

	<u>P - §32.0</u>	<u>Policy Name:</u> Employee Discipline	<u>Approved Date:</u>
	<u>Prepared By:</u> Human Resources	<u>Adopted Date:</u> August 7, 1996	
	<u>Amended Date:</u> May 3, 2017		

A. PURPOSE

Disciplinary action may be taken to correct unsatisfactory employee behavior or performance. The purpose of this policy is to categorize the severity of policy violations and outline the County's progressive discipline process with regard to policy violations.

B. DEFINITIONS

Administrative Leave – paid or unpaid leave from work that is taken at the direction of management, for purposes of investigation or a step in the disciplinary process, and without impact to an employee's accrued leave.

Aggravating Factors – may support a higher category offense when the facts and circumstances associated with the employee's actions negatively impact the employee's credibility as a supervisor/manager of subordinates, reveal a serious disregard for the safety and well-being of others, or damage the credibility or reputation of the County.

Demotion – a reduction in status or pay, resulting from a change in position or scope of responsibilities.

Disciplinary Action – corrective action administered in response to unsatisfactory performance or behavior.

Gambling – the activity of risking money or something of value on the result of a game, lottery, contest, or event. County-sponsored employee engagement activities such as participation raffles and office challenges are exempt.

Mitigating Circumstances - mitigating factors can reduce the severity of punishment. Mitigating circumstances are conditions that recommend a reduction to promote the interests of consistency or equity, or an employee's otherwise satisfactory work performance.

C. ROLES AND RESPONSIBILITIES

Employees – responsible for reviewing and adhering to County policies and directives from supervisors.

Department Heads and Supervisors – Accountability and disciplinary action are administered by the employee's supervisor. Any disciplinary action that is more severe than a written reprimand must be approved by the Department Head and the Human Resources Department prior to issuance.

Human Resources - Human Resources assists supervisors and department heads with interpretation of County policy, provides coaching and advise for behavioral and performance management, and ensures compliance with federal and state laws, as well as County ordinance and policy.

D. IMPLEMENTATION

1. Progressive Discipline

The steps for progressive discipline are outlined below. Human Resources may determine that a given step should be skipped. This depends upon the seriousness of the offense, whether the offense is repeated despite counseling or training, the employee's record, the impact on the organization, and similar factors. Mitigating and aggravating circumstances may generally be considered in determining the appropriate level of discipline. Failure to adhere to County policies will result in corrective action.

The steps are as follows:

- | | |
|--------------|--|
| First Step: | Counseling and verbal warning |
| Second Step: | Written reprimand |
| Third Step: | Investigation and administrative leave |
| Fourth Step: | Termination or demotion |

The County's P-§ 06.0 Standards of Conduct and P-§_07.0 Code of Ethics outlines standards that all employees must follow. Violations of these policies form the basis of disciplinary action.

2. Disciplinary Steps

Single incidents and/or patterns of poor work performance or behavior can form the basis for disciplinary action.

First Step: Counseling and verbal warning

For a first offense where the infraction is minor, a verbal warning and counseling is the first step. More serious infractions may skip this step. This level of discipline is typically appropriate for Category I offenses, as described in section 3.

Second Step: Written Reprimand

For most violations, a written reprimand continues or begins the disciplinary process. Exceptionally serious infractions may skip this step, as well. This level of discipline is typically appropriate for Category II offenses, as described in section 3, but may be applied in all categories.

Third Step: Investigation and administrative leave

Exceptionally serious infractions, and those where safety is at issue, may begin with this step. The most serious infractions may skip directly to termination or demotion.

During this step, an investigation is carried out. The department head may suspend the employee, with or without pay in full-day increments, during the investigation. Nonexempt and hourly employees may not substitute or use an accrued paid vacation or sick day in lieu of unpaid suspension. HR must be consulted for guidance, to ensure that discipline is administered in accordance with federal and state law.

While on administrative leave, employees may not perform any work on behalf of the County except to remain available for phone calls and meetings with management pertaining to the investigation. Employees may be subject to additional disciplinary action for failing to respond in a timely manner.

If the investigation determines that no further disciplinary action should be taken, then the employee's pay may be reinstated.

Fourth Step: Demotion or Termination

The fourth step in the progressive discipline process is reserved for an exceptionally serious policy violation that jeopardizes the safety and security of a person or physical asset to the county. Step four may also result as a culmination of multiple policy violations and management attempts to correct employee behavior or performance.

When considering a termination or demotion, the supervisor is required to invite the employee to an in-person meeting, which is attended by a representative of Human Resources. The invitation must notify the employee that the County is considering disciplinary action, the performance or conduct forming the basis of the disciplinary

action, and invite the employee to present whatever facts and circumstances the County should take into account when making the disciplinary decision.

A recommendation to terminate employment or demote an employee as a disciplinary step, must be approved by the department head and human resources prior to issuance.

Where discipline is based upon criminal proceedings or other non-County proceedings, County decisions on disciplinary action are made independently, without respect to the resolution of those other proceedings. This level of discipline is typically appropriate for Category III offenses, as described in section 3 of this policy.

3. Personnel Policy Violation

That a given action is not explicitly forbidden under this policy does not imply that it is permitted, but the actions that are specifically forbidden guide County decision-making on the permissibility of other actions.

- a. Category I Offense – Offenses in this category include acts of minor misconduct that require accountability and correction. The first offense of Category I is sufficient to result in counseling that is recorded in the employee file. An accumulation of two Category I offenses is sufficient to result in a Written Reprimand. Additional repeated violations may result in more severe steps in the discipline process. Category I offenses include but are not limited to:
 - I. Unsatisfactory attendance, performance, or tardiness;
 - II. Abuse of County time, such as unauthorized time away from the work area;
 - III. Obscene or abusive language, or shouting;
 - IV. Conviction of a moving violation, for employees whose duties include driving;
 - V. Failure to notify one's supervisor of an accident, infraction, or criminal offense while driving a County vehicle; or
 - VI. Sleeping on the job.
- b. Category II Offense – Offenses in this category include acts of misconduct of a more serious and/or repeat nature that require formal disciplinary action. One Category II offense is sufficient to result in a Written Reprimand and/or may result in administrative leave if an investigation is required. An accumulation of multiple Category II offenses is sufficient to result in administrative leave without pay, demotion, or termination. Category II offenses include but are not limited to:
 - I. Failing to follow a supervisor's instruction, perform assigned work, or comply with another County policy;
 - II. Failing to report or absence from work without proper notification to supervisor;

- III. Violating safety rules or instructions, including negligently driving a County vehicle;
 - IV. Unauthorized use or misuse of County property or records. Personal use of County property, including telephones, computers, related devices, and peripherals to the extent that it interferes with an employee's performance;
 - V. Unauthorized removal of County records or property; or Virginia Code § 15.2-1512.2(c) protects – and curtails – employees' right to engage in political activity. Political activity beyond those protected by that section is prohibited. In general, employees are prohibited from engaging in political activity while on duty, or with County property.
- c. Category III Offense – Offenses in this category include acts of misconduct of such a severe nature that a first occurrence normally should warrant administrative leave and consideration of demotion or termination. This level is appropriate for offenses that, for example, endanger others in the workplace, constitute illegal or unethical conduct; neglect of duty; disruption of the workplace; or other serious violations of policies, procedures, or laws. Category III violations include but are not limited to:
- I. Physical violence, assault, or battery;
 - II. Violating P-10.0 [give up-to-date title of this policy/drug & alcohol];
 - III. Having an unauthorized firearm, weapon, or explosive on County property or worksite;
 - IV. Criminal arrest for acts on- or off-duty that are related to the employee's job, or are of nature that leaving the employee in the same position would be inappropriate with respect to the County's duties to the public or other employees;
 - V. Falsifying any record;
 - VI. Making any false or misleading statement, or failing to disclose relevant information, in any record;
 - VII. Damaging or defacing County records or property;
 - VIII. Violating safety rules, where there is a threat of serious harm;
 - IX. Gambling on County property or on-duty;
 - X. Threatening or coercing employees;
 - XI. Unwelcome solicitation of a personal or sexual relationship while on-duty, or any such solicitation where the employee is the target employee's supervisor;
 - XII. Violating P-03.0 Equal Employment Opportunity, Inclusion, and Prohibition Against Discrimination, Harassment, Bullying, and Retaliation; or
 - XIII. Failing to maintain or being suspended from any certification or licensure that is required to perform one's duties, such as a driver's or professional license.

4. Non-Disciplinary Termination

Employees unable to meet the requirements of their positions for reasons not disciplinary in nature may be demoted or subject to termination of employment without following the progressive discipline process. In this circumstance, the County will provide the employee with notice of the basis of its decision, and an opportunity to present facts and circumstances the County should take into account when making its final decision.

Examples reasons for non-disciplinary demotion or termination:

- Ineligibility for a required license;
- Ineligibility for necessary or advisable insurance coverage;
- A determination that continuing to employ the employee would constitute negligence on the part of the County;
- Incarceration;
- Inability to perform the essential functions of the job; or
- Residing outside of the Commonwealth of Virginia.

5. Recordkeeping

Employees will be asked to sign disciplinary documentation and are provided copies of those records, which indicates receipt and understanding of those records.

Documentation for disciplinary actions involving Category II violations or above will be sent to Human Resources, placed in an employee's personnel file, and retained as follows:

- Category II documentation: two years.
- Category III documentation: per Library of Virginia record retention schedule.