

CHAPTER 10

DISCIPLINE AND DISCIPLINARY TERMINATIONS

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CHAPTER 10

DISCIPLINE AND DISCIPLINARY TERMINATIONS

Purpose: It is the purpose of this chapter to describe policies and procedures related to the warning, discipline, and termination of employees on the basis of misconduct or unsatisfactory performance. Sections 10.0 - 10.4 apply to all non-probationary County employees (full-time and part-time) serving on regular appointments. Sections 10.5-10.7 apply to probationary employees, temporary employees, and sworn employees of constitutional officers.

Intent: Disciplinary actions are taken to promote the efficiency of County operations. In exercising discipline, the County will give due regard to each employee's legal rights and will ensure that disciplinary actions are based on objective considerations without regard to race, color, religion, sex, national origin, age, disability, political affiliation, sexual orientation, gender identity, or other non-merit factors¹. The County has an at-will employment relationship with all employees. The disciplinary procedures in this Chapter are intended only to provide a procedural framework for discipline and termination, not to alter the legal nature of the at-will relationship.

10.0 GENERAL POLICIES

- (A) **Purpose:** Disciplinary action is a tool available to managers to deal effectively with employees whose performance or conduct is unacceptable.

In many cases disciplinary action will take a progressive course, beginning with minor action and escalating to more serious action only if needed to correct the misconduct or unsatisfactory performance. However, discipline need not follow any specific sequence. Even a single major incident of misconduct or unsatisfactory performance may be cause for severe action, including immediate termination, irrespective of whether previous disciplinary actions have been taken against the employee.

- (B) **Considerations:** In making decisions regarding appropriate disciplinary action, managers should consider a series of factors, including:

- 1) the nature and seriousness of the problem;
- 2) the level of the employee's position;

¹ Revised January 5, 2010

- 3) the effect of the problem on the efficiency and/or credibility of County operations;
- 4) the quality of the employee's previous performance and conduct;
- 5) any explanation provided by the employee;
- 6) any mitigating circumstances; and
- 7) the realistic prospect that the problem can or will be corrected.

- (C) **Consultation with Human Resources:** Before initiating a disciplinary action (other than Counseling), the responsible supervisor, manager or Department Head must discuss the issue with Human Resources. Human Resources will involve the office of the County Attorney, as appropriate.
- (D) **Employee Responsibilities:** Every County employee is responsible for reading and understanding his/her obligations under the Loudoun County Code of Conduct (contained in Chapter 3 of these policies), other applicable sections of the Human Resources Handbook, and any other procedural manuals applicable to the employee's duties. Any employee who is unclear about his/her obligations or responsibilities under County policies should contact his/her supervisor or Human Resources for an explanation.

Employees are also responsible for knowing and following the grievance policies and time limits outlined in Chapter 11 if they intend to appeal a disciplinary action. Questions regarding the grievance policies may be addressed to Human Resources.

- (E) **Categories of Disciplinary Actions:** Disciplinary actions fall into two broad categories: misconduct and unsatisfactory performance. The two are typically treated separately for procedural reasons, but in fact they are often interrelated: misconduct can certainly damage an employee's performance, and exceptionally poor performance (intentional or negligent deficiencies) can constitute misconduct. Accordingly, managers should consider both categories when deciding how to best deal with a conduct or performance problem. Disciplinary actions based on misconduct should also be noted in the employee's performance assessment to the extent the misconduct affected the employee's performance.
- (F) **Administrative Leave:** An employee may be placed on paid Administrative Leave if there is an immediate need to remove the employee from work for the purpose of investigating a complaint, allegation, or charge of misconduct. An employee may also be placed on Administrative Leave during the course of the disciplinary process or for any period of time between a decision to terminate the employee's employment and the effective date of the termination.

Department Heads may authorize up to ten (10) working days and the County Administrator may authorize additional working days of Administrative Leave for these purposes.

The employee must be informed in writing that he/she is being placed on Administrative Leave and the general reason (e.g., to investigate a work-related complaint). Employees on Administrative Leave must be available to return to duty at any time, with no more than four hours notice.

- (G) **Investigative Procedures:** The County Administrator may establish guidelines for the investigation of complaints or other allegations concerning County employees, and may require that a written report of the investigation be prepared for review by the County Administrator and other appropriate authorities.

- (H) **Unauthorized Absences:** Without regard to these disciplinary procedures, managers may place employees who are absent from duty without authorization in an unpaid status (Absence Without Authorization) or in a paid status (enforced Annual Leave or enforced Exchange Time) for the duration of the absence. Absences for non-exempt employees may be charged to these categories in increments of one-hour. Absences for exempt employees must be charged in increments of full days. These categories do not constitute approved leave and may be used as documentation for disciplinary actions based on absenteeism. Absences recorded in these categories may be converted to approved leave if the employee ultimately provides adequate justification for the absences.

