

## 1.8: Discipline and Appeal

This policy applies to employees who are in regular, grant funded and part time 3 positions and who have completed the twelve (12) month probationary period.

### POLICY

The following includes, but is not limited to, conduct which may lead to disciplinary action, up to and including, termination:

- A. Violation of an Adams County policy and/or procedure, or conviction of a crime or violation of the Adams County Code of Ethics;
- B. Neglect of duty or failure to perform assigned job duties or unsatisfactory performance of job duties;
- C. Insubordination, defined as refusal to comply with management's lawful instruction;
- D. Falsification of personnel records, time cards, financial documents, or other County records or documents; carelessness or negligence with monies or property of the County; theft or intentional destruction of County property; removal of county property, including documents, without permission; or
- E. Failure to obey additional internal rules including Operational Expectations and Department Standards

An employee's failure to maintain required qualification/eligibility for a position is not considered to be a disciplinary issue; employment actions taken in response to such failure to maintain qualifications/eligibility for a position are not subject to the disciplinary processes contained in Policy 1.8. People and Culture, in consultation with the department director, will determine whether or not an employee is qualified/eligible for their position.

Generally, to be deemed qualified or eligible for a position with the County, an employee must meet all the qualification/eligibility requirements that are listed in the relevant job description or required by law or state order. In addition, if any of the following occurs, an employee is no longer qualified/eligible for his/her position:

- Losing a required license/certification;
- Not completing or following the written conditions of an appointment or promotion to a position; or

## **1.8: Discipline and Appeal (continued)**

- Creating a conflict of interest (including entering a romantic relationship that violates the Code of Ethics); or
- Failing to obtain or maintain any vaccination or medical test required by the County (including vaccination requirements imposed by the state or federal government applicable to job functions of County positions).

### **PROCEDURES**

Supervisors or managers are responsible for managing the performance and behavior of their employees. When performance and/or behavioral issues exist, supervisors or managers should take immediate action to address the situation.

Depending upon the severity and/or frequency of the performance and/or behavioral issue, a supervisor or manager could take any of the following disciplinary action(s):

- Verbal Warning
- Written Reprimand
- Performance Improvement Plan
- Suspension without Pay
- Disciplinary Demotion
- Termination

The severity of the offense may preclude the application of progressive discipline. All disciplinary decisions shall be made in consultation with People and Culture.

#### **Verbal Warning**

A verbal warning may be warranted if the infraction is minor and not habitual. The supervisor or manager should verbally advise the employee of the performance or behavioral issue(s) that is the basis of the warning. This action, although verbal in nature, must be documented in writing.

#### **Written Reprimand**

A written reprimand may be warranted if the severity/frequency of the infraction is more than minor. A written reprimand should identify to the employee the performance and/or behavior issue(s), and/or the policy that has been violated, whichever is applicable. The document shall contain the employee's and the supervisor's signature.

## **1.8: Discipline and Appeal (continued)**

### **Performance Improvement Plan (PIP)**

A Performance Improvement Plan (PIP) may be used to assist the employee in improving their performance. A PIP must indicate the job task(s) that needs to be improved and the time frame, usually 30, 60 or 90 days, in which to improve. The PIP must also identify the supervisor's or manager's expectations regarding an acceptable level of performance and/or when goals are required to be completed. Supervisors or managers should provide employees with weekly or bi-monthly feedback on their progress towards meeting the supervisors or managers expectations.

A PIP is usually given for a specific period of time; however, if performance continues to decline, the supervisor or manager, in consultation with People and Culture, may end the plan and commence with further disciplinary action.

### **Suspension without Pay**

Department directors and elected officials, in consultation with People and Culture, are responsible for administering disciplinary actions that impact pay and/or employment status. Suspensions of up to five (5) days (forty (40) hours) or less are not subject to a pre-disciplinary conference or the appeal process. Suspensions greater than five (5) days or forty (40) hours are subject to the pre-disciplinary conference process (PDC).

### **Disciplinary Demotion**

An employee may be demoted to a position at a lower grade-level based on poor performance or other disciplinary problems. An employee who is demoted shall immediately begin working in the assigned position. Adams County Policy 4.2 (Rates of Pay) addresses the calculation of the reduction in pay associated with a demotion.

### **Termination**

An employee's employment with the County may be terminated.

### **Refusal to sign**

For disciplinary documents that must be signed by the employee per this policy, an employee's signature does not constitute agreement, but acknowledges receipt of notification. An employee's refusal to sign disciplinary documents shall be noted on the document.

An employee will still be held accountable for the items identified in the disciplinary document even if he/she refuses to sign the reprimand.

## **1.8: Discipline and Appeal (continued)**

### **Disciplinary Documents**

All disciplinary documents shall be prepared in consultation with People and Culture and should include the following:

- The performance and behavioral issues(s) being addressed
- The supervisors or managers expectations and/or what constitutes an acceptable level of performance going forward
- A statement identifying the consequences of what will occur if the employee's performance or behavior does not improve
- A signature block that indicates, an employee's signature does not constitute agreement, but acknowledges receipt of notification

### **Personnel File**

All disciplinary documents must be forwarded to People and Culture to be included in the employee's personnel file.

### **Appeal**

Employees are not entitled to appeal the disciplinary action of a supervisor or manager unless they go through a pre-disciplinary conference. Employees operating under a collective bargaining agreement are not eligible to appeal and shall follow the grievance procedure as outlined in the collective bargaining agreement.

### **PRE-DISCIPLINARY CONFERENCE (PDC) PROCESS**

Pre-disciplinary Conferences (PDC) are scheduled for all disciplinary actions in which the disciplinary action under consideration is:

- Suspension of more than five (5) days or forty (40) hours,
- Disciplinary demotion, or
- Termination.

Prior to the PDC, an employee shall be given notice of the allegations, the factual basis supporting the allegations, and the date and time of the PDC. A PDC allows an employee the opportunity to provide any relevant mitigating circumstances and/or facts

which refute the allegation(s) that have prompted the PDC.

## **1.8: Discipline and Appeal (continued)**

When an employee has been scheduled for a PDC, the employee may be placed on paid administrative leave. During this time, all benefits remain in effect, and there shall be no access to county property. While on administrative leave, the employee must be available to the County during business hours. Paid leave status shall end when the department director or elected official renders a decision.

PDCs shall be scheduled and held within seven (7) working days following notification to the employee that a PDC has been scheduled. PDC's shall be conducted by the employee's department director (or designee, in rare and special circumstances) and the Director of People and Culture (or designee).

### **Postponement**

A PDC may only be postponed once at the employee's request.

### **Third party representative and/or attorney**

The employee may have a representative present to consult with him/her at the PDC. The representative may not participate or speak at the PDC.

### **Director's decision**

In the event that a department director finds that the allegations are valid, the director has the discretion to determine what disciplinary action is appropriate. The director shall deliver a written decision to the employee within five (5) working days of the PDC.

### **Abandonment of the pre-disciplinary conference process**

Employees who resign while awaiting disciplinary action or proceedings forfeit their right to an appeal. If an employee fails to appear at the PDC, he/she will have abandoned the disciplinary process and the proposed disciplinary action will go into effect, unless the employee provides good cause for nonappearance to the director in writing prior to the time of the hearing or unless extraordinary circumstances are demonstrated. Whether or not good cause has been established shall be determined by the director in consultation with People and Culture Services.

### **Appealing the director's decision**

Employees operating under a Collective Bargaining Agreement are not eligible to appeal a PDC decision.

## **1.8: Discipline and Appeal (continued)**

If an eligible employee wishes to appeal, the employee shall provide written notice of intent to appeal the department director's decision to the Director of People and Total Rewards Excellence within five (5) working days of the date of the department director's decision. An employee, who has been terminated from County employment as a result of a PDC and is utilizing the appeal process, shall be placed in a paid leave status until the date that the hearing officer renders a decision. During this time, all benefits remain in effect, and there shall be no access to County property. Paid leave status shall end when the hearing officer renders a decision or if the appeal process is abandoned.

Failure to appeal the department director's decision within this time frame shall be deemed acceptance of the discipline imposed at the PDC.

### **Final appeal with an independent hearing officer**

Appeals of the director's decision shall be conducted by an independent hearing officer designated by the County Attorney's Office. Both the employee and County may be represented at the appeal hearing at their own expense.

There will be no discovery in the form of interrogatories, requests for documents, or depositions. Information to be provided to the employee or his/her counsel shall be limited to the documents presented at the pre-disciplinary conference and other personnel file documentation deemed relevant by the department director and People and Culture.

The appeal shall be scheduled within thirty (30) days after receipt of the notice of appeal.

### **Abandonment of the appeals process**

Failure to cooperate with scheduling of the hearing or provide requested information for a hearing may constitute abandonment of the appeal process. Also, if the employee fails to appear at the hearing, this shall constitute abandonment of the appeal process and relinquishment of the appeal, unless good cause for non-appearance is received prior to the time of the hearing or unless extraordinary circumstances are demonstrated.

### **Postponement**

Hearing officers shall be authorized to grant a single continuance of no more than one (1) week.

## **1.8: Discipline and Appeal (continued)**

### **Hearing officer's decision**

The hearing officer shall issue a written decision within fifteen (15) days of the conclusion of the hearing. The hearing officer may sustain the disciplinary actions, rescind them, or impose alternative discipline. The hearing officer shall sustain the county's disciplinary action unless it determines that the county's decision was arbitrary and capricious.

No disciplinary action subject to the appeal process shall be deemed a final decision of the County until either the hearing officer issues a written decision or an employee abandons the appeal process.

Related Policy:

- 3.6(2) Administrative Leave