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Guideline for BPPM 60.50

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The laws of the state of Washington and appropriate Washington Administrative Code provisions also apply to all employees, as does the University's Business Policies and Procedures Manual. All University guidelines and policies are subject to federal and state laws, as now existing or as hereafter amended; where there is deemed to be a conflict, the provisions of law apply.

Civil Service Staff
Corrective and Disciplinary Action Guidelines
For appropriate procedures for Bargaining Unit Covered Staff refer to the appropriate contract

Corrective/Disciplinary Action
Questions for Managers to consider:

- 1) What is the misconduct, which provides a reason for disciplinary action?
- 2) Does the employee have a current and accurate position description and goals/expectations?
- 3) What are the impacts of the employee's misconduct on the organization? How serious are the charges against the employee?
- 4) Was the employee aware of accepted standards of conduct? Was the employee ever put on notice that this behavior was unacceptable? How? Note: if the behavior is of a type that is a well known standard in society, it may not be necessary to specifically spell it out. For example: it is not necessary to tell an employee not to steal money from co-workers.
- 5) Has the employee received supervisory feedback on his/her performance? When? How?

- 6) Has management provided the employee training and resources sufficient to allow acceptable job performance? When? How?
- 7) If inadequate work performance, has the employee been provided sufficient opportunity and time to improve his/her performance? When? How?
- 8) Does the employee have a previous history of corrective or disciplinary action? What? How long ago? Is the performance problem a reoccurrence or a pattern?
- 9) Has the employee been counseled or reprimanded orally or in writing for the same conduct that is the basis for formal discipline?
- 10) What documentation is available to support the action? What is the *quality* of the documentation?
- 11) Have you considered what may happen if the action is appealed?
- 12) Have there been any technical violations of agency procedure or collective bargaining agreements related to documents and actions leading to this disciplinary action?
- 13) What cause of action is supported in this disciplinary action?
- 14) What has been past agency practice regarding situations and employees of similar circumstances?
- 15) Are the rules for the employee's category being followed? Have you contacted your Human Resource Services office for guidance?
- 16) Does the employee have a known disability, which impacts the performance or misconduct?
- 17) What is the employee's case or potential argument? Are there mitigating circumstances? For example: inconsistent supervisory directives, working employee out of class, and inadequate information.

CORRECTIVE ACTION

What is Corrective Action?

Corrective Action is a preventative measure taken to promote compliance with established University rules and/or expectations or general workplace standards in an effort to improve or modify unacceptable behavior or performance. Corrective Action is intended to obtain compliance with established rules of conduct and performance, not merely to punish. While the steps taken are typically progressive in nature, the University is not precluded from responding as appropriate to the incident under consideration.

Examples of Corrective Action:

- Verbal
 - Counseling
 - Warning
 - Reprimand
- Written Notice of Counseling
- Performance Improvement Plan
- Letter of Reprimand

Verbal Counseling/Warning/Reprimand

- The manager explains the nature of the performance deficiency, problem, inappropriate behavior or rule violation.
NOTE: To avoid *double discipline*, the supervisor/lead should explain what the performance deficiency was and what is expected of the employee. For example, if the employee is late for their shift. *Meet with employee and tell him/her "You were 15 minutes late for your shift. You are expected to be to work at 8:00 a.m."* If the manager adds, *"If you are late again I will discipline you"* this can be considered a verbal reprimand and this incident may not be able to be used during pre-disciplinary process.
- The manager should briefly document the corrective action meeting. For example, add a notation to calendar or log; meeting notes/summary. Accurate, factual, and appropriate documentation is critical throughout the process.
- The manager should review the employee's position description, goals/expectations and other job requirements with the individual to assure accuracy and understanding.

Notice of Counseling - Written

- The manager explains the nature of the performance deficiency, problem, inappropriate behavior or rule violation to the employee.
- The manager prepares a written Notice of Counseling summarizing the concerns prior to or after meeting with the employee.
- *It is strongly recommended to contact Human Resource Services for assistance with written documentation.*
- The Notice of Counseling can be copied to the HRS personnel file or kept at the department level. If the Notice of Counseling is put in personnel file the employee must be notified. This is generally done by including the following information at the bottom of the letter: "cc: HRS official personnel file"
- It is generally recommended that the Notice of Counseling be included in the employee's personnel file.
- The Notice of Counseling serves as documentation.

Performance Improvement Plan

- The manager develops a Performance Improvement Plan (PIP) which outlines the steps the individual is to take to correct the problem and how the manager will evaluate the progress.
- The manager reviews the PIP with the employee.
- The manager follows up with employee on progress.
- The manager tracks and adds notes on progress or lack thereof.
- The PIP can be copied to HRS personnel file or kept at department level. If the PIP is put in the personnel file the employee must be notified. This is generally done by including the following information at the bottom of the PIP: “cc: HRS official personnel file”
- It is generally recommended that the Performance Improvement Plan be included in the employee’s personnel file.
- *It is strongly recommended to contact Human Resource Services for assistance with written documentation.*
- The PIP serves as documentation.