10.1 DISCIPLINARY AUTHORITY

- (A) The primary authority to initiate disciplinary action against County employees rests with the County Administrator. This authority is delegated to Department Heads for most circumstances. However, in cases involving County-wide issues or where other special circumstances exist (such as situations which potentially could incur legal liability, such as sexual harassment), the County Administrator may designate other representatives or County officials (outside the affected department(s)) to review the issue and initiate appropriate disciplinary action.

- (B) Departmental authority for Warnings and Disciplinary Actions:
 - (1) Counseling, Letters of Warning and Letters of Reprimand may be issued by the employee's supervisor, a higher-level manager up to and including the Department Head, or another management official designated by the County Administrator.

 - (2) Actions related to Suspensions Without Pay, Denials of Performance-Based Pay Increases, Demotions, and Terminations must be taken by the Department Head or another management official designated by the County Administrator. Department Heads cannot delegate authority for these actions to lower levels of management.

10.2 WARNING AND DISCIPLINE OF REGULAR EMPLOYEES FOR MISCONDUCT

10.2.01 Categories of Misconduct²

Misconduct is divided into two general categories, Lesser Misconduct and Serious Misconduct, based on the nature and seriousness of the offense. Lesser Misconduct is typically handled by Counseling, a Letter of Warning, or a Letter of Reprimand. Serious Misconduct is typically handled by a Suspension Without Pay, Demotion or Termination. All actions taken to address misconduct issues must be done in consultation with Human Resources (please refer to 10.0(C)).

(A) Lesser Misconduct

- (1) Any minor violation of the Loudoun County Code of Conduct;
- (2) Infrequent lateness (tardiness) in reporting for work or duties;
- (3) One unauthorized absence from duty;
- (4) Minor acts of negligence in the care and handling of County property;
- (5) Minor failure to comply with County or departmental policy or procedure, or federal, state or local regulation;
- (6) Minor use of offensive or discourteous language toward the public or other employees;
- (7) Minor carelessness or failure to perform duties which could create a safety problem for oneself or others;
- (8) Any other relatively minor misconduct that could impair the efficiency of County operations, diminish the quality of service provided to County citizens, or discredit the image of County government.

(B) Serious Misconduct³

- (1) Serious or repeated violation of the Loudoun County Code of Conduct;
- (2) Any repeat of an offense in the lesser misconduct category;
- (3) Any incident of insubordination (e.g. intentional failure to comply with a County policy or the directions of a supervisor, manager, or other authorized management representative, disrespectful behavior toward a supervisor, manager or other authorized management representative);
- (4) Arriving on duty under the influence of intoxicants or consuming or possessing intoxicants on County premises, in County vehicles, or during working hours;
- (5) Theft, unauthorized or fraudulent use, misuse, willful destruction, or vandalism of County-owned or leased property;
- (6) Unlawful conduct that brings the employee's suitability for his/her position into doubt and/or may bring the County Government into public disrepute;

² Revised April 1, 2008

³ Revised July 7, 2009

- (7) Intentional or negligent conduct or failure to perform duties which could endanger the safety of oneself or others;
- (8) Use of abusive or threatening language toward the public or other employees;
- (9) Exhibiting violent, physically threatening, or dangerous behavior toward the public or other employees;
- (10) Improper use of authority or position;
- (11) Intentional falsification of information, applications, personnel records, work and leave records, or other County documents;
- (12) Engaging in discriminatory conduct or sexual harassment directed toward other employees or a member of the public;
- (13) Retaliation against an employee who has filed a grievance, an EEO complaint, or other similar action properly exercising his/her legal rights;
- (14) Knowingly filing a false complaint or grievance.

10.2.02 Warnings and Disciplinary Actions

(A) Counseling

Counseling is a discussion between the supervisor and the employee regarding conduct that is not acceptable. The discussion is intended to explain to the employee the nature of the misconduct, to ensure that the employee understands his/her obligations, and to provide the employee an opportunity to present his/her side of the story. Counseling is not a disciplinary action, per se, but may be used as documentation if subsequent disciplinary action is initiated. Managers should keep a record of counseling sessions if they anticipate that disciplinary action may ultimately be warranted.

(B) Letter of Warning

A Letter of Warning is a written warning to an employee that his/her conduct is not satisfactory. It is not a formal disciplinary action, per se, but may be used when counseling has not corrected a problem or when the manager wants to be certain the employee understands his/her obligations. A Letter of Warning is not placed in the employee's Official Personnel File (in Human Resources), but may be used as documentation if subsequent disciplinary action is initiated.

A Letter of Warning must include:

- (1) a specific description of the misconduct and an instruction that the misconduct is not to be repeated;
- (2) reference to previous Counseling sessions or other unsuccessful efforts, if any, to correct the behavior; and
- (3) a clear statement that other incidents of misconduct may result in more serious disciplinary action, up to and including termination.

A Letter of Warning is initiated by the supervisor or higher-level manager and provided to the employee. A copy must be provided to the Department Head and to Human Resources for their information.

