

**BREVARD COUNTY
MERIT SYSTEM POLICIES
POLICY XII**

Title: **DISCIPLINARY ACTIONS**

I. OBJECTIVE

To provide an effective supervisory tool which can modify inappropriate employee behavior, generating opportunities for success rather than failure, when a supervisor communicates and consistently and fairly applies reasonable work standards (rules) to employee behavior.

II. DIRECTIVES

A. OVERVIEW

Disciplinary action should be taken when just cause exists. Generally, employee misconduct should be dealt with using a progression of disciplinary actions. However, in recognition of the fact that each instance differs in many respects from somewhat similar situations, each occurrence should be treated on an individual basis without creating a precedent for other cases which may arise in the future.

B. PROGRESSIVE DISCIPLINE

The progression of disciplinary actions, from least to most severe is as follows:

1. Verbal Counseling
2. Written Reprimand
3. Suspension
4. Demotion, Reduction in Pay and/or Placement on Disciplinary Probation
5. Dismissal

C. PRE-DISCIPLINARY HEARINGS

A pre-disciplinary hearing shall be provided to all employees in established positions, including those in probationary status, prior to the implementation of the disciplinary actions of suspension, demotion, reduction in pay, placement on disciplinary probation and/or dismissal. The hearing process shall provide employees with adequate notice of the charges and an opportunity to respond before a decision is made.

D. AUTHORITY TO IMPOSE DISCIPLINE

The authority to impose disciplinary actions involving suspensions, demotions or reductions in pay, or dismissals is reserved for the appointing authority. Such authority may be delegated to a subordinate supervisor, but any action of this nature must be reviewed and countersigned by the appointing authority.

DISCIPLINARY ACTIONS POLICY (continued)

E. DISCIPLINARY PENALTIES

The examples listed below represent typical grounds for disciplinary actions leading up to and including dismissal and are not intended to be all inclusive. Penalties for offenses not listed will be prescribed in consistence with offenses of comparable gravity. Should more than one offense be under consideration, the violations do not necessarily have to be identical in order to be classified as a second or third offense. Penalties for disciplinary offenses should normally fall within the suggested range, however, these ranges are merely guides and are not intended to limit the right of management to determine what constitutes an appropriate penalty. Depending on the nature of the offense, the past record of the employee, or extenuating circumstances, a more severe penalty, a lesser penalty, or a penalty outside of the range may be imposed. In the case of a dismissal offense, the minimum penalty for a first offense will be suspension.

When a full time permanent employee (40 work hours per week) is given time off without pay as a result of disciplinary action, the day off shall equate to an eight (8) hour day. Part time employee disciplinary time off without pay will be on a pro rata basis.

Deductions from pay of all employees (including exempt employees) may be made for unpaid disciplinary suspensions of one or more full days imposed for infractions of workplace conduct rules. Exempt employees will be subject to unpaid suspensions only as permitted by FLSA.

1. Range of Penalties for Minor Offenses

First Offense - Verbal counseling up to written reprimand

Second Offense - Written reprimand up to three (3) days suspension

Third Offense - Up to five (5) days suspension

Fourth Offense - Up to discharge

Minor Offenses:

- Poor housekeeping or occasional substandard work quality.
- Selling or soliciting on County property without prior authorization.
- Failure to obtain approval prior to engaging in other than County employment or business activity.
- Failure to report absence from work in a timely manner to the immediate supervisor or his/her designee. (Call-in times in this rule may be adjusted in each operation to comply with functional requirements. Employees shall be provided with notification of specific requirements.)
- Neglect, carelessness or disregard of common safety practices.
- Any act of negligence which results in a failure to complete assigned tasks or responsibilities in a timely and/or satisfactory manner.
- Failure to pay or make reasonable provision for future payment of legal debt which has caused annoyance or discredit to the County.

DISCIPLINARY ACTIONS POLICY (continued)

- Use or possession of another employee's working equipment without the employee's consent.
- Malicious mischief, horseplay, wrestling, or other undesirable conduct.
- Unexcused tardiness.
- Creating or contributing to unsafe or unsanitary conditions.
- Loafing, neglect of duties or otherwise wasting work time.
- Smoking in designated non-smoking areas in County facilities.

2. Range of Penalties for Major Offenses

First Offense - Written reprimand up to three (3) days suspension

Second Offense - Up to five (5) days suspension

Third Offense - Up to discharge

Major Offenses:

- Leaving the job during working hours without notice to or permission from supervisor.
- Absence without approved leave or failure to report after leave has been disapproved, revoked or canceled.
- Failure to report for overtime work without good reason after being scheduled to work.
- Failure to report a personal injury or equipment damage immediately to one's supervisor.
- Careless use of County property resulting in damage.
- An accident resulting in injury, due to carelessness, neglect or disregard of safety practices.
- Distribution of or posting written or printed matter of any description unless approved.
- Unauthorized removal of notices or signs from County bulletin boards.
- Abuse or misuse of the grievance procedure by filing habitual or unjustified grievances.
- Sleeping during working hours unless otherwise authorized, as in the Fire Rescue Service.
- Gambling on County property.

DISCIPLINARY ACTIONS POLICY (continued)

- Loss of County property through carelessness or negligence.
- Conduct which is considered disrespectful, or the use of insulting, abusive or obscene language to or about fellow employees or the public.
- Hindrance of operations because of excessive absenteeism or tardiness.
- Improper or unauthorized use of County property or equipment.
- Smoking in an area designated as non-smoking because of safety considerations.
- Operation of any County owned vehicle or equipment while under the influence of any medication or drug which causes drowsiness or other physical or psychological impairments.

