

Corrective & Disciplinary Action #250

1.0 Purpose & Scope: To provide supervisors with fair and reasonable corrective and disciplinary action processes to address employee performance or conduct concerns. This policy applies to all merit employees; it does not apply to non-merit seasonal, temporary, part-time, appointed or elected employees.

1.1 Policy: When employee performance or conduct concerns arise, supervisors will address the behavior with the least severe corrective or disciplinary action that appropriately addresses the underlying behavior and protects the County's interests. Where possible, supervisors will provide support, training, and coaching to assist employees in correcting behavior.

1.2 Definitions

Corrective Action: Non-disciplinary action taken by a supervisor to assist an employee in correcting performance or conduct concerns. The goal is to provide employees with opportunities to correct performance or behavior concerns and avoid further action. Corrective Action includes both informal and formal corrective action.

Informal Corrective Action: Efforts by the supervisor to resolve employee performance or conduct concerns at the lowest possible level including but not limited to: training, coaching, performance improvement plans, memorandums of expectations, verbal warnings, and verbal warnings with written expectations.

Formal Corrective Action: Action taken by the supervisor to resolve employee performance or conduct concerns that are more serious in nature. Formal corrective action includes formal written warnings and formal final written warning letters. A formal final written warning may be issued when underlying issues are more serious in nature or as the final step before disciplinary action.

Disciplinary Action: Action taken by a supervisor or designee to address an employee's performance or conduct concerns that are ongoing, unacceptable, or egregious. Disciplinary actions include Demotion for Cause, Suspension without Pay, and Termination of Employment. Disciplinary actions may only be issued after the employee has had an opportunity to participate in a Pre-disciplinary Action Conference.

Pre-disciplinary Action Notice: A letter drafted by a supervisor contemplating disciplinary action that outlines proposed disciplinary action, the employee's alleged unacceptable performance or conduct and an explanation of the evidence in support of the proposed action. The letter is reviewed by Human Resources before delivery.

Pre-disciplinary Action Conference: A meeting between an employee who is alleged to have ongoing, unacceptable, or egregious performance or conduct concerns and their supervisor(s). The meeting provides the employee the opportunity to share their side of the allegations described in the Pre-

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disciplinary Action Notice before the supervisor makes a final decision on issuing Disciplinary Action. A Human Resources representative attends the meeting to help facilitate the discussion.

Supervisor: An employee's direct supervisor, second level supervisor or other individual designated by the Administrative Officer who completes the corrective or disciplinary action processes outlined in this policy.

1.3 Procedures

1. Level of Action: The following factors are taken into consideration when determining the appropriate level of corrective or disciplinary action:

- The safety implications of the behavior or performance
- The severity of the impact or consequences on delivery of County services
- The financial implications of the behavior or performance
- The level and severity of the disruption caused by the behavior or performance
- The relevant County, department or division policy or ordinance or workplace expectations
- The employee's past history – including prior corrective or disciplinary actions
- The egregiousness of the behavior: egregious behaviors are policy violations that have a severe impact on employees, the public, or the County as a whole and warrant disciplinary action.

2. Behaviors that may warrant corrective or disciplinary action include but are not limited to:

1. Violence or threat of violence in the workplace including conduct that could cause a reasonable person to fear physical harm or damage to property or other similar conduct
2. Unexcused and excessive absenteeism, misuse of leave time
3. Performance concerns
4. Harassment, discrimination, retaliation
5. Falsification of payroll, County, or Government records
6. Theft of County resources
7. Misuse of County resources
8. Financial misconduct with County funds
9. Workplace bullying. Defined as the repeated, unreasonable actions of individuals (or a group) directed towards an employee (or a group of employees), which is intended to intimidate and creates a risk to the health, safety, or productivity of the employee(s)
10. Insubordination. Defined as the deliberate disregard of a supervisor's reasonable request
11. Failure to adhere to County policy
12. Negligence, failure to follow safety rules or practices or conduct which endangers the safety of County employees or the public
13. Failure to comply with drug and alcohol free workplace requirements
14. Using County resources for personal, political or business purposes
15. A conviction of, a plea in abeyance (until expunged), or a plea of guilty or no contest to any crime that adversely impacts the County or disqualifies an employee from performing their job
16. Intentionally using position/affiliation with Davis County for personal gain or in a manner that adversely impacts the County's reputation, course of business and/or operations

17. Violation of applicable statutory requirements, policies, or procedures that protect the environment and the health and safety of others, or any similar conduct
18. Violations of minimum requirements or expectations of federal statute, state law or county ordinance applicable to specific job classifications including but not limited to peace officer and election worker
19. Other conduct that is detrimental to the County, its employees, or public