(C) **Letter of Reprimand**

A Letter of Reprimand is a disciplinary action intended to give the employee formal notice that his/her misconduct will not be tolerated. A Letter of Reprimand is usually issued when Counseling or a Letter of Warning has failed to correct the problem, or when the misconduct is serious enough that Counseling or a Letter of Warning is not adequate.

A Letter of Reprimand must include:

- (1) a specific description of the misconduct;
- (2) reference to previous counseling discussions, Letters of Warning or other unsuccessful efforts, if any, to correct the behavior;
- (3) reference to applicable County or Departmental policies;
- (4) a clear statement that another incident of misconduct may result in more serious disciplinary action, up to and including termination;
- (5) an explanation that the Reprimand will be placed in the Employee's Official Personnel File for a period of three years, during which time it may be used to support subsequent disciplinary actions; and
- (6) reference to the employee's right to submit a statement (not to exceed three pages in length) that will be included with the Reprimand in his/her Official Personnel File.

A Letter of Reprimand is initiated by the supervisor or higher-level manager and provided to the employee. A copy must be provided to the Department Head and to Human Resources. The Reprimand will remain in the employee's Official Personnel File (in Human Resources) for a period of three years and may be relied upon during that period to support subsequent disciplinary actions. If no additional misconduct occurs during the three years, the Reprimand will be removed from the employee's Official Personnel File. If additional misconduct does occur during the three years, the Reprimand will remain in the employee's Official Personnel File for three years from the most recent misconduct. The employee may submit a written statement (not to exceed three pages in length) which will be included in the Official Personnel File with the Reprimand.

(D) Suspension Without Pay⁴

Suspension Without Pay may be appropriate for repeated incidents of misconduct or for a single incident that is so serious that lesser forms of disciplinary actions are not adequate. The length of a suspension will vary with the nature of the violation, but may range from one workday to thirty workdays.

Proposal for Suspension Without Pay:

Prior to deciding whether a Suspension is warranted, the Department Head must provide a Proposal for Suspension Without Pay to the employee. The Proposal must contain the following information:

- (1) a statement that the Department Head is considering suspending the employee without pay;
- (2) a specific description of the misconduct;
- (3) reference to applicable County or Departmental policies;
- (4) reference to previous counseling sessions or other efforts, if any, to correct the misconduct;
- (5) reference to (or copies of) documentary evidence, including Letters of Warning, Letters of Reprimand, performance assessments or other communications, if any, relevant to the proposed Suspension;
- (6) the length of the proposed Suspension;
- (7) an explanation that before reaching a decision the Department Head will give the employee the opportunity to present his/her side of the issue, including any mitigating circumstances;
- (8) that the employee may respond to the proposal orally and/or in writing and may submit documentation to support his/her position;
- (9) the date and time when the Department Head is available to meet with the employee to hear his/her side of the case (normally five work days from the date the letter is sent to the employee);
- (10) notice that if the employee does not respond to the Proposal, the Department Head will make a decision based on the available evidence;
- (11) the employee's status (continue to work or on paid administrative leave) pending a decision on the proposed Suspension.

The Proposal for Suspension Without Pay is initiated by the Department Head and provided to the employee. A copy must be sent to Human Resources for its information.

Notice of Suspension Without Pay:

After reviewing the evidence, including any representation made by the employee, the Department Head may decide to 1) proceed with the Suspension as

⁴ Revised July 7, 2009

proposed, 2) proceed with a lesser Suspension, a Reprimand or other action, or
3) proceed with no disciplinary action at all.

If a Department Head decides to proceed with a Suspension, he/she must issue a Notice of Suspension Without Pay to the employee. The Notice must include:

- (1) reference to the Proposal for Suspension Without Pay;
- (2) reference to the date of any relevant meetings between the Department Head and the employee;
- (3) reference to the main arguments (or mitigating circumstances) raised by the employee;
- (4) the Department Head's decision;
- (5) the dates of the Suspension;
- (6) the date and time the employee is to return for duty;
- (7) an explanation that the Notice of Suspension will become a permanent part of the Employee's Official Personnel File and may be used to support subsequent disciplinary actions;
- (8) reference to the employee's right to submit a statement (not to exceed three pages in length) that will be included with the Notice in his/her Official Personnel File; and
- (9) reference to the employee's right to appeal the Suspension in accordance with the grievance procedures in Chapter 11.

The Notice of Suspension Without Pay is initiated by the Department Head and provided to the employee. A copy must be sent to Human Resources for inclusion in the employee's Official Personnel File. The Notice (and the Proposal that preceded the Notice) is permanently retained in the Official Personnel File and may be relied upon at any time to support subsequent disciplinary action. The employee may submit a written statement (not to exceed three pages in length) which will be included in the Official Personnel File with the Notice of Suspension.

(E) **Demotion**

Demotion may be appropriate if the misconduct does not warrant termination. Demotions for misconduct will not be used to circumvent the performance management process. Demotion may occur only if: 1) there is no change in the number of authorized positions in the department and 2) the employee meets minimum position requirements for the lower level position.

