacceptable personal conduct or grossly inefficient performance.

An employee may be warned, suspended (without pay) for disciplinary reasons or suspended with pay for non-disciplinary reasons, demoted, or dismissed by the employee's department head for just cause. Just cause may be for job performance, personal conduct, or grossly inefficient performance.

All cases of disciplinary suspension, demotion, or dismissal must be approved by the County Manager prior to giving final notice to the employee.

Section 2. Disciplinary Actions

Disciplinary actions that may be taken include written warning, suspension without pay, demotion, and dismissal.

The action that a supervisor initiates is contingent on the just cause reason for the incident. Actions are cumulative and may be taken in varied combinations. Supervisors should reference the appropriate section of this Article depending on the just cause reason.

Section 3. Unsatisfactory Job Performance Defined

Unsatisfactory job performance includes any aspect of the employee's job, which are not performed as required to meet the standards set by the supervisor. Examples of unsatisfactory job performance include, but are not limited to, the following:

- 1) Demonstrated inefficiency, negligence, or incompetence in the performance of duties;
- 2) Careless, negligent or improper use of County property or equipment;
- 3) Physical or mental incapacity to perform duties;
- 4) Discourteous treatment of the public or other employees;
- 5) Absence without approved leave;

- 6) Repeated improper use of leave privileges;
- 7) Habitual pattern of failure to report for duty at the assigned time and place;
- 8) Failure to complete work within time frames established in work plan or work standards; or
- 9) Failure to meet work standards over a period of time.
- 10) A rating of "Overall Performance Needs Improvement" as defined in the county's Performance Evaluation Policy where applicable.

Section 4. Communication and Disciplinary Action for Unsatisfactory Job Performance

Counseling Sessions

When an employee's job performance is unsatisfactory, or when incidents or inappropriate actions warrant, the supervisor should meet with the employee as soon as possible in one or more counseling sessions to discuss specific performance problems and plan ways to improvement performance.

The supervisor or department head should discuss in what way the employee's work is deficient and what must be done if the work is to be satisfactory. A brief summary of these counseling sessions shall be noted in the employee's file by the supervisor, and cover the dates of discussion, performance deficiencies, ways to improve and time frames for improvement and follow-up.

Disciplinary Actions

The degree and type of action taken shall be based on consideration of the facts of the incident. Two disciplinary actions are required prior to dismissal. The first disciplinary action for an incident of job performance is a written warning. Pre-disciplinary conferences must be held prior to each disciplinary action.

Written warnings must state that it is a warning, specify the employee's conduct or performance deficiencies that are the reason for the warning, specific performance or conduct improvements that are required to achieve satisfactory performance, time limits set for improvement, consequences of failing to make the required improvements, and right of appeal. The supervisor will record and file the information in the employee's personnel file. The County Manager will be notified of all disciplinary action taken.

If the employee's performance continues to be unsatisfactory, then the supervisor may issue a second warning, suspend without pay, or demote the employee.

If unsatisfactory performance continues, dismissal shall be recommended to the County Manager after at least two disciplinary actions, which may be for unsatisfactory job performance, grossly inefficient performance, or unacceptable personal conduct, have been taken.

Section 5. Grossly Inefficient Job Performance and Unacceptable Personal Conduct Defined

Grossly inefficient job performance

Exists when job performance is so unsatisfactory that it:

Causes or results in death or serious injury to employee, members of the public or to persons for whom the employees have responsibility;

Results in the serious loss of or damage to County property or funds adversely impacting the County and/or the work unit; or

Failure to obtain or maintain legally required certificates, licenses, bonds or other credentials.

Results in a rating of "Overall Unacceptable" as defined in the county's Performance Evaluation Policy where applicable.

Unacceptable personal conduct may be created by intentional or unintentional acts, and may be job related or off duty as long as there is a sufficient connection between the conduct and the employee's job.

Examples of unacceptable personal conduct include, but are not limited to, the following:

- 1) Fraud or theft;
- 2) Commission of a felony or the entry of a plea of nolo contendere thereto;
- 3) Falsification of records for personal profit, to grant special privileges, or to obtain employment;
- 4) Willful misuse or gross negligence in the handling of County funds;
- 5) Willful or wanton damage or destruction to property;
- 6) Willful or wanton acts that endanger the lives and property of others;
- 7) Possession of unauthorized firearms or other lethal weapons on the job;

- 8) Brutality in the performance of duties;
- 9) Reporting to work under the influence of alcohol or drugs or partaking of such while on duty. Prescribed medication may be taken within the limits set by a physician as long as medically necessary;
- 10) Engaging in incompatible employment or servicing a conflicting interest;
- 11) Request or acceptance of gifts in exchange for favors or influence;
- 12) Engaging in political activity prohibited by this section; or
- 13) Stated refusal to perform assigned duties or flagrant violation of work rules and regulations.

