INTERNAL G.A. POLICY : 01.405
DISCIPLINARY POLICY AND PROCEDURES FOR SUBJECT TO THE HUMAN RESOURCES ACT (SHRA) CAREER STATUS EMPLOYEES

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I. Purpose

UNC General Administration will administer all disciplinary actions in a fair and effective manner with the goal to address and correct the performance or conduct at issue. All disciplinary actions taken pursuant to this policy must be for just cause as this term is defined in this policy under the section below entitled “Just Cause Defined.”

II. Scope

This policy and the procedures apply to employees who have attained career status as defined by state law and regulations of the Office of State Human Resources. Employees in other positions (SHRA employees who have not attained career status, EHRA (Exempt from the Human Resources Act) employees and temporary employees) may be disciplined in a manner that best meets the needs of UNC General Administration as determined by the appropriate supervisory staff under guidance from Human Resources.

III. Disciplinary Actions

The choice of a disciplinary action or counseling or coaching letter is guided by the incident of poor performance or extent or severity of the conduct. If a disciplinary action is taken it must follow the policies and procedures specified below.

A. Written Warning

A written warning is a document that outlines the performance or misconduct at issue and also specifies the consequences that are warranted by the
problem. A written warning is considered effective or active for 18 months unless extended or cancelled in writing by the supervisory staff member. A written warning may be extended for any length of time. All written warnings will be placed in an employee’s personnel file. These warnings will not be removed from the file, although their status, active or inactive, will be noted on the face of the warning. A written warning must follow the procedural steps outlined in this policy in the section below entitled “Written Warning Procedures”.

B. Disciplinary Suspension Without Pay

A disciplinary suspension without pay is the removal of an employee from work for poor performance or misconduct. A disciplinary suspension must follow the procedural steps outlined in this policy in the section below entitled “Disciplinary Suspension Without Pay Procedures.”

C. Disciplinary Demotion

A disciplinary demotion is a personnel action given for poor performance or misconduct that either lowers the salary of an employee within his or her classification or places the employee in a position at a lower classification with or without lowering the salary. A disciplinary demotion must follow the procedural steps outlined in this policy in the section below entitled “Disciplinary Demotion Procedures.”

D. Dismissal

A dismissal is the involuntary termination of an employee for poor performance or misconduct or for failure to possess, obtain, or maintain necessary job-related credentials. A dismissal for disciplinary reasons or a dismissal for failure to possess, obtain or maintain credentials must follow the procedural steps outlined in the section below entitled “Dismissal Procedures.”

IV. Just Cause

Disciplinary actions must be supported by just cause. Three different types of behavior that can meet the just cause standard and therefore warrant a disciplinary action are: (1) unsatisfactory job performance, (2) grossly inefficient job performance, and (3) unacceptable personal conduct.

A. Unsatisfactory Job Performance
Unsatisfactory job performance is work performance that fails to satisfactorily meet job requirements as set out in the relevant job description, work plan or as directed by the supervisory staff member.

B. **Grossly Inefficient Job Performance (Gross Inefficiency)**

Unsatisfactory job performance, as defined above, that causes or results in:

1. Death or serious bodily injury to another employee, member of the public or a person for whom the employee has responsibility;
2. Conditions which increase the chance of death or serious bodily injury to another employee, a member of the public or a person for whom the employee has responsibility;
3. The loss of or damage to state property which adversely impacts the state or UNC General Administration;
4. The loss of state funds which adversely impacts the state or UNC General Administration; or
5. Conditions that create a serious adverse impact on the state or UNC General Administration

C. **Unacceptable Personal Conduct**

Unacceptable personal conduct such as:

1. Conduct for which no reasonable person should expect to receive prior warning;
2. Job-related conduct which constitutes a violation of local, state or federal law;
3. Conduct which results in a conviction of a felony, a Class B misdemeanor or an offense involving moral turpitude (ethics) that is detrimental to or has an effect on the employee's service to the state;
4. The willful violation of known or written work rules or policies;
5. Conduct unbecoming a state employee that is detrimental to state service;
6. Unapproved absence from work after all authorized leave and/or benefits have been exhausted;
7. Falsification of a state application or other employment documentation;
8. Falsification of other state documents or records, in whatever form or format; or
9. Insubordination - defined as the willful failure or refusal to carry out a reasonable order from an authorized supervisor.
V. General Provisions

