

Performance Management: Performance Management and Progressive Discipline

Subject: Human Resources

Policy: Performance Management and Progressive Discipline

Effective Date: January 1, 2019

Revised:

Review Date: Three (3) years from Effective Date above.

Responsible Party: University Human Resources

Applicability: This policy applies to classified employees who have completed the probationary period and contract employees

1. INTRODUCTION AND PURPOSE

Montana State University supports the use of performance management and progressive discipline, where appropriate, to improve performance and prevent recurrence of undesirable employee actions and performance. This policy establishes the university expectations for imposition of performance management actions or discipline of university employees. For employees covered by a [collective bargaining agreement](#), the provisions of the applicable agreement must be followed in administering disciplinary action.

2. DEFINITIONS

a. Performance Management

Actions designed to address performance deficiencies and/or inappropriate job-related conduct of an employee through guidance on the improvements necessary to achieve or return to acceptable performance. Performance management may include coaching, letters of expectations, performance improvement plans, or other appropriate forms of guidance.

b. Disciplinary Action

An action taken to address serious incidents of inappropriate conduct and/or performance deficiencies. Disciplinary action will be documented in the official employee personnel file.

3. USE OF DISCIPLINARY ACTION

The university supports the use of performance management to address and correct employee performance problems, where appropriate. The university also recognizes misconduct, violations of policies and procedures, and continued failure to correct performance problems may require disciplinary action.

Employees may be subject to disciplinary action, up to and including termination, for:

- a. failure to perform job duties in a satisfactory manner;
- b. violation of work rules, policies, laws, CBA provisions, supervisory orders or directives, or other forms of inappropriate job-related conduct;
- c. failure to meet applicable professional and performance standards; or
- d. any behavior that interferes with or disrupts the efficient operation of the university, including off-duty conduct when it is harmful to the university's operation or reputation.

Employees will be provided written notice of disciplinary action.

4. ROLE OF UNIVERSITY HUMAN RESOURCES

University Human Resources will provide assistance and guidance to supervisors encountering performance problems with employees they supervise. It is recommended University Human Resources be contacted when problematic behavior needs to be addressed.

University Human Resources must be consulted *prior* to imposing disciplinary action to assure compliance with [collective bargaining agreements](#) and applicable state and federal laws.

However, failure to consult with University Human Resources prior to disciplinary action is not grounds for a grievance or for a grievance committee or arbitrator to overturn a disciplinary action.

5. PROGRESSIVE DISCIPLINE

Progressive discipline will be used when appropriate. Progressive discipline is a process of applying the appropriate type of discipline based on the severity of the employee misconduct or performance deficiencies and the employee's work history. Progressive discipline may range from letters of warning to involuntary termination of employment. The number of steps may vary, and steps may be repeated or skipped.

Disciplinary actions include letters of warning, suspension without pay, and termination of employment. Disciplinary action will be taken only for good cause. Disciplinary actions may be combined and may include other requirements such as mandatory training, job transfer or reassignment, cancellation of leave, last chance agreement, requirement to provide a doctor's verification of illnesses, etc. Notice of non-renewal of an employment contract and expiration of an employment contract are not disciplinary actions.

When it becomes necessary to take disciplinary action, each situation needs to be analyzed on a case-by-case basis in consultation with University Human Resources to determine what step or steps may be appropriate.

Level 1. Letter of Warning

Letters of warning are issued when an employee fails to correct a problem or engages in misconduct. It may be used as the first step of progressive discipline, if appropriate.

Employees have the right to request the letter of warning be removed from their personnel file after one (1) year if the reason for the warning letter has been corrected and the employee has no other performance deficiencies or disciplinary actions.

Level 2. Suspension

Suspension *with* Pay – Suspension with pay is not a disciplinary action but may be appropriate when it is necessary to remove the employee from the workplace during an investigation or while information is being gathered. If the investigation exonerates the employee, the employee will be reinstated without discipline. If misconduct or other inappropriate conduct is verified, the employee may be subject to discipline, up to and including termination of employment.

Suspension *without* Pay – Suspension without pay is a disciplinary action which removes the employee from the workplace and results in reducing the employee's salary for the period of suspension. Suspension without pay may be appropriate if an employee fails to correct the issues identified in a letter of warning or as the first step of progressive discipline for misconduct or inappropriate behavior. The length of the suspension will depend upon the nature of the employee's unacceptable behavior and any previous disciplinary action that may have been taken. Suspensions normally will not exceed ten (10) days.

Level 3. Involuntary Termination of Employment

Involuntary termination of the employee's employment with the university may result after other disciplinary action has failed to return the employee to acceptable levels of performance or as the first and only step of discipline in response to serious types of misconduct or inappropriate behavior, such as:

- a. endangering or threatening the health or safety of others,
- b. using illegal drugs on university property or during work hours or reporting for duty under the influence thereof,
- c. falsifying official records,
- d. sick leave abuse,
- e. unauthorized absence from work in excess of three (3) working days,
- f. using or authorizing another to use university property for other than university purposes,
- g. physical violence or fighting on the employer's premises,

- h. brandishing any firearm or weapon on the employer's premises,
- i. immoral or indecent conduct on the employer's premises,
- j. serious or pervasive sexual harassment,
- k. theft,
- l. willful destruction or abuse of the employer's or another employee's property or materials,
- m. failure to maintain a valid and current MT driver's license or other professional license when required to perform job duties, or
- n. other conduct that interferes with or disrupts the efficient operation of the university, its students, employees, or visitors, including off-duty conduct when it is harmful to the university's operation or reputation.

6. PRE-TERMINATION MEETING

Prior to an involuntary termination of employment, an employee will be offered a pre-termination meeting to give the employee an opportunity to respond to the reasons for termination of employment with an administrator (other than the supervisor who is recommending termination) or University Human Resources employee.

7. RIGHT TO FILE GRIEVANCE

Employees covered by a [collective bargaining agreement](#) may file a grievance related to disciplinary action as outlined in the applicable collective bargaining agreement. Employees who are union exempt may file a grievance related to disciplinary action as outlined under the [Employee Grievance Policy](#).