Proposal for Demotion: Prior to deciding whether a demotion is warranted, the Department Head must provide a Proposal for Demotion to the employee. The Proposal must include:

- (1) a statement that the Department Head is considering demoting the employee and the position title, classification and salary level to which the employee will be assigned if demoted;
- (2) a specific description of the misconduct;
- (3) reference to applicable County or Departmental policies;
- (4) reference to previous counseling sessions or other disciplinary actions taken to address the misconduct;
- (5) reference to (or copies of) documentary evidence and/or communications relevant to the misconduct;
- (6) an explanation that before reaching a decision the Department Head will give the employee the opportunity to present his/her side of the issue;
- (7) a statement that the employee may respond to the proposal orally and/or in writing and may submit documentation to support his/her position;
- (8) the date and time when the Department Head is available to meet with the employee to hear his/her position (normally five work days from the date the letter is sent to the employee);
- (9) notice that if the employee does not respond to the Proposal, the Department Head will make a decision based on the available evidence;
- (10) the employee's status (continue to work or on administrative leave) pending a decision on the proposed Demotion.

The Proposal for Demotion is initiated by the Department Head and provided to the employee. A copy must be sent to Human Resources for its information.

Notice of Demotion: After reviewing the evidence, including any representation made by the employee, the Department Head may decide to 1) proceed with the demotion, 2) take another lesser disciplinary action, or 3) take no action.

If the Department Head decides to proceed with the Demotion, he/she must issue a Notice of Demotion to the employee. The Notice of Demotion must include:

- (1) reference to the Proposal for Demotion;
- (2) reference to the date of any relevant meetings between the Department Head and the employee;
- (3) reference to the main arguments (or mitigating circumstances) raised by the employee;
- (4) the Department Head's decision;
- (5) the effective date of the demotion;
- (6) the specific position title, classification and salary level to which the employee will be demoted;
- (7) a warning that additional disciplinary action, up to and including termination, may be initiated if any further misconduct occurs;

- (8) an explanation that the Notice of Demotion will become a permanent part of the employee's Official Personnel File and may be used as documentation for subsequent disciplinary actions;
- (9) reference to the employee's right to submit a statement (not to exceed three pages in length) that will be included with the Notice in his/her Official Personnel File; and
- (10) reference to the employee's right to appeal the Demotion in accordance with the grievance procedures in Section 10.4 and Chapter 11.

The Notice of Demotion is initiated by the Department Head and provided to the employee. A copy must be sent to Human Resources for inclusion in the employee's Official Personnel File. The Notice (and the Proposal that preceded the Notice) is permanently retained in the Official Personnel File and may be used to support subsequent disciplinary action. The employee may submit a written statement (not to exceed three pages in length) which will be included in the Official Personnel File with the Notice of Demotion.

(F) Termination

Termination of employment may be appropriate for repeated incidents of misconduct or for a single incident that is so serious that lesser forms of disciplinary actions are not adequate.

Proposal for termination:

Prior to deciding whether Termination is warranted, the Department Head must provide a Proposal for Termination to the employee. The proposal must include:

- (1) a statement that the Department Head is considering terminating the employee for misconduct;
- (2) a specific description of the misconduct;
- (3) reference to applicable County or Departmental policies;
- (4) reference to previous counseling sessions or other efforts, if any, to correct the misconduct;
- (5) reference to (or copies of) documentary evidence, including Letters of Warning, Letters of Reprimand, performance assessments, Notices of Suspension Without Pay or other communications, if any, relevant to the proposed Termination;
- (6) an explanation that before reaching a decision the Department Head will give the employee the opportunity to present his/her side of the issue, including any mitigating circumstances;
- (7) that the employee may respond to the proposal orally and/or in writing and may submit documentation to support his/her position;
- (8) the date and time when the Department Head is available to meet with the employee to hear his/her side of the case (normally five work days from the date the letter is sent to the employee);

- (9) notice that if the employee does not respond to the Proposal, the Department Head will make a decision based on the available evidence;
- (10) the employee's status (continue to work or on paid administrative leave) pending a decision on the proposed Termination.

The Proposal for Termination is initiated by the Department Head and provided to the employee. A copy must be sent to Human Resources for its information.

Notice of Termination:

After reviewing the evidence, including any representation made by the employee, the Department Head may decide to 1) proceed with the Termination as proposed, 2) proceed with a Suspension, Reprimand, or other action, or 3) proceed with no disciplinary action at all.

If a Department Head decides to proceed with the Termination, he/she must issue a Notice of Termination to the employee. The Notice of Termination must include:

- (1) reference to the Proposal for Termination;
- (2) reference to the date of any relevant meetings between the Department Head and the employee;
- (3) reference to the main arguments (or mitigating circumstances) raised by the employee;
- (4) the Department Head's decision;
- (5) the effective date of the Termination (which may be immediate);
- (6) the employee's status (continue to work or on administrative leave) pending the effective date of the Termination,
- (7) an explanation that the Notice of Termination will become a permanent part of the employee's Official Personnel File;
- (8) reference to the employee's right to submit a statement (not to exceed three pages in length) that will be included with the Notice in his/her Official Personnel File; and
- (9) reference to the employee's right to appeal the Termination in accordance with the grievance procedures in Chapter 11.