Written Letter of Reprimand

- The manager states in writing problem(s), rules or standards not met, time of previous discussions, conclusions and action expected in future. Include a statement that if conduct is repeated or progress not made, disciplinary action may occur.
- The reprimand may be copied to HRS personnel file, and the employee should be notified of that fact. This is generally done by including the following information at the bottom of the reprimand: “cc: HRS official personnel file”
- It is strongly recommended that the Letter of Reprimand be included in the employee’s personnel file.
- *It is strongly recommended to contact Human Resource Services for assistance with written documentation.*
- A written reprimand serves as documentation.

Disciplinary Action

For Civil Service employees, WSU follows the provisions of [WAC 357-40](#). *Due to the highly regulated and structured process of discipline under the Washington Administrative Code (WAC), it is strongly recommended that HRS be contacted for assistance with implementing Disciplinary Action.*

What is Disciplinary Action?

Disciplinary Action: Formal actions taken when either corrective measures fail to correct a previous problem or the seriousness of the offense warrants more formal measures. Disciplinary Actions can only be imposed only by an appointing authority. The Appointing Authority list can be found at [Appointing Authority](#).

Examples of Disciplinary Actions:

- Demotion
- Suspension without pay
- Reduction in Salary
- Immediate Dismissal
- Dismissal

The distinction between Corrective Action and Disciplinary Action:

Corrective type actions are generally more informal, non-pay affecting preventative measures to encourage appropriate behavior/job performance. Disciplinary actions are taken as a formal “discipline” step when more informal measures have not altered/eliminated inappropriate behavior/performance. The steps taken are typically progressive in nature but, may be adjusted depending on the severity of the infraction. Because of the serious nature and impact of disciplinary action, there are several additional considerations. For example, performance or conduct, evaluations, years of service, and performance history may serve as mitigating factors. It is in accordance with this concept that two employees who have committed identical forms of misconduct may receive different levels of discipline. The level of discipline taken is generally determined by the employee’s overall employment history.

DISCIPLINARY PROCESS

Progressive Order of Discipline:

As with corrective action, the concept of progressive discipline normally applies. Except in extreme situations of misconduct or poor performance, initial disciplinary action should be at the “lower” end of the scale. Repeated misconduct or poor performance should result in a more severe penalty. Each action builds upon the other and will have a different impact on the employee.

Listed below are brief descriptions of various disciplinary actions. *Note: The process for actions differs depending on the employee category. Contact your respective Human Resource Services office for guidance before taking any action.* **Reminder: Refer to the appropriate Bargaining Unit Contract for Collective Bargaining Unit employees.**

Suspension Without Pay:

A suspension removes the employee from the work site without pay for a specified period of time. Suspensions can range between 1 – 15 days, with a 30 calendar day maximum within a calendar year, and are typically progressive. For example, depending on the severity of the conduct the first offense may be 2 days and the next offense 5 days. When considering disciplinary action, determine which action is most appropriate. For example, suspending an employee with an attendance problem may not be a good choice.

Reduction in Salary:

A reduction in salary results in a reduction of an employee's pay for a specified period of time.

Demotion:

A demotion moves an employee from his/her position into a different position at a lesser salary range. The demotion can be temporary or permanent. Demotion is generally used as a follow-up to previous disciplinary action or for an incident of serious misconduct.

Permanent Demotion may be an appropriate action to consider when, for example, it is apparent that an employee is incapable of adequately performing the duties and responsibilities of his/her position or when a person needs to be removed from supervisory responsibility.

Dismissal/Immediate Dismissal:

A dismissal separates the employee from employment. Dismissal is the ultimate disciplinary action. Dismissal generally is taken as a follow up to previous disciplinary action or for extreme acts of misconduct.

The concept of progressive discipline is not always applicable. Dismissal may be a suitable action in response to an isolated incident of egregious misconduct.

Dismissal:

An appointing authority may dismiss an employee with fifteen (15) calendar days' written notice.

Immediate Dismissal:

- (1) An appointing authority may dismiss an employee effective immediately with pay in lieu of the fifteen (15) calendar days' notice period. As required by WAC 357-40-025 the appointing authority must still provide written notice of the specific charge(s) and the employee's rights to appeal.
- (2) An appointing authority may dismiss an employee effective immediately without pay in lieu of the fifteen (15) calendar days' notice period if the appointing authority determines that continued employment of the employee jeopardizes the good of the service. The appointing authority must provide written notice of the immediate dismissal stating the reason(s) for dismissal, the reasons immediate action is necessary, and the employee's right to appeal.

Which discipline is appropriate?