A. General Provisions

A written warning is the first disciplinary action that may be taken for incidents of unsatisfactory job performance. Warnings may be given for additional incidents of unsatisfactory job performance; more serious penalties (see below) are also permissible. Written warnings may be given for grossly inefficient job performance (gross inefficiency) or unacceptable personal conduct, but more serious penalties (see “Disciplinary Suspension Without Pay Procedures,” “Disciplinary Demotion Procedures,” and “Dismissal Procedures,” below) are also permissible.

B. Considerations

Before taking any disciplinary action, a supervisor should consider the following factors:

1. Whether the facts supporting discipline have been satisfactorily established;
2. Whether more investigation is needed;
3. Whether the employee has a good, poor, or mixed work history;
4. Whether other employees have been disciplined for comparable performance or conduct and what discipline was imposed;
5. Whether other factors are relevant to the disciplinary course chosen and what those factors are; or
6. Whether a particular type or degree of discipline is warranted in the case at issue or will assist in correcting the performance or conduct that has occurred.

VI. Written Warnings

A. Written Warning Procedures

1. The warning must be in a written format and must state that it is a warning;
2. The warning must state what performance or conduct warrants the warning;
3. The warning must state what performance or conduct improvements must be made and the time within which these improvements are expected (if no time is specified, the time for improvement is 60 days for unacceptable job performance and immediately for gross inefficiency or unacceptable personal conduct);
4. The warning must state the consequences of failing to improve or failing to correct the problem;
5. The warning must state the length of time for which it is to be considered active (if no time is specified, warnings are to be considered active for 18 months); and
6. The warning must state that warnings may not be appealed.
7. The warning must be communicated to the employee by the supervisor.

VII. Disciplinary Suspension

A. Disciplinary Suspension Without Pay Procedures

An employee may be suspended without pay for disciplinary reasons in the following situations:

1. Unsatisfactory Job Performance if he or she has received a prior written warning that remains active;
2. Unsatisfactory Job Performance if he or she has received a prior disciplinary suspension without pay or a prior disciplinary demotion within the last 18 months;
3. Gross Inefficiency (no prior warning or disciplinary action required); or
4. Unacceptable Personal Conduct (no prior warning or disciplinary action required).

B. Time Limits for Periods of Disciplinary Suspension

1. Suspension Period for a Non-Exempt Employee: One full work day but not more than two full work weeks;
2. Suspension Period for an Exempt Employee: One full work week or two full work weeks. A partial work week is not allowed.

C. Disciplinary Suspension Steps

1. A member of the supervisory staff must schedule a pre-disciplinary conference and must give appropriate notice of the conference (oral or written) to the employee. The notice must tell the employee that a disciplinary action is being considered and must list the facts that support that consideration. The notice must also specify the time and location of the conference.
2. The supervisory staff member must conduct the conference at the scheduled time and location. Present at the conference shall be the affected employee, the supervisory staff member, a Human Resources representative and, if requested, a person with security responsibilities.
No attorneys or other persons are permitted. At the conference, the employee must be given an opportunity to briefly state his or her version of the facts and to offer information relevant to the allegations.

3. Following the conference, the supervisory staff member shall review and consider all the relevant facts including information offered by the employee. If the decision is made to suspend the employee, the written disciplinary letter of suspension shall be prepared. The letter must specify the length of the suspension and the beginning date, the act(s) or failure(s) to act that is (are) the reason for the discipline and the appeal rights of the employee. The disciplinary letter should be given to the employee as soon as possible after the pre-disciplinary conference and the suspension accordingly implemented.

4. If, following the conference, the supervisory staff member determines that a lesser disciplinary action is warranted, it is not necessary to hold another pre-discipline conference. However, the procedural steps for implementing that disciplinary action must be followed.

5. If, following the conference, the supervisory staff member determines that no disciplinary action is warranted, the employee will be informed of that decision in writing as soon as possible after the pre-disciplinary conference.

