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POLICY:

It is the policy of the County that all employees are expected to comply with the County's standards of behavior and performance and that any noncompliance with these standards must be remedied. See also the units BEHAVIOR OF EMPLOYEES, AM-801.1; OFFENSES/DISCIPLINARY PATTERN, AM-807.2; and VEHICLE GUIDELINES, AM-1000.7.

COMMENT:

1. "Due Process": This policy recognizes that public employees' expectation of continued employment is a property right. As such, the employee, excluding those designated as an at-will or contract employee, is entitled to the ~~Due Process elements of the Fourteenth Amendment to the U.S. Constitution~~. The employer County provides due process in any suspension or termination action for cause and any appeal process from a suspension or termination decision for disciplinary reasons.

2. Under normal circumstances, the County endorses a policy of progressive discipline in which it attempts to provide employees with notice of deficiencies and an opportunity to improve. Progressive discipline is a series of steps which provide a systematic approach to address and correct performance or behavior that fails to meet standards established by the County. The County retains the right, however, to administer discipline in any manner it sees fit, within legal limits.

3. The normal application of progressive discipline should be:

a. Verbal Counseling: When a supervisor determines that an employee's behavior or performance fails to meet standards established by the County, the supervisor should discuss such concerns with the employee and recommend a course of action for improvement. The discussion should include the following interactive process:

- 1) Clearly outline the behavioral problem or performance deficiency.
- 2) Allow the employee to respond to the concerns.
- 3) After considering the employee's response, explain expected conduct or performance changes.
- 4) Establish a reasonable time frame in which improvement can be noted. In some cases, it is reasonable to expect quick improvement; other times, months may be more appropriate.



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- 5) Tell the employee what the consequences will be if the behavior or performance does not improve.
 - 6) Ask the employee for a commitment to improve behavior or performance and follow up with the employee, providing feedback where appropriate.
 - 7) Document the corrective action taken and ~~place in the division or department's employee file and maintained as a supervisor's note.~~ If the verbal warning is intended to be a part of the personnel record, the verbal counseling should be signed by the employee and supervisor and submitted to the Human Resources department for placement in the personnel file.
- b. Written Warning: Absent improvement in performance, or upon recurrence of a minor violation, the supervisor should discuss the situation with the department director head and Human Resources to reconfirm policy applicability and consistency with administration of discipline in similar situations. The supervisor will then hold another meeting with the employee and take the following action:
- 1) Issue a written warning to the employee. This warning shall be prepared on a standard format, discussed with the employee to provide an opportunity to rebut any error in the reprimand, and then signed by the employee, supervisor, and department director head. ~~and Human Resources Manager.~~ The employee's signature acknowledges receipt of the warning but not necessarily agreement with it.
 - 2) The written warning will be placed in the employee's official personnel file, which is maintained in the Human Resources Department.
- c. Formal Warning:;, which may include Suspension Without Pay, Probation, or Demotion: Absent improvement in performance following a written warning or upon the occurrence or recurrence of a serious violation, the supervisor should discuss the situation with the department director head and Human Resources to reconfirm policy applicability and consistency with administration of discipline in similar situations in other departments. If it is determined that suspension without pay, probation, or demotion may be appropriate, the department director head will conduct a pre-determination hearing during the employee's normal work hours.

Through this pre-determination hearing, the department director head must be satisfied that:



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- 1) The employee has been given written or oral notice of the grounds for his suspension, probation, or demotion.
- 2) The employee has been advised of the names of witnesses against him; the nature of the testimony or evidence against him; and have an opportunity to cross examine witnesses. The employee will be permitted to call witnesses in his behalf.
- 3) The employee is given an opportunity, before the department head, to explain away the perceived misconduct. This step provides an initial check against error in the disciplinary action.

The department director ~~head~~ will convey his/her decision in writing to the employee. If necessary, the decision will be sent to the employees' latest address on file, by Certified Mail, within 24 hours of the decision. A copy of the decision will be placed in the employee's official personnel file, which is maintained in the Human Resources Department.

- d. Termination: Absent improvement in performance following suspension without pay, probation, or demotion, or upon the occurrence or recurrence of a serious violation, the supervisor should discuss the situation with the department head and Human Resources to ~~reconfirm~~ policy applicability and consistency with administration of discipline in similar situations. If it is determined that termination may be appropriate, the department director ~~head~~ will conduct a pre-determination hearing during the employee's normal work hours and will follow the same procedure that is used for suspension without pay, probation, or demotion.

- 1) The termination effective date shall be the date of the termination decision and will not be affected by the probability or actual knowledge of an appeal of the decision.

4. The progressive disciplinary procedures described in this unit may be applied to an employee who is experiencing a series of unrelated problems involving job performance and/or behavior. This can only be accomplished, however, by applying the cumulative disciplinary action provisions detailed in the unit OFFENSES/DISCIPLINARY PATTERN, AM-807.2.

5. In cases involving serious misconduct, the supervisor may skip steps in the progressive discipline process and, if appropriate, recommend termination of the employee upon a first



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occurrence. See the unit OFFENSES/DISCIPLINARY ACTION, AM-807.2, "GROUP THREE OFFENSES".

6. Appeals Process: Excluding separation under at-will employment, any non-bargaining unit employee who has been disciplined has access to the following appeals process. Bargaining unit employees should follow the appeals process outlined in their respective collective bargaining agreement.

- a. The employee must submit the appeal in written form to the Human Resources Department within five working days after notification of the suspension, demotion, probation, or termination. The appeal must refer to the provision or provisions of law or County policy, practice, procedure, rule, or regulation alleged to have been violated, and shall set forth the relevant facts pertaining to the alleged violation, and the remedy or correction sought.
- b. The County Administrator or his designee shall conduct a hearing within fourteen working days unless this period is extended by mutual agreement in writing. The employee is entitled to Due Process (see Comment 1.) and the hearing will be structured to insure attention to the following elements:
 - 1) That the employee be advised in writing of the cause or causes for his suspension, demotion, probation, or termination in sufficient detail to fairly enable him to show any error that may exist.
 - 2) That the employee be advised in writing of the names and the nature of the testimony of witnesses against him.
 - 3) That within a reasonable time after such advice, he is accorded a meaningful opportunity to be heard in his own defense.
 - 4) That the employee be given an opportunity to confront and cross examine his accusers in the presence of the decision maker.
- c. In the event that the supervisor of the employee is the County Administrator or the County Attorney, that County officer, as appropriate, or his designee, shall conduct the pre-determination hearing as well as the appeal hearing.
- d. The decision of the County Administrator or County Attorney, as appropriate, shall be final and binding on the parties, without further right of appeal.