

02. PERSONNEL

2.16. Discipline

BOS Adopted – Jul 1, 2004

2.16.1. Policy

A. The County of Fluvanna shall support the practice whereby all part-time, temporary, and permanent employees shall be disciplined by the same process. The discipline of an employee shall be a progressive process.

B. Constitutional Officers may adopt their own disciplinary policies for their respective employees; a copy of such policy shall be made available upon request to the County Administrator. For employees of Constitutional Officers that have chosen to adopt the disciplinary policy outlined in this section, all references to the “County Administrator” shall be interpreted to mean the “Constitutional Officer”.

C. Disciplinary actions of lesser severity than dismissal shall be taken in an attempt to correct an employee’s unsatisfactory work performance or misconduct before a dismissal is initiated. A dismissal may be generally considered as appropriate only as a last resort or be undertaken only when an extremely serious policy violation has occurred. Disciplinary actions may take any of the following forms and are not necessarily restricted to the order set forth below:

1. Counseling Session
2. Written Reprimand
3. Suspension
4. Administrative Decrease
5. Demotion
6. Dismissal

2.16.2. Disciplinary Actions

A. Counseling Session. Counseling refers to an informal discussion with the employee about a work performance or behavior problem which, if not corrected, could lead to disciplinary action. A counseling session should:

1. Be held in private.

2. Include an interchange between the supervisor and employee as to what course of action should be taken to improve performance or correct behavior. Goals and objectives may need to be established.

3. Clarify, to the employee, the supervisor's expectations.

A counseling session may be followed up by a memorandum or letter documenting the contents of the conversation. Documentation of counseling sessions should be maintained in the supervisor's file, not the employee's official personnel file except as a backup to subsequent Written Notices.

B. Reprimand

1. When issuing a written reprimand, a copy shall be hand delivered and signed received or mailed to the employee certified mail (return receipt requested) and a copy placed in the employee's personnel file.

2. Reprimands shall be appealable through the grievance procedure.

3. Reprimands not appealed within the appropriate time limits specified by the grievance procedure shall become part of the official personnel file until it is purged by the employing authority.

4. When twelve months shall have elapsed from the date a written reprimand is filed with an employee's personnel records, without a second reprimand having been given, it shall not be considered in any determination of the propriety of future disciplinary actions.

C. Suspensions. Department heads shall have the authority to suspend an employee for a period not to exceed five consecutive days, or thirty (30) days within one (1) calendar year if approved by the County administrator.

1. A written notice of suspension including the items below shall be hand delivered and signed received or mailed certified mail (return receipt requested) to the employee.

a. A statement of the reasons for the suspension.

b. A warning of what further disciplinary action could result, if the situation is not corrected.

c. A statement of the employee's right to appeal (if any) in accordance with the County's grievance policy.

2. A copy of such written notice shall be forwarded to the personnel office for its inclusion in the employee's personnel file.

D. Administrative Decrease. An administrative decrease shall require a letter of justification submitted by the department head to the County Administrator's office and such decreases shall be subject to the approval of the County Administrator.

1. Once an administrative decrease has been authorized, a written notice of the decrease including the items listed below shall be hand delivered and signed received or mailed certified mail (return receipt requested) to the employee.

- a. A statement of the reasons for the decrease.
- b. A warning of what further disciplinary actions could result, if the situation is not corrected.
- c. A statement of employees rights to appeal (if any) in accordance with the County's grievance policy.

2. A copy of such written notice shall be forwarded to the personnel office for its inclusion in the employee's personnel file.

E. Demotion. Demotions are sometimes necessary in order that employees whose work has not been satisfactory, but whose dismissal does not appear warranted, may be retained and assigned less difficult work by the employee's department administrator. The department head is required to gain the approval of the County Administrator before the demotion procedure takes place. The department head must inform the Payroll Department of the new rate of pay.

1. A written notice of the demotion including the items listed below shall be hand delivered or mailed to the employee certified mail (return receipt requested).

- a. A statement of the reasons for the demotion.
- b. In cases where the demotion is not voluntary, include a warning of what further disciplinary action could result, if the situation is not corrected.
- c. A statement of employee rights to appeal (if any) in accordance with the County's grievance policy.

2. A copy of such written notice shall be forwarded to the Personnel office for its inclusion in the employee's official personnel file.

