

Bargaining Unit employees should review their appropriate Collective Bargaining Agreement (CBA) to determine if this policy applies to them. In case of a conflict between the applicable CBA and these policies, the provision in the CBA controls.

Policy No.: 9-2

Effective: 05/08/12

Revision No.: 2

Review Date: 05/08/13

Disciplinary Policy

OVERVIEW: The disciplinary policy is established to secure cooperation in and orderliness of operations, safeguard optimum working conditions, correct unsatisfactory performance and improper behavior, provide for equitable treatment of employees and maximize productivity through efficient and effective management.

SCOPE: This policy applies to all classified employees of the Board of County Commissioners.

PROVISIONS:

1. Intent. The disciplinary policy shall be administered in a progressive and constructive manner.
 - a. The severity of the disciplinary action shall be related to the gravity of the offense, the employee's record of prior disciplinary actions and the employee's length of service.
 - b. Nothing in this policy is intended to create additional property or procedural rights for employees beyond those rights guaranteed by federal and state law, unless such a provision is clearly labeled as a right of the employee.
 - c. The intent of these procedures is to provide the employee fair notice of the alleged offenses, the basis for the allegations, the proposed discipline and a fair opportunity for the employee's side of the story to be heard by the deciding official.
2. Guidelines for Disciplinary Actions. Progressive discipline shall be defined as more severe discipline administered for repeated violations of the same group of offenses or similar offenses.
 - a. The list of offenses warranting discipline is not all inclusive and shall be used as a guide.
 - b. Any improper behavior or performance not specifically enumerated in a departmental disciplinary policy or detailed in these Employee Policies shall be treated as similar listed offenses would be treated.
 - c. Each department director shall be responsible for developing written departmental disciplinary policies unique to, and necessary for, the efficient and safe operation of the department.
 - d. Departmental policies shall be used in addition to the guidelines in these Employee Policies, and shall be approved by the Administrating Official.

- e. The guidelines for handling disciplinary actions are divided into three groups to reflect the degree of severity of offenses.
 - f. In any case where the penalty is reduced from the penalty proposed, the reason for such modification shall be noted in writing.
 - g. No penalty higher than the proposed penalty or discipline for offenses other than those listed in the Notice of Proposed Discipline and lesser included offenses may be imposed. To do so requires canceling the proposed action and re-initiating a new action proposing the higher penalty or the different offenses. If the supervisor learns of additional offenses while a disciplinary action is pending, the supervisor should consult with the Human Resources Office and the County Attorney's Office before proceeding further.
 - h. When major discipline is proposed and with the Administrating Official's approval, the department director may place the employee on administrative leave with pay, until the disciplinary action is complete, when the employee's presence:
 - i. Creates a continuing danger to persons or property; and/or
 - ii. Interrupts orderly operations of the work unit.
 - iii. The department director may recommend administrative leave without pay only if the employee is first given notice and an opportunity to be heard regarding the leave without pay.
3. Formal Disciplinary Action
- a. The supervisor initiating any formal disciplinary action must notify the Human Resources Office and the County Attorney's Office before presenting an employee with a Notice of Proposed Disciplinary Action or a Notice of Disciplinary Action (Appendix C).
 - b. Normally, action is proposed by a supervisor at one level and decided by a supervisor at a higher level after the applicable process is followed. The department director may delegate in writing the authority to propose and to decide disciplinary actions less than termination to lower level supervisory authority.
 - c. Unless he or she is the official initiating the discipline, the department director's initial on a Notice of proposed Discipline simply signify an awareness of the proposed discipline, not a judgment about it or a determination about the evidence.
 - d. The official who decides the discipline shall inform the employee of all rights of appeal and/or grievance.
 - e. Written Instruction and Warning.
 - i. The supervisor shall provide the employee a written Notice of Disciplinary Action. No notice of proposed action or pre-disciplinary hearing is required for a formal warning.
 - ii. Receipt of the notice shall be acknowledged by the employee or witnessed.
 - iii. The original Notice of Disciplinary Action shall be forwarded to the Human Resources Office for inclusion in the employee's personnel record.

