



Rogue Community College
and
Oregon School Employee Association
Chapter 152

Classified Employee Discipline Manual



Revised

November 1, 2014

PREAMBLE

The Progressive Discipline Manual (PDM) is intended to be a flexible tool for clear and predictable communication between management and classified when disciplinary action is pursued. The PDM is specifically related to governing disciplinary communication. As is reasonably required to maintain a productive work environment, management may still direct, correct, question, request, or otherwise provide oral or written supervisory feedback that is not considered disciplinary in nature. Prior to engaging in any step of the PDM, it is an expectation that this type of supervisory feedback will occur around issues of concern.

Rogue Community College (College) and Oregon School Employees Association, Chapter 152 (Association), working together to achieve the College mission, have agreed to adhere to general progressive discipline procedures. The parties recognize that some conduct is serious enough to immediately justify a more significant disciplinary response. Depending on the seriousness of the infraction a supervisor may start at any level of the Progressive Discipline Manual.

Several disciplinary options are presented in this manual. Examples are provided as guidelines of usage and to ensure that disciplinary problems are handled fairly and effectively.

“Infraction” is used in the manual to describe unsatisfactory performance and/or misconduct.

INTRODUCTION

The manual consists of five (5) potential levels of discipline, ranging from verbal notice to termination. Discipline normally begins with Level One, however, a supervisor is not required to begin at