F. Dismissals. Dismissals will be made for inefficiency, insubordination, misconduct or other just cause. A department head, subject to the approval of the County Administrator, may dismiss any employee in his or her department at any time. The department head shall give the employee written notice of dismissal, including the reasons thereof, and shall send a copy of the notice to the County Administrator.

2.16.3. Unsatisfactory Work Performance or Misconduct. Each need for discipline has varying circumstances and requires the exercise of discretion on the part of the supervisor. Disciplinary action may be taken against an employee for any of the following examples of unsatisfactory work performance and misconduct. These examples are not in any way to be construed as a comprehensive listing of possible violations nor are they to be considered as rigid guidelines.

- a. Recurring tardiness without reasonable explanation.
- b. Absence without leave.
- c. Violation of policy on intoxicants.
- d. Sleeping on the job.
- e. Serious neglect of work.
- f. Serious neglect of duty or refusal to comply with instructions of a supervisor.
- g. Insubordination.
- h. Deliberate or careless conduct endangering the safety of oneself or other employees.
- i. Negligence in the care and handling of County property.
- j. Theft of County property or of another employee's property.
- k. Incompetence or inefficiency in the performance of required job duties.
- l. Use of offensive, abusive, threatening, coercive, indecent or discourteous language toward supervisors, other employees, or members of the public.
- m. Intentional falsification of personnel records, time records, or any other County records or reports.
- n. Provoking, instigating or participating in a fight while on duty or on County property.
- o. Unauthorized carrying of a concealed weapon during work hours or on County property.
- p. Any violations of county policies including sexual harassment.
- q. Being charged with or convicted of criminal activity.
- r. Dishonesty in any form, including falsification of one's employment application or history.

2.16.4. Removals Due to Circumstances Which Prevent an Employee from Performing the Job

A. Employees unable to meet the working conditions or their employment due to circumstances such as those listed below may be removed under this section. Examples of such circumstances: loss of driver's license which is required for the job; incarceration for an extended period of time; loss of certificate or license required for the job, etc.

B. Prior to such removal, the appointing authority shall notify the employee, orally and in writing, of the reasons for such removal and give the employee a reasonable opportunity to respond.

C. Final notification of removal shall be via letter or memorandum rather than by Written Notice form.

D. Removals under this section should be reported to the County Administrator.

2.16.5. Groups of Offenses

A. First Group Offenses (Group I)

1. First group offenses include types of behavior least severe in nature but which require correction in the interest of maintaining a productive and well-managed work force. Group I offenses include, but are not limited to:

- a. Unsatisfactory attendance or excessive tardiness.
- b. Abuse of County time. Examples include unauthorized time away from the work area, use of County time for personal business, abuse of sick leave, etc.
- c. Obscene or abusive language.
- d. Inadequate or unsatisfactory job performance.
- e. Disruptive behavior.
- f. Conviction of a moving traffic violation while using a County or other public-use vehicle.

2. Procedures for issuing a Group I notice

- a. When issuing an employee a Written Notice form for a Group I offense, management should issue such notice as soon as possible.
- b. Group I notices shall be cumulative in nature. Upon the accumulation of three “active” Group I offenses, the employee normally should be suspended without pay but such suspension shall not exceed five workdays. A fourth active Written Notice normally shall result in removal. NOTE: Mitigating circumstances may justify the use of demotion, suspension for up to 30 workdays, and/or transfer as an alternative to removal.
- c. A Written Notice for a Group I offense shall remain active for two years from the date of issuance.

B. Second Group Offense (Group II)

1. These offenses include acts and behavior that are more severe in nature and are such that an addition Group II offense normally should warrant removal. Group II offenses include, but are not limited to;

- a. Failure to follow a supervisor’s instructions, perform assigned work or otherwise comply with applicable established written policy.
- b. Violating safety rules where there is not a threat of bodily harm.

c. Reporting to work when impaired by or under the influence of alcohol, or the unlawful use of controlled substances.

d. Failure to report to work as scheduled without proper notice to supervision.

e. Unauthorized use or misuse of County property or records.

f. Refusal to work required overtime.

2. Procedures for issuing a Group II notice

a. When issuing an employee a Written Notice form for a Group II offense, management should issue such notice as soon as practicable. Discipline normally shall take the form of the notice only or notice and up to 10 workdays maximum suspension without pay.

b. An additional Group II offense normally should result in removal. Further, a single Group II offense coupled with three active Group I offenses normally should result in removal.