The Notice of Termination is initiated by the Department Head and provided to the employee. A copy must be sent to Human Resources for inclusion in the employee's Official Personnel File. The Notice (and the Proposal that preceded the Notice) is permanently retained in the Official Personnel File. The employee may submit a written statement (not to exceed three pages in length) which will be included in the Official Personnel File with the Notice of Termination.

**10.3 WARNING AND DISCIPLINE OF REGULAR EMPLOYEES
FOR UNSATISFACTORY PERFORMANCE/NON-PERFORMANCE
OF JOB DUTIES ⁵**

Refer to these policies and those contained in Chapter 8, Performance Planning and Assessment.

10.3.01 Performance Standards

Performance standards are established through an employee's performance plan. The performance plan identifies the goals, job components and core competencies which must be met for performance to be considered satisfactory. The performance plan may be revised at any time and should be reviewed periodically by the supervisor to ensure that performance standards are clearly defined and outlined.

Employees may be disciplined for unsatisfactory performance or non-performance of job duties. Examples of unsatisfactory performance and/or non-performance that may lead to discipline include but are not limited to:

1. A less than "Fully Successful" category rating or overall rating on an interim or annual performance assessment.
2. Demonstrated incompetence or ineffectiveness in the performance of assigned job duties including but not limited to deficiencies in the quality, quantity and/or timeliness of work; performance resulting in an unacceptable error rate; or failure to exercise sound professional judgment in making work-related decisions.
3. Failure to follow established work procedures, rules and/or any applicable federal, state, or local laws or regulations in the performance of work duties or documenting of work tasks, including the untimely and/or inaccurate completion of work related logs or records.
4. Failure to demonstrate consistent professionalism in the performance of assigned duties including but not limited to rendering poor customer service or failure to communicate, interact, supervise and/or otherwise work with others in a professional and effective manner.
5. Failure to timely complete mandatory or required training.
6. Demonstrated gross neglect of duty or repeated instances of minor neglect of duty, including the failure to timely complete assigned work related tasks.
7. Dereliction or avoidance of duty, including but not limited to, leaving the assigned work area or work site without permission, except for emergencies; sleeping while on duty; excessive personal use of the telephone, internet and/or personal devices while on duty; and excessive unauthorized work breaks and/or excessive socializing while on duty.

8. Failure to acquire or maintain a valid license, registration, certification or legal capacity, when such license, registration, certification or legal capacity is required in the performance plan.
9. Substandard performance or non-performance of required task(s) that results in the County being out of compliance with any federal, state, or local regulation or requirement.
10. Failure to follow, comply with or enforce established safety practices, procedures or rules including performance of unsafe acts or failure to appropriately wear or use safety equipment.
11. Negligent operation of a County owned vehicle or other vehicle or equipment used in the performance of assigned job duties.
12. Failure on the part of a supervisor or manager to timely report the following, as required by policy or procedure: 1) any actual or alleged violations of County policy observed by or reported to the supervisor or manager; 2) any work-related injury observed by or reported to the supervisor or manager; 3) any reasonable suspicion that an employee may be under the influence of alcohol or drugs in the workplace; and 4) any other information that the supervisor or manager is otherwise required to timely report by any applicable policy or procedure.
13. Failure to timely report damage to County property or equipment as soon as practical.

10.3.02 Addressing Unsatisfactory Performance

The following methods may be used to address unsatisfactory performance or non-performance of job duties:

(A) Counseling

Counseling is a discussion between the supervisor and the employee regarding unsatisfactory performance or non-performance of job duties. In the counseling he discussion shall inform the employee of the nature of the unsatisfactory performance or non-performance, confirm expected performance standards and provide the employee an opportunity for explanation. Counseling discussions are not considered disciplinary actions, but may be used as supporting documentation if subsequent disciplinary action is initiated. Managers should keep a written record of counseling sessions.

(B) Letter of Warning

A Letter of Warning is a written warning to an employee regarding unsatisfactory performance or non-performance of job duties. It is not a formal disciplinary action,

but may be used when counseling has not corrected a problem or when the manager wants to be certain the employee understands his/her performance expectations. A Letter of Warning is not placed in the employee's Official Personnel File (in Human Resources), but may be used as documentation if subsequent disciplinary action is initiated.

A Letter of Warning must include:

- (1) a specific description of the unsatisfactory performance or non-performance of job duties and a directive that the deficiency must be corrected;
- (2) reference to previous counseling sessions or other unsuccessful efforts, if any, to correct the performance; and
- (3) a clear statement that other incidents of unsatisfactory performance or non-performance of job duties may result in disciplinary action, up to and including termination.