Section 6. Disciplinary Action for Grossly Inefficient Job Performance and Unacceptable Personal Conduct

When an incident of grossly inefficient job performance or unacceptable personal conduct occurs, the department head must consider the severity of the incident and may issue a warning, suspend without pay, demote or dismiss. No warning or other disciplinary action is required prior to dismissal. A pre-disciplinary conference must be conducted with the employee prior to disciplinary action. Advance notice of the pre-disciplinary conference should be given as much as practical under the circumstances. Refer to the Pre-disciplinary Conference and Investigatory Suspension provisions.

An employee may be suspended by the department head for causes related to gross inefficiency of performance or personal conduct in order to 1) avoid undue disruption of work, 2) to protect the safety of persons or property, or 3) for other serious reasons. When a department head takes immediate suspension action with an employee, the employee shall be required to leave County property at once and remain away until further notice. The department head shall notify the County Manager immediately. A written summary giving the circumstances and facts leading to the immediate suspension, and setting a conference time and location shall be prepared; one copy shall be delivered to the employee by certified mail, one copy shall be filed in the employee's personnel file, and one copy shall be filed with the County Manager

Section 7. Pre-Disciplinary Conference

Before any disciplinary action is taken, whether for grossly inefficient job performance, unacceptable personal conduct, or unacceptable performance, the department head shall provide the employee with an oral or written advance notice of the proposed disciplinary action, which will include the proposed disciplinary action being considered, its recommended effective date, the reason(s) for the action, and a date and time for a pre-disciplinary conference. If demotion is the disciplinary action being considered the notice must include the change that will occur in the employee's salary rate and/or pay

grade. At this conference the employee may present any response to the proposed disciplinary action to the department head. The department head will consider the employee's response, if any, to the proposed disciplinary action, and will, within three (3) working days after the pre-disciplinary conference, notify the employee in writing of the final decision to take disciplinary action.

In incidents involving dismissal of SPA employees, communication of the decision cannot be given before the start of the business day after the conference. The notice of final disciplinary action shall contain a statement of the reason(s) for the action, the effective date of the action, and the employee's appeal rights. The County Manager will be provided with a written notice of action taken.

The County Manager has the final approval on dismissal action.

Section 8. Disciplinary Suspension

An employee may be suspended without pay as a disciplinary action for job performance, grossly inefficient performance or personal conduct reasons. In incidents involving job performance a warning is required before the employee can be suspended.

A disciplinary suspension without pay must be for at least one full work week and not more than two work weeks for salaried employees exempt from the Fair Labor Standards Act. For all other employees' suspension without pay would normally be up to a maximum of forty (40) hours.

Section 9. Investigatory Suspension With Pay

Investigatory suspension with pay may be used to provide time to investigate, establish facts, and reach a decision concerning deficiencies that would constitute just cause. Investigatory suspension with pay may be appropriately used to provide time to schedule and hold a pre-dismissal conference. Also, the County may elect to use an investigatory suspension with pay in order to avoid undue disruption of work or to protect the safety of persons or property. An investigatory suspension with pay shall not exceed thirty (30) calendar days. If no action has been taken by management by the end of thirty calendar days, one of the following must occur: reinstatement of the employee or appropriate disciplinary action based on the results of the investigation.

Investigatory suspension of an employee shall not be used for the purpose of delaying an administrative decision on an employee's work status pending the resolution of a civil or criminal court matter involving the employee.

An employee who has been suspended for investigatory reasons may be reinstated with up to three (3) days' pay deducted from his or her salary. The decision to deduct pay is to be based upon management's determination of the degree to which the employee was responsible for or contributed to the reasons for suspension. This period constitutes

a disciplinary suspension without pay and must be effected in accordance with Sections 6 and 7 of this Article.

If the employee is reinstated following the suspension such employee shall not lose any benefits to which otherwise the employee would have been entitled had the suspension not occurred. If the employee is terminated following suspension, the employee shall not be eligible for any pay from the date of suspension; provided, however, all other benefits with the exception of accrued annual leave and sick leave shall be maintained during the period of suspension.

Section 10. Dismissal Relating to Credentials

State statute and local rules may require specific licensure, registration or certification as defined on the specification (job description) for the class of work. Employees in such classifications are responsible for obtaining and maintaining current, valid credentials as required by law, rule or ordinance. Failure to obtain or maintain the required credentials constitutes a basis for immediate dismissal without prior warning. Falsification of employment credentials or other documentation in connection with securing employment constitutes just cause for disciplinary action.

Section 11. Employee Appeal

An employee wishing to appeal a disciplinary action may present the matter using the grievance procedure prescribed in Article X of this policy.