



## Disciplinary Action Policy

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### 1.0 POLICY

The County of Lee attempts to provide a uniform administration of disciplinary action and guidelines to help operating personnel solve problems in a fair and equitable manner. The following procedure is designed so as not to restrict operating personnel and in no way guarantees the employee a right to continued employment. An employee may be reprimanded, suspended, demoted or dismissed by the employee's Department Director for unacceptable personal conduct or for failure in performance of duties. Employees may be terminated at the will of the County Manager or his designee.

The procedure affects all departments. Full-time employees and part-time employees are covered by all sections of this policy. Temporary employees and employees in original probationary status are covered only by Section 3.7.

### 2.0 DEFINITIONS

- 2.1 Adverse Action:** Any involuntary demotion, involuntary reduction in pay, involuntary transfer, suspension without pay, lay off, or dismissal.
- 2.2 Disciplinary Action:** Any action initiated by a supervisor against an employee for unacceptable behavior or performance. (**Note:** Employee appeals of disciplinary action will conform to procedures outlined in **Section 3.4** below rather than in Policy H-2, "Grievance Procedure").
- 2.3 Disciplinary Suspension without Pay:** An employee may be suspended without pay for disciplinary purposes for unsatisfactory job performance. The suspension must be at least one (1) day and no more than three (3) workweeks. Prior to the suspension without pay the employee must have received at least one (1) prior disciplinary action and the Department Director must conduct a pre-suspension conference with the employee. A written statement setting forth the effective date, length of time, and the specific acts that are the reasons for the suspension. The employee must be given appeal rights.

**2.4 Progressive Discipline:** Generally the County supports a system of progressive discipline in which performance or behavior problems are dealt with progressively stricter actions if improvement is not made. This process is described in detail in **Section 3.2**. However, in some cases, because of the severity of the behavior or performance, the supervisor's concern for safety or security of the work environment, or for other serious reasons, immediate suspension or dismissal may be necessary.

**2.5 Unacceptable Performance:** The following are examples of unacceptable job performance for which disciplinary action might be taken. This list is not intended to be all-inclusive. Examples are:

- Inefficiency, incompetence, or negligence in the performance of duties.
- Careless, negligent, or improper use of County property, facilities, or equipment.
- Discourteous treatment of the public or other employees.
- Unauthorized absence from work.
- Improper or excessive unjustified use of sick leave privileges.
- Habitual pattern of failure to report for duty at the assigned time and place.
- Violation of written County or departmental rules, procedures, or regulations.
- Failure to obtain or maintain a current license certificate required as a condition for performing the job.

**2.6 Unacceptable Personal Conduct:** The following are examples of unacceptable employee behavior related to personal conduct for which disciplinary action might be taken. This list is **not** intended to be all-inclusive. Examples are:

- Conviction of a felony or of a crime that is job related or undermines public trust.
- Improper or unauthorized use of County funds.
- Falsifying or omitting job information to secure position.
- Participation in any action that seriously disrupts or disturbs the morale, efficiency, safety or normal operation of the division, department, or any other segment of municipal government.
- Sexual, racial, or other unlawful harassment of a co-worker, applicant, client, member of the public or elected official.
- Verbal threats or physical aggression toward other employees or citizens.
- Willful acts that would endanger the lives and property of others.
- Possession of unauthorized firearms or lethal weapons on the job.
- Refusal to accept a reasonable and proper assignment from an authorized supervisor (insubordination).
- Impaired job performance as a result of the use of alcohol or drugs; illegal use of drugs; possession of or use of alcohol or illegal drugs on the job.
- Giving or accepting gifts in exchange for "favors" or "influence", or improper use of office or position for personal gain.
- Dissemination of information that is allowed by statute to be confidential.
- Violation of political activity restrictions.

- Personal conduct on or off the job that, due to position or office, undermines the public trust.
- Conduct for which no reasonable person should expect to receive prior warning.

### 3.0 PROCEDURE / RULE

3.1 An employee may be suspended, demoted, or dismissed for reasons of unacceptable personal conduct or unacceptable job performance without prior warning or disciplinary action having been given to the employee. An employee who has successfully completed the probationary period and is dismissed on a first offense will be offered the opportunity to appeal in accordance with the grievance procedure described in the Grievance Procedure of this personnel policy.

An employee may be suspended without notice by the Department Director in order to avoid undue disruption of work, to protect the safety of persons or property, or for other serious reasons. When a Department Director suspends an employee without notice, the employee shall be required to leave County property at once and remain away until further notice. The Department Director shall notify the County Manager immediately. A written summary giving the circumstances and the facts leading to the immediate suspension shall be prepared. One (1) copy shall be delivered to the employee by certified mail, one (1) copy shall be filed in the employee's personnel file, and one (1) copy shall be filed with the County Manager.