A Letter of Warning is initiated by the supervisor or higher-level manager and provided to the employee. A copy must be provided to the Department Head and to Human Resources for their information.

(C) **Letter of Reprimand**

A Letter of Reprimand is a formal disciplinary action intended to document the employee's unsatisfactory performance or non-performance and to give the employee formal notice that his or her unsatisfactory performance or non-performance must be immediately corrected. A Letter of Reprimand is usually issued when previous counseling(s) or a Letter of Warning has failed to correct the problem, or when the unsatisfactory performance or non-performance of job duties is serious enough that a counseling or a Letter of Warning is not adequate.

A Letter of Reprimand must include:

- (1) a specific description of the unsatisfactory performance or non-performance of job duties;
- (2) reference to previous counseling discussions, Letters of Warnings or other unsuccessful efforts, if any, to correct the performance deficiencies;
- (3) reference to applicable County or Departmental policies;
- (4) a clear statement that another incident of unsatisfactory performance or non-performance of job duties may result in more serious disciplinary action, up to and including termination;
- (5) an explanation that the Letter of Reprimand will be placed in the Employee's Official Personnel File and may be used to support subsequent disciplinary actions; and

- (6) reference to the employee's right to submit a statement (not to exceed three pages in length) that will be included with the Letter of Reprimand in his or her Official Personnel File.

A Letter of Reprimand is initiated by the supervisor or higher-level manager and provided to the employee. A copy must be provided to the Department Head and to Human Resources. The Letter of Reprimand will be placed in the employee's Official Personnel File (in Human Resources) and may be used to support subsequent disciplinary actions. The employee may submit a written statement (not to exceed three pages in length) which will be included in the Official Personnel File with the Letter of Reprimand.

(D) Suspension Without Pay

Suspension Without Pay may be appropriate for repeated incidents of unsatisfactory performance or non-performance of job duties or for a single incident that is so serious that lesser forms of disciplinary actions are not adequate. The length of a suspension will vary with the nature of the violation, but may range from one workday to thirty workdays.

Proposal for Suspension Without Pay:

Prior to deciding whether a Suspension is warranted, the Department Head must provide a Proposal for Suspension Without Pay to the employee. The Proposal must contain the following information:

- (1) a statement that the Department Head is considering suspending the employee without pay;
- (2) a specific description of the unsatisfactory performance or non-performance of job duties;
- (3) reference to applicable County or Departmental policies;
- (4) reference to previous counseling sessions or other efforts, if any, to correct the unsatisfactory performance or non-performance of job duties.
- (5) reference to (or copies of) documentary evidence, including Letters of Warning, Letters of Reprimand, performance assessments, performance improvement plans/remediation plans, or other communications, if any, relevant to the proposed Suspension;
- (6) the length of the proposed Suspension;
- (7) an explanation that before reaching a decision the Department Head will give the employee the opportunity to present his/her side of the issue, including any mitigating circumstances;
- (8) that the employee may respond to the proposal orally and/or in writing and may submit documentation to support his/her position;

- (9) the date and time when the Department Head is available to meet with the employee to hear his/her side of the case (normally five work days from the date the letter is sent to the employee);
- (10) notice that if the employee does not respond to the Proposal, the Department Head will make a decision based on the available evidence;
- (11) the employee's work status (i.e., continue to work or on paid administrative leave) pending a decision on the proposed Suspension.

The Proposal for Suspension Without Pay is initiated by the Department Head and provided to the employee. A copy must be sent to Human Resources for its information.

Notice of Suspension Without Pay:

After reviewing the evidence, including any representation made by the employee, the Department Head may decide to 1) proceed with the suspension as proposed, 2) proceed with a lessor form of discipline, or 3) proceed with no disciplinary action at all.

If a Department Head decides to proceed with a Suspension, he/she must issue a Notice of Suspension Without Pay to the employee. The Notice must include:

- (1) reference to the Proposal for Suspension Without Pay;
- (2) reference to the date of any relevant meetings between the Department Head and the employee;
- (3) reference to the main arguments (or mitigating circumstances) raised by the employee;
- (4) the Department Head's decision;
- (5) the dates of the Suspension;
- (6) the date and time the employee is to return for duty;
- (7) an explanation that the Notice of Suspension will become a permanent part of the employee's Official Personnel File and may be used to support subsequent disciplinary actions;
- (8) reference to the employee's right to submit a statement (not to exceed three pages in length) that will be included with the Notice in his/her Official Personnel File; and
- (9) reference to the employee's right to appeal the Suspension in accordance with the grievance procedures in Chapter 11.

The Notice of Suspension Without Pay is initiated by the Department Head and provided to the employee. A copy must be sent to Human Resources for inclusion in the employee's Official Personnel File. The Notice (and the Proposal that preceded the Notice) is permanently retained in the Official Personnel File and may be relied upon at any time to support subsequent disciplinary action. The employee may

submit a written statement (not to exceed three pages in length) which will be included in the Official Personnel File with the Notice of Suspension.