- iv. Certain single acts of serious misconduct or unsatisfactory performance may be the basis for a formal warning without earlier documented interventions.
- f. Suspension.
 - i. The employee shall be provided a written Notice of Proposed Disciplinary Action, indicating a suspension without pay is proposed.
 - ii. The employee shall have the opportunity for a pre-disciplinary hearing.
 - iii. The department director or designee shall determine the length of suspension within the guidelines of these Employee Policies. For any offense justifying termination, the department director may impose a suspension of up to 15 days without pay, or longer with the approval of the Administrating Official in lieu of termination.
 - iv. Notwithstanding any other policy provision, exempt employees shall not be suspended without pay for a period of less than one work week, except for instances of serious safety violations or serious workplace misconduct.
- g. Demotion.
 - i. The supervisor proposing a demotion shall provide the employee a written Notice of Proposed Disciplinary Action, indicating a demotion is proposed
 - ii. The employee shall have the opportunity for a pre-disciplinary hearing.
- h. Termination. An employee shall be terminated only for just cause and after appropriate investigation in accordance with these Employee Policies.
 - i. The supervisor proposing termination shall provide the employee a written Notice of Proposed Disciplinary Action, indicating termination is proposed.
 - ii. The employee shall have the opportunity for a pre-disciplinary hearing.

4. Disciplinary Process

- a. Written Notice
 - i. The supervisor will give the employee a Notice of Proposed Disciplinary Action (Appendix C) containing the following:
 - 1. The specific accusations/charges against the employee;
 - 2. The facts supporting these accusations/charges;
 - 3. An explanation of the exact reasons and circumstances of the incident(s);
 - 4. Explanation of other factors such as counseling or other disciplinary action prior to the proposed disciplinary action;
 - 5. Explanation that future occurrences may result in cumulative and progressive discipline; and
 - 6. A date and time for a hearing with the department director or designee to allow the employee the opportunity to address the accusations/charges.
 - ii. Receipt of the Notice of Proposed Disciplinary Action shall be acknowledged by the employee or witnessed. The employee shall be given a minimum of five working (Monday-Friday, less County holidays)

days to review the Notice of Proposed Disciplinary Action before the pre-disciplinary hearing is held.

b. Pre-Disciplinary Hearing

- i. The employee shall have the opportunity for a hearing with the employee's supervisor and department director or designee to review the basis for the proposed disciplinary action, without unreasonable delay and after a reasonable period of time to prepare for the hearing. Except as specifically stated in these Employee Policies or under unusual circumstances that will be explained in the record of the hearing, or at the written request or with the written consent of the employee, five working days is normally a reasonable period of time between providing notice of the proposed discipline and conducting the pre-disciplinary hearing.
- ii. In cases of proposed termination, the department director shall conduct the pre-disciplinary hearing.
- iii. At the hearing, the employee may explain his or her version of the facts, and present written documentation and witnesses, but is not entitled to cross-examine witnesses. County employees with relevant information are required to testify at the request of the County representative or the employee facing discipline.
- iv. The department director or designee shall make a written summary of the hearing.
- v. If the employee chooses not to respond and/or attend the hearing after proper notice, the department director or designee shall take action on the available information.

c. Decision on Discipline.

- i. The decision of the department director or designee to impose discipline will be documented in a Notice of Disciplinary Action (Appendix C) containing the reasons for the action and the employee's right of appeal or grievance.
- ii. In cases of proposed termination, the department director shall conduct the pre-disciplinary hearing, and shall be responsible for providing the employee the final Notice of Disciplinary Action.
- iii. A copy of the Notice of Disciplinary Action shall be furnished to the employee, receipt of which will be acknowledged or witnessed in writing. The original Notice of Disciplinary Action shall be forwarded to the Human Resources Office for inclusion in the employee's personnel record.
- iv. If, following the pre-disciplinary hearing, the department director or designee finds that a proposed offense is not proven, but a similar and included offense in a lower category is proven based on all the evidence, and the department director or designee finds that, under the circumstances, the employee received a fair notice and opportunity to be heard on the lower offense, the department director or designee may impose discipline based on finding the employee has committed the lower offense, even though it was not specified in the Notice of Proposed Discipline.

County Manager

County Attorney