Dismissal Offenses:

Reasons for dismissal of an employee may include, but not be limited to, the following:

- Wanton or willful neglect in the performance of assigned duties.
- Deliberate misuse, destruction or damage to any County property or the property of another person.
- Deliberate misuse of County's time, personnel and/or property for personal purpose.
- Failure to return to work upon expiration of a leave of absence.
- Abandonment of position by being absent from duty for three (3) consecutive workdays without proper authorization.
- Insubordination by refusing to perform assigned work or to comply with an official and legal supervisory directive, or by demonstrating an antagonistic, disrespectful or belligerent attitude toward management.
- Violation of a safety rule or regulation resulting in an injury or death, or refusal to use proper safety equipment when provided.
- Misappropriation of County funds; unauthorized sale or disposal of County property for personal gain or profit; deliberate falsification of official reports; or violation of any other public trust.
- Falsification of any County records, reports, documents or correspondence.
- Providing false information to a supervisor or member of management.
- Conviction or guilt of any felony crime or a misdemeanor concerned with immoral conduct.
- Engaging in an illegal strike, work stoppage, slow down or acts of sabotage or vandalism.
- Refusal to sign or execute an oath of citizenship, oath of loyalty or other document

DISCIPLINARY ACTIONS POLICY (continued)

required by law or County regulations.

- Possession of firearms, explosives or other weapons while on duty or on County property or in a County vehicle, in a manner prohibited by County Policies and Procedures, Florida and/or Federal Law.
- The sale of narcotics or other illegal substances.
- Inability or unfitness to perform assigned duties.
- Concealment of a communicable disease which could endanger the health of other employees or the public.
- Providing entrance or access to County facilities or property to unauthorized persons.
- Theft, concealment or removal of County property or the property of another employee without proper authorization.
- Demonstrated pattern of inefficiency or incompetence in the performance of assigned duties.
- Making false claims or deliberate misrepresentations in an attempt to obtain sickness or injury benefits, workers' compensation or other such benefits.
- Fighting, threatening, intimidating, coercing or otherwise interfering with the rights of other persons.
- Threatening physical violence or striking a supervisor.
- Creating a hostile or offensive work environment.
- Loss or suspension of a required license, certification, permit or other requirement needed by an employee to perform the duties of his/her position.
- Failure to cooperate in an official investigation related to work.
- Conduct that raises obvious questions as to the employee's ability to maintain public trust.
- Discriminatory Harassment - Any unwelcome verbal comments or physical acts relating to an individual's race, color, gender, age, religion, national origin, veteran status, marital status or other characteristic protected by law which interferes with an employee's ability to perform his/her duties or which creates an offensive working environment.
- Consumption of or being under the influence of intoxicating beverages or controlled substances not prescribed by a physician, while on official duty.
- Possession/use of intoxicating beverages, non-prescribed drugs or illegal controlled substances at place of work, in official County vehicles or while on official duty.
- Reporting for duty under the influence of intoxicating beverages, non-prescribed drugs or illegal controlled substances.

DISCIPLINARY ACTIONS POLICY (continued)

- Testing positive for illegal drugs or alcohol in violation of the County's Drug/Alcohol Testing Policy.
- Sexual Harassment - Any unwelcome verbal or physical conduct of a sexual nature which interferes with an employee's ability to perform his/her duties or which creates an offensive working environment.
- Solicitation or acceptance of any gift, gratuity or other form of compensation of any value whatsoever by an employee that is based on any understanding that the performance/non-performance of any duties or responsibilities associated with employment by the County or any official action or judgment of the employee would be influenced by such gift, gratuity or other form of compensation.
- An employee who receives three consecutive employee performance evaluations, including special evaluations, with ratings below the level of "meets expectations" shall be mandatorily dismissed from County employment.
- Any other incidents or series of incidents which, when considered on their merit, are equal in gravity to the offenses listed above.

F. CRIMINAL CONDUCT

Any employee arrested for any crime shall notify his/her supervisor within twenty-four (24) hours of the arrest or as soon as practical and advise what the charges are and his/her availability status.

When an employee is formally charged with criminal conduct which is job related and/or affects the public's trust and confidence in the employee and/or County government, the appointing authority will render a preliminary determination to either:

1. Allow the employee to continue to perform duties pending the outcome of the departmental investigation and final administrative determination; or
2. Reassign the employee to other, less sensitive duties pending the outcome of the departmental investigation and final administrative determination; or
3. Suspend the employee without pay pending the outcome of the departmental investigation and final administrative determination; or
4. Suspend the employee with pay.

DISCIPLINARY ACTIONS POLICY (continued)

In making the preliminary determination, the following factors will be considered:

1. The nature, weight, basis, and character of the criminal charges against the employee;
2. Any explanation offered by the employee;
3. The extent to which the criminal charges, alleged conduct and surrounding circumstances may affect the public's trust and confidence in the employee and in the County government;
4. The extent to which the criminal charges, alleged conduct and surrounding circumstances may affect the employee's ability to carry out his/her duties and responsibilities effectively.

Following the preliminary determination, the appointing authority will conduct a comprehensive investigation to determine what, if any, disciplinary action is appropriate. Although this investigation will be more thorough than the preliminary determination, it is not intended to establish the employee's guilt or innocence of the formal criminal charge. Any disciplinary action taken will take into account the same factors used in making the preliminary determination, and will not be dependent upon the legal outcome of the criminal charges.

An individual who remains employed while charged with a crime, shall notify his/hers supervisor of any change in the status of the criminal proceedings within 48 hours of such change.