3. Corrective Action procedures:

- a. Informal Corrective Action Process: Supervisors may take informal corrective action at their discretion and are encouraged to consult with their Human Resources representative.
 - i. Informal Corrective Action is not grievable or appealable.
 - ii. Informal Corrective Actions are not added to the personnel file.
- b. Formal Corrective Action Process: Supervisors contemplating formal corrective action will contact their Human Resources representative to discuss the circumstances and to request the appropriate template. Drafts must be reviewed by Human Resources before delivery
 - i. Personnel File: Approved formal written and final written warnings are added to the personnel file after delivery.
 - ii. Formal Corrective Action Appeal:
 1. Informal Discussion. Employees who have received formal corrective action and who disagree with the contents may attempt to resolve their concerns through an informal discussion with the issuer. This discussion must take place within five (5) business days of when the formal written warning or formal final written warning was issued.
 2. Written Appeal. If the employee's concerns are unresolved after an informal discussion with the issuer or if the employee decides to skip the informal discussion, they may appeal the decision in writing to the issuer's supervisor. As an alternative, formal final written warnings may be appealed directly to the employee's Administrative Officer.
 3. Appeal and Response Deadline. The written appeal must be submitted within ten (10) business days from the date of informal discussion with the issuer or ten (10) business days from when the formal written or formal final written warning was issued if the employee has decided to skip the informal discussion. Failure to meet the appeal deadline will end the available appeal process. The reviewer will respond within ten (10) business days with a decision unless additional time is needed.
 4. Decision. Decision options include upholding, modifying, or withdrawing the formal written or formal final written warnings. The reviewer's decision is final and completes the appeal process.
 - iii. Formal Corrective Action Response: An employee may submit a written response for inclusion with a formal written or formal final written warning. A written response must be received by Human Resources within four weeks from the date the warning was issued.

- iv. Removal of Formal Corrective Action: Employees who have received a formal written or formal final written warning may make a request to their Administrative Officer for removal of the warning after two (2) years of satisfactory performance. The Administrative Officer, in collaboration with the Director of Human Resources or designee, will make a determination to approve or deny the request. If approved, the formal warning letter will be removed from the personnel file and placed in a private employee relations file within Human Resources for historical record keeping purposes only. The decision to approve or deny the request for removal is not grievable or appealable.

4. Disciplinary Action procedures:

- a. Disciplinary Action Process: Supervisors considering a Demotion for Cause, Suspension without Pay, or Termination of Employment, will contact their Human Resources representative to discuss the circumstances and request the template for the Pre-disciplinary Action Notice. The Pre-disciplinary Action Notice must be reviewed by Human Resources before delivery. The Notice will be provided to the employee no less than three (3) business days prior to the date of the Pre-disciplinary Action Conference.
- b. Pre-disciplinary Action Conference
 - i. Attendees: Attendees are limited to the supervisor(s), the employee, and the Human Resources representative(s).
 - ii. Waiving the right to the Pre-disciplinary Action Conference: Employees may waive their right to the Pre-disciplinary Action Conference by notifying their supervisor in writing.
 - iii. Written response alternative: Employees may elect to submit a written response to the Pre-disciplinary Action Notice as an alternative to attending the Pre-disciplinary Action Conference.
 - 1. Employees must notify their supervisor in writing that they are waiving their right to a Pre-disciplinary Action Conference and have chosen to submit a written response as an alternative. This notification must be sent to the supervisor before the scheduled meeting date.
 - 2. The written response must be submitted by close of business on the scheduled Pre-disciplinary Action Conference date.
 - iv. No response: If an employee chooses not to attend the Pre-disciplinary Action Conference and does not respond in writing, the department will make a decision based on the available evidence and information.
 - v. Decision: After the employee has had an opportunity to participate in the Pre-disciplinary Action Conference or to submit a written response, the supervisor will make a final decision. Final decision options include:
 - 1. Issuing Disciplinary Action: Demotion for Cause, Suspension without Pay, Termination of Employment
 - 2. Issuing Corrective Action
 - 3. Taking no ActionThe Supervisor will notify the employee of the decision.

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- vi. Disciplinary action: The supervisor will request the appropriate template from Human Resources and consult with Human Resources before proceeding.
- vii. Personnel file: A copy of the disciplinary action will be added to the personnel file along with the applicable Notice of pre-disciplinary action.
- c. Grievance: Disciplinary actions are grievable under Davis County Merit System Ordinance Chapter 21 Grievances.

6. Exceptions/Alternatives

Exceptions to this policy and alternative corrective or disciplinary action processes may be made by the Director of Human Resources or designee.