In determining the appropriate level of disciplinary action to take, it is necessary to consider the impact that the action will have on the employee. Action taken should be one that provides the best opportunity for a positive impact on the employee's performance and behavior and should be the lowest sanction that will correct the behavior. Of equal importance is ensuring that the interests of the organizational effectiveness, other employees and agency clients are protected.

Disciplinary action should:

- Prevent recurrences of the acts
- Deter others from similar conduct
- Maintain the integrity of the program

Precedent and consistency are further considerations.

Timelines

The disciplinary action process can be time consuming as well as emotionally charged for all parties involved.

Factors to consider:

When considering all the factors in determining whether disciplinary action should be taken and what level to take it, it is important, to the extent possible, to maintain consistency within the University and to treat similarly situated employees similarly. This means that if conditions, circumstances, history, etc., are the same or similar in a given situation, consistent treatment should be given to the employees. *To assist in maintaining consistency and continuity, it is important to involve HRS as soon as possible in these processes.*

Recommendation for Formal Disciplinary Action – Pre-Disciplinary Written Notice

1. Supervisor or Appointing Authority, with the assistance of HRS, writes a pre-disciplinary notice letter that includes:
 - Specific detail as to the reason disciplinary action is being considered
 - Description of specific actions or behavior
 - Supporting Information/Facts (including dates and names)
 - Prior corrective/disciplinary actions, may be considered.
 - Possible action(s) being considered and the fact that no decision will be made until after the employee has the opportunity to present either in writing or in person their side of the issue.
 - Date, time and place for pre-disciplinary meeting. The meeting **must** be scheduled during employee's normal work shift.
 - Include the option to respond in writing instead of having the meeting. The employee has to be given a chance to present their side either at the pre-disciplinary meeting or in writing. Both are optional for the employee and the employee can forgo the opportunity to present their side.
2. The letter is given to employee by hand or regular and certified mail if the employee is not at work.

Pre-disciplinary Meeting

1. The meeting typically includes the supervisor, appointing authority, Human Resources, employee, and if requested by employee a co-worker.
2. Inform the employee of the concerns , basis for concerns, and range of action contemplated.
3. Give the employee opportunity to:
 - respond to concerns,
 - provide information,
 - give reasons why disciplinary action should not be taken.
4. The employee may waive the pre-disciplinary meeting and/or provide their response in writing if they so choose.

Levels of Formal Disciplinary Action (Requires Approval of Appointing Authority)

The Appointing Authority list can be found at [Appointing Authority](#).

1. Suspension without pay. Notice is to be hand delivered or sent regular and certified mailed no later than one day *after* first day of suspension. Not to exceed 15 days for single penalty or 30 calendar days in calendar year.
2. Reduction in salary. Notice given 15 days before effective date.
3. Demotion. Notice given 15 days before effective date.
4. Dismissal. Notice given 15 days before effective date.
5. Immediate dismissal. Appointing authority must determine that retention of employee could result in damage to property or persons.

Notice periods exclude the first day and include the last day of the period.

Considerations when Determining Level of Formal Disciplinary Action should include the following as appropriate. This is not an exhaustive list.

1. Length of service.
2. Overall documented performance including performance evaluation.
3. Degree of seriousness of misconduct or inadequate performance.
4. Previous incidents or similar actions.
5. Relevant trainings or prior notice to the employee of expectations, policies, etc.
6. Attendance
7. Commendations

Initiating Formal Action

1. After pre-disciplinary meeting, the appointing authority decides whether or not formal disciplinary action is to be taken. If the appointing authority had a proxy represent them at the pre-disciplinary meeting, he/she discusses meeting with proxy.
2. The appointing authority with assistance from HRS, drafts letter to employee, delivered by hand or by regular and certified mail if employee is not at work.
3. If disciplinary action *is* to be taken, letter states the charges, supporting information, that a pre-disciplinary meeting was held or offered, employee's perspective as presented in the pre-disciplinary meeting (could be included if appropriate but not always necessary or appropriate), disciplinary action being taken, and appeal rights.

4. Disciplinary letter is sufficiently specific that employee can respond to the charges without further information.

Appeal

1. The employee may appeal formal disciplinary action within 30 days of the effective date of action to the Personnel Resources Board (PRB). For example if the employee is given a 15-day notice of termination, the 30 days begins on the date of separation from employment. The standard language to include in disciplinary action letters regarding appeals is:

You may appeal this action to the Washington State Personnel Resource Board pursuant to WAC 357-52-010 and 357-52-015. Your appeal must be received in writing and in accordance with WAC 357-52-020 at the office of the Personnel Resources Board, 600 South Franklin, P.O. Box 40911, Olympia, Washington, 98504-0911, within thirty (30) calendar days after the effective date of this action.

2. On appeal, the employer **must** prove that:
 - performance or behavior occurred,
 - and disciplinary action was appropriate.