NOTE: Mitigating circumstances may justify the use of demotion, suspension for up to 30 workdays, and/or transfer as an alternative to removal.

c. If the employee is not removed, due to mitigating circumstances, the employee is to be notified that any subsequent Written Notice issued during the active life period, regardless of level, may result in removal.

d. Written Notices for Group II offenses shall remain active for three years from the date of issuance.

C. Third Group Offenses (Group III)

1. These offenses include acts and behavior of such a serious nature that a first occurrence normally should warrant removal. Group III offenses include, but are not limited to:

a. Absence in excess of three days without proper authorization or satisfactory reason.

b. Falsifying any records. Such records include, but are not limited to: vouchers, reports, insurance claims, time records, leave records, or other official County documents.

c. Willfully or negligently damaging or defacing County records, County property or other person's property (to include employees, supervisors, visitors, etc).

d. Theft or unauthorized removal of County records, County property, or other person's property (to include employees, supervisors, visitors, etc).

e. Gambling on County property or during work hours.

f. Acts of physical violence or fighting.

g. Violating safety rules where there is a threat of bodily harm.

h. Sleeping during working hours.

i. Participating in any kind of work slowdown, sitdown, or similar concerted interference with County operations.

j. Unauthorized possession or use of firearms, dangerous weapons or explosives.

k. Threatening or coercing persons associated with any County agency (to include employees, supervisors, visitors, etc).

l. Criminal convictions for acts of conduct occurring on or off the job that are plainly related to job performance or are of such a nature that to continue the employee in assigned position could constitute negligence in regard to the agency's duties to the public or to other County employees.

2. Procedures for issuing a Group III notice

a. When issuing an employee a Written Notice form for a Group III offense, management should issue such notice as soon as practicable. Discipline normally shall take the form of the notice and removal or notice and up to 30 workdays maximum suspension without pay in lieu of removal.

NOTE: Mitigating circumstances may justify the use of demotion, suspension for up to 30 workdays, and/or transfer as an alternative to removal.

b. If the employee is not removed, due to mitigating circumstances, the employee is to be notified that any subsequent Written Notice issued during the active life period, regardless of level, may result in removal.

c. Written Notices for III offenses shall remain active for four years from the date of issuance.

2.16.6. Mitigating Circumstances

A. Unacceptable behavior shall be divided into three types of offenses according to their severity. Specified corrective action for such offenses shall not be exceeded. However, when in the judgment of the County Administrator, the Constitutional Officer for their respective employees, department management and/or the appointing authority, mitigating circumstances exist, specified corrective action may be reduced.

B. Mitigating circumstances include those conditions related to a given offense that would otherwise serve to support a reduction of corrective action in the interest of fairness and objectivity.

C. Mitigating circumstances also may include consideration of an employee's long service and/or a history of otherwise satisfactory work performance.

D. Mitigating circumstances also may justify the use of demotion, transfer, and/or suspension as an alternative to removal. Suspension in lieu of removal shall not exceed 30 workdays for a Group III offense or an accumulation of a Group I or Group II offenses.

2.16.7. Notice to Employee of Disciplinary Demotion, Transfer, Suspension, or Removal Action

A. Prior to any disciplinary demotion, transfer, and/or suspension, or disciplinary removal action, an employee shall be given:

1. Oral and written notice of the offense;
2. An explanation of the agency's evidence in support of the charge; and
3. A reasonable opportunity to respond.

B. The Written Notice form confirming the cause and nature of the disciplinary demotion, transfer, and/or suspension, or removal action shall be provided to the employee. All Written Notices shall include a reference to the employee's right to grieve.

2.16.8. Exception to Prior Notification

A. An employee may be sent immediately away from the work area when the employee's continued presence:

1. May be harmful to self or other employees or clients,
2. Makes it impossible for the agency to execute its functions, or
3. Could constitute negligence in regard to the agency's duties to the public or other employees.

B. In such cases, the employee shall be given: a) notice of the charges and an explanation of the agency's evidence as soon as possible thereafter and b) shall then be given a reasonable opportunity to respond prior to being placed on suspension without pay or being removed.

C. When an employee is sent away from work under this exception, such action should be reported to the County Administrator as "Pre-disciplinary Action Leave."