(E) Demotion

Demotion may be appropriate if it is evident the employee cannot satisfactorily perform the duties of his/her current position. Demotion may occur only if: 1) there is no change in the number of authorized positions in the department and 2) the employee meets minimum position requirements for the lower level position.

Proposal for Demotion: Prior to deciding whether a demotion is warranted, the Department Head must provide a Proposal for Demotion to the employee. The Proposal must include:

- (1) a statement that the Department Head is considering demoting the employee and the position title, classification and salary level to which the employee will be assigned if demoted;
- (2) a specific description of the unsatisfactory performance or non-performance of job duties.
- (3) reference to applicable County or Departmental policies;
- (4) reference to previous counseling sessions or other efforts, if any, to correct the unsatisfactory performance;
- (5) reference to (or copies of) documentary evidence, including Letters of Warning, Letters of Reprimand, performance assessments, performance improvement plans/remediation plans, or other communications, if any, relevant to the proposed Demotion;
- (6) an explanation that before reaching a decision the Department Head will give the employee the opportunity to present his/her side of the issue;
- (7) a statement that the employee may respond to the proposal orally and/or in writing and may submit documentation to support his/her position;
- (8) the date and time when the Department Head is available to meet with the employee to hear his/her position (normally five work days from the date the letter is sent to the employee);
- (9) notice that if the employee does not respond to the Proposal, the Department Head will make a decision based on the available evidence;
- (10) the employee's status (i.e., continue to work or on administrative leave) pending a decision on the proposed Demotion.

The Proposal for Demotion is initiated by the Department Head and provided to the employee. A copy must be sent to Human Resources for its information.

Notice of Demotion: After reviewing the evidence, including any representation made by the employee, the Department Head may decide to 1) proceed with the

demotion as proposed, 2) proceed with a lesser form of discipline, or 3) proceed with no disciplinary action at all.

If the Department Head decides to proceed with the Demotion, he/she must issue a Notice of Demotion to the employee. The Notice of Demotion must include:

- (1) reference to the Proposal for Demotion;
- (2) reference to the date of any relevant meetings between the Department Head and the employee;
- (3) reference to the main arguments (or mitigating circumstances) raised by the employee;
- (4) the Department Head's decision;
- (5) the effective date of the demotion;
- (6) the specific position title, classification and salary level to which the employee will be demoted;
- (7) a warning that additional disciplinary action, up to and including termination, may be initiated if the employee's performance in the new position is unsatisfactory;
- (8) an explanation that the Notice of Demotion will become a permanent part of the employee's Official Personnel File and may be used as documentation for subsequent disciplinary actions;
- (9) reference to the employee's right to submit a statement (not to exceed three pages in length) that will be included with the Notice in his/her Official Personnel File; and
- (10) reference to the employee's right to appeal the Demotion in accordance with the grievance procedures in Section 10.4 and Chapter 11.

The Notice of Demotion is initiated by the Department Head and provided to the employee. A copy must be sent to Human Resources for inclusion in the employee's Official Personnel File. The Notice (and the Proposal that preceded the Notice) is permanently retained in the Official Personnel File and may be used to support subsequent disciplinary action. The employee may submit a written statement (not to exceed three pages in length) which will be included in the Official Personnel File with the Notice of Demotion.

(F) Termination

Termination of employment may be appropriate for repeated incidents of unsatisfactory performance or non-performance of job duties or for a single incident that is so serious that lesser forms of disciplinary actions are not adequate.

Proposal for Termination: Prior to deciding whether termination is warranted, the Department Head must provide a proposal for termination to the employee. The proposal must include:

- (1) a statement that the Department Head is considering terminating the employee for unsatisfactory performance or non-performance of job duties;
- (2) a specific description of the unsatisfactory performance or non-performance of job duties;
- (3) reference to applicable County or Departmental policies;
- (4) reference to previous counseling sessions or other efforts, if any, to correct the unsatisfactory performance;
- (5) reference to (or copies of) documentary evidence, including Letters of Warning, Letters of Reprimand, performance assessments, performance improvement plans/remediation plans, or other communications, if any, relevant to the proposed Suspension;
- (6) an explanation that before reaching a decision the Department Head will give the employee the opportunity to present his/her side of the issue;
- (7) that the employee may respond to the proposal orally and/or in writing and may submit documentation to support his/her position;
- (8) the date and time when the Department Head is available to meet with the employee to hear his/her position (normally five work days from the date the letter is sent to the employee);
- (9) notice that if the employee does not respond to the Proposal, the Department Head will make a decision based on the available evidence;
- (10) the employee's status (continue to work or on Administrative Leave) pending a decision on the proposed Termination.

The Proposal for Termination is initiated by the Department Head and provided to the employee. A copy must be sent to Human Resources for its information.

Notice of Termination: After reviewing the evidence, including any representation made by the employee, the Department Head may decide to 1) proceed with the termination as proposed, 2) proceed with a lesser form of discipline, or 3) proceed with no disciplinary action at all.

If a Department Head decides to proceed with the Termination, he/she must issue a Notice of Termination to the employee. The Notice of Termination must include:

- (1) reference to the Proposal for Termination;
- (2) reference to the date of any relevant meetings between the Department Head and the employee;
- (3) reference to the main arguments (or mitigating circumstances) raised by the employee;
- (4) the Department Head's decision;

- (5) the effective date and time of the Termination (which may be immediate);
- (6) an explanation that the Notice of Termination will become a permanent part of the employee's Official Personnel File.
- (7) reference to the employee's right to submit a statement (not to exceed three pages in length) that will be included with the Notice of Termination in his/her Official Personnel File; and
- (8) a statement that the employee may appeal the Termination in accordance with the grievance procedures in Section 10.4 and Chapter 11.

The Notice of Termination is initiated by the Department Head and provided to the employee. A copy must be provided to Human Resources for inclusion in the employee's Official Personnel File. The Notice (and the Proposal that preceded the Notice) is permanently retained in the Official Personnel File. The employee may submit a written statement (not to exceed three pages in length) to be included in the Official Personnel File with the Notice of Termination.

10.4 GRIEVANCE RIGHTS AND TIME LIMITS

Employees have the right to appeal a Suspension Without Pay, a Demotion, or a Termination in accordance with the grievance procedures outlined in Chapter 11 of the Human Resources Handbook. Counseling, Letters of Warning, Letters of Reprimand, Performance Assessments, and Denials of Performance-Based Salary Increases are not subject to the grievance procedures (except when a misapplication of policy or procedure is alleged). Department Heads and other employees classified at Executive Levels I, II, and III have no grievance rights for disciplinary actions other than Termination.

Grievances pertaining to disciplinary actions must be initiated within twenty (20) calendar days following the employee's notification of the action.

10.5 TEMPORARY EMPLOYEES

The employment of temporary employees is limited to a specified period of time and expires automatically at the end of that period (without any requirement for notice), unless the appointment is extended by mutual agreement of the County and the employee.

The appointments of temporary employees may be terminated by the County at any time during their employment. No reason is required for the termination and none must be given. Temporary employees may be terminated immediately or, at the discretion of the Department Head, provided with up to 14 calendar days notice (up to 30 calendar days for supervisory employees) or the equivalent amount of Administrative Leave. The County is liable for salary and benefits (if applicable) only through the end of employment; the County has no liability for salary and benefits (if applicable) for the remaining term of the original temporary appointment. Temporary employees have no right to appeal termination through the grievance procedures.

The termination notice is initiated by the Department Head and provided to the employee. A copy must be sent to Human Resources for inclusion in the employee's Official Personnel File.

Termination of employment is the typical action for misconduct or unsatisfactory performance by temporary employees. If managers choose, instead, to warn, reprimand, suspend without pay, or demote a temporary employee for conduct or performance problems, the procedural requirements in Sections 10.1 - 10.3 do not apply and the temporary employee has no right to appeal such actions through the grievance procedures.

10.6 PROBATIONARY EMPLOYEES

The probationary period is the final stage in the selection process and allows the County to determine the employee's suitability for long-term employment and the County's long-term need for the employee's services. The appointments of probationary employees may be terminated by the County at any time during their employment. No reason is required for the termination and none must be given. Probationary employees may be terminated immediately or, at the discretion of the Department Head, provided up to 14 calendar days notice (up to 30 calendar days for supervisory employees) or the equivalent amount of Administrative Leave. The County is liable for salary and benefits (if applicable) only through the end of employment; the County has no liability for salary and benefits (if applicable) for any longer period of employment that may have been anticipated by the employee. Probationary employees have no right to appeal termination through the grievance procedures.

The termination notice is initiated by the Department Head and provided to the employee. A copy must be sent to Human Resources for inclusion in the employee's Official Personnel File.

Termination of employment is the typical action for misconduct or unsatisfactory performance by probationary employees. If managers choose, instead, to warn, reprimand, suspend without pay, or demote a probationary employee for conduct or performance problems, the procedural requirements in Sections 10.1 - 10.3 do not apply and the probationary employee has no right to appeal such actions through the grievance procedures.

10.7 SWORN EMPLOYEES OF CONSTITUTIONAL OFFICERS

The discipline and termination of Constitutional Officers' sworn employees, who are subject to County personnel policies through a Cooperative Agreement, should be in accordance with these policies and regulations except that: 1) nothing in these policies should be construed to abrogate the statutory authority of the Constitutional Officer to direct and control his/her sworn personnel and to remove them from appointment, and 2) the termination notice shall include the sworn employee's right to grieve the termination under the applicable grievance procedure, under the terms of the Cooperative Agreement, and 3) nothing in these policies should be construed to abrogate the Sheriff's authority to exercise the range of discipline specified under General Order 300 pursuant to the findings of an Internal Affairs investigation.