3.2 **Progressive Disciplinary Procedure:** The procedures outlined below should normally be followed with an employee whose performance or behavior is unsatisfactory unless circumstances require more immediate action. The system of progressive discipline does not apply to probationary or temporary employees who may be separated at any time for any reason. Progressive discipline may result when an employee's work performance is unsatisfactory over a period of time and improvement is not shown after the Department Director has notified the employee how his/her work is deficient and what must be done if the work is to be satisfactory. The following steps of progressive discipline will be followed when violations are minor. When flagrant violations occur, discipline may begin at any stage up to and including dismissal. Upon discovering any action or alleged action that leads to discipline, the Department Director will determine whether disciplinary action is required and at which stage progressive discipline will begin.

A. If disciplinary action is required, the first step shall be for the employee's supervisor to issue a written warning to the employee which sets forth the performance deficiency and what must be done to correct that deficiency. The supervisor and/or Department Director should conduct a conference with the employee and explain all the information in the written warning. The written warning should include the following:

1. Notification to the employee that this is a written warning and not some other non-disciplinary process such as counseling.
  2. Detailed list of deficiencies/issues including specific examples, which constitute evidence.
  3. A review of the reasonableness of standards and of the impact of the employee's failure to perform up to standard.
  4. Specific actions the employee needs to take to establish satisfactory performance or behavior and notification of the time frame allowed for making the required improvements/corrections.
  5. Details of the specific consequences of failure to make the required improvements.
  6. A brief summary referencing any previous disciplinary actions.
  7. Present a copy of the letter to the employee.
  8. The warning should include a signature line for employee to acknowledge receipt. If employee refuses to sign the acknowledgment, the supervisor should note this information beneath the acknowledgment signature line and initial it.
  9. A copy of all warnings should be sent to the Human Resources Office to be included in the employee's personnel file and the disciplinary warning issued will become part of the employees personnel file and will remain active for twenty-four (24) months unless extended in writing or unless a second warning occurs during the twenty-four (24) month timeframe.
- B.** If the first written warning does not result in improved performance, a second written warning will be issued which follows the procedures in **3.2A** above and, in addition, specifically informs the employee that failure to make the required improvements may result in dismissal.
- C.** If performance still does not improve, the employee may be suspended without pay for a period of up to fifteen (15) days, or the Department Director may recommend to the County Manager that the employee be dismissed. Suspension or dismissal shall be a joint decision between the Department Director and the County Manager. **NOTE: Any suspension without pay for exempt employees will be in full week increments only.**

**3.3 Pre-disciplinary Conference:** Before any **adverse action** is taken, except as listed in **3.2 A and B** above, whether for unacceptable personal conduct or unsatisfactory work performance, the Department Director shall provide the employee with a written notice of proposed disciplinary action, which will include the nature of the proposed action, its recommended effective date, the reason(s) for the action, and a date and time for a pre-disciplinary conference. At this conference the employee may present any response to the proposed disciplinary action to the Department Director. The Department Director will consider the employee's response, if any, to the proposed disciplinary action, and will, within three (3) working days of the pre-disciplinary conference, notify the employee in writing of the final decision concerning disciplinary action. The notice of final disciplinary action shall contain a statement of the reason(s) for the action and the employee's appeal rights. The County Manager will be provided with a written notice of action taken.

**3.4 Right of Appeal:** Disciplinary actions that may be appealed up to the County Manager's office are:

- A. Dismissals
- B. Demotions
- C. Suspensions without pay

**3.5 Appeal Process:** Any regular employee wishing to appeal a demotion, suspension or dismissal may present the matter using the grievance procedure prescribed in this personnel policy. Nothing herein confers any right of appeal to any probationary or temporary employee in case of dismissal.

The Sheriff and Register of Deeds are elected officials, and, by law, have the sole right to hire and dismiss their employees. Any employee in either of these departments who has a grievance should follow the grievance procedure established by his/her department.

**3.6 Right of Appeal:** Nothing herein prevents an employee from presenting complaints concerning disciplinary action, at any time, to the Human Resources Director or other member of the Human Resources Department staff designated by the Human Resources Director. It is recommended that employees shall normally seek relief first through supervisory channels as outlined. Staff of the Human Resources Department shall act in any advisory capacity concerning procedural matters and complaint resolution for both employees and supervisors.

**3.7 Employees in Probationary Status and Employees Budgeted as Temporary:** Employees in probationary status, and temporary employees, are subject to dismissal at

any time. If disciplinary action (up to and including dismissal) is taken, procedures outlined in **Section 3.1** through **Section 3.5** are not mandatory.

#### **4.0 APPENDIX / APPENDICES**

None.