6. An employee with career status may appeal a disciplinary suspension as provided by state law. The time limit to appeal is 15 calendar days from receipt of the notice of suspension. Failure to appeal in a timely fashion shall be considered a waiver of all appeal rights.

VIII. Disciplinary Demotion Procedures

A. An employee may be demoted in the following situations:

1. Unsatisfactory Job Performance if he or she has received at least one prior disciplinary warning that remains active;
2. Unsatisfactory Job Performance if he or she has received at least one prior disciplinary suspension or demotion;
3. Gross Inefficiency or Unacceptable Personal Conduct (no prior warnings or disciplinary action required).

B. Types of Demotion

1. Lowering the classification, but retaining the current salary;
2. Lowering the classification and lowering the current salary; or
3. Retaining the classification, but lowering the salary.

C. Steps for Demotion
1. A member of the supervisory staff must schedule a pre-disciplinary conference and must give appropriate notice (oral or written) of the conference to the employee. This notice must tell the employee that a disciplinary action is being considered and must list the facts that support this consideration. The notice must also specify the time and location of the conference.

2. The supervisory staff member must conduct the conference at the scheduled time and location. Present at the conference shall be the affected employee, the supervisory staff member, a Human Resources representative and, if requested, a person with security responsibilities. No attorneys or other persons are permitted. At the conference, the employee must be given an opportunity to briefly state his or her version of the facts and to offer information relevant to the allegations.

3. Following the conference, the supervisory staff member shall review all the relevant facts including information offered by the employee. If the decision is then made to demote the employee, the written letter of demotion shall be prepared. The letter must specify the reasons for the demotion, the type of demotion to be implemented, the beginning date of the demotion and the appeal rights of the employee. The disciplinary letter should be given to the employee as soon as possible after the pre-disciplinary conference and the demotion accordingly implemented.

4. If, following the conference, the supervisory staff member determines that a lesser disciplinary action is warranted, it is not necessary to hold another pre-disciplinary conference. However, the procedural steps for implementing that action must be followed.

5. If, following the conference, the supervisory staff member determines that no disciplinary action is warranted, the employee will be informed of that decision in writing as soon as possible after the pre-disciplinary conference.

6. An employee with career status may appeal a demotion as provided by state law. The time limit for appeal is 15 calendar days from receipt of the notice of demotion. Failure to appeal in a timely fashion shall be considered a waiver of all appeal rights.

IX. Dismissal Procedures

A. Situations in Which an Employee May be Dismissed:

1. Unsatisfactory Job Performance if he or she has received two prior disciplinary warnings that remain active;
2. Unsatisfactory Job Performance if he or she has received one prior disciplinary warning that remains active and one prior disciplinary action (suspension without pay or demotion) within the last 18 months;
3. Unsatisfactory Job Performance if he or she has received two prior disciplinary actions (suspension(s) without pay and/or demotion(s)) within the last 18 months;
4. Gross Inefficiency (no prior disciplinary warning or disciplinary action required); or
5. Unacceptable Personal Conduct (no prior disciplinary warning or disciplinary action required).

B. Dismissal Procedure Required Consultation

If a member of the supervisory staff is considering a dismissal, he or she must discuss this possible action and the reasons therefore with the appropriate vice president and with UNC General Administration Human Resources. If the vice president concurs with dismissal as a possible action, a pre-disciplinary conference shall be scheduled. The dismissal of an SHRA employee requires the approval of the Vice President of Human Resources.

C. Dismissal Procedure Steps

1. The supervisory staff member with authority to dismiss the employee must schedule and hold the conference.
2. This staff member must give appropriate oral or written notice of the proposed dismissal action and of the scheduled pre-disciplinary conference. Reasonable notice must be given to the employee prior to the planned conference. The notice must specify the time and location of the conference, and must list the facts which support consideration of disciplinary action.
3. The supervisory staff member must conduct the conference at the scheduled time and location. Present at the conference shall be the affected employee, the supervisory staff member, a Human Resources representative and, if requested, a person with security responsibilities. No attorneys or other persons are permitted. At the conference, the supervisory staff member shall review the facts supporting dismissal. The employee must then be given an opportunity to briefly state his or her version of the facts and to offer information relevant to the allegations.
4. Following the conference, the supervisory staff member shall review all the relevant facts including information offered by the employee.
5. If the decision is then made to dismiss the employee, the written letter of dismissal shall be prepared and approved by the Vice President of Human Resources. The written letter of dismissal shall include the following:
reason for the dismissal, the effective date of the dismissal, and the appeal rights of the employee.

6. The dismissal notice shall be communicated to the employee no sooner than the next business day and no later than the end of the second business day after the conference. The effective date of the dismissal shall be no sooner than the date of the written dismissal notice and no later than 14 calendar days after the date of this notice. When dismissal is for unsatisfactory job performance, the employee may be given pay in lieu of the 14 calendar day notice or any portion thereof.

7. If following the conference, the supervisory staff member determines that a lesser disciplinary action is warranted, it is not necessary to hold another pre-disciplinary conference. However, the procedural steps for implementing that disciplinary action must be followed. Neither the disciplinary action itself nor the notice shall be communicated before the start of the next business day after the conference.

8. If, following the conference, the supervisory staff member determines that no disciplinary action is warranted, the employee will be informed in writing of that decision within 2 business days after the pre-disciplinary conference.

9. An employee may appeal a dismissal as provided by state law. The time limit to appeal the dismissal is 15 calendar days from receipt of the dismissal notice. Failure to appeal in a timely fashion is considered to be a waiver of all appeal rights.

X. Credentials

A. Failure to Obtain or Maintain Credentials

Where an employee that is in a position that requires certain credentials, a failure to have current valid credentials is a basis for immediate dismissal without warning. An employee who is dismissed for failure to obtain or maintain credentials shall be dismissed under the procedural requirements applicable to unacceptable personal conduct or gross inefficiency (see above). It is permissible to give a lesser sanction. Disciplinary warnings, suspensions without pay, or demotions shall follow the procedures applicable to these sanctions for unacceptable personal conduct or gross inefficiency (see “Disciplinary Action” section above).

B. Falsification of Credentials

If an employee was selected for a position based upon falsified information about work experience, education, registration, licensure or certification that was a requirement for the position, the employee shall be dismissed under the
procedures applicable to unacceptable personal conduct or gross inefficiency (see above). Lesser sanctions are not permissible.

If the falsification does not concern credentials required for the position, a lesser sanction may be implemented. Disciplinary warnings, suspensions without pay or demotions shall follow the procedures applicable to these sanctions for unacceptable personal conduct or gross inefficiency (see “Disciplinary Action” section above).

XI. Investigatory Status with Pay

A. General Provisions

An employee may be placed on investigatory status with pay for pre-discipline investigations or to implement the procedural steps listed below. Investigatory status is enforced absence from work with pay. No other suspension with pay is permissible.

B. Permissible Reasons for Investigatory Status

1. To investigate performance or conduct problems that, if supported, would constitute just cause for disciplinary action;
2. To provide time to schedule and conduct a pre-disciplinary or pre-
3. To avoid disruption of the workplace; or
4. To protect the safety of persons or property.

C. Procedures for Investigatory Status

1. After determining that an investigatory status is needed, the appropriate supervisory staff member will notify the employee of the investigatory status and its beginning date.
2. Within two workdays following the beginning of the investigatory status, the appropriate supervisory staff member must send a written notice to the employee which specifies the reason for the investigatory status, the length of the status and the fact that it may be extended.
3. An investigatory status may extend 30 calendar days from the first day of the status. The status may not be extended further unless the extension is approved by the Vice President of Human Resource and the Office of State Human Resources Director.
4. If an investigatory status is extended beyond 30 days, the employee must be notified in writing of the extension, the length of the extension and the reasons for the extension.
5. At the end of an investigatory status, and any extensions thereof, the employee must be disciplined according to this policy or must be returned to work on active status.

6. Investigatory status may not be utilized in order to delay a disciplinary decision pending the resolution of civil or criminal court proceedings involving the employee.

7. Placement on investigatory status may not be appealed.

Related Links

- [SPA Employee Grievance Policy](#)
- [Disciplinary Actions, Suspension and Dismissal (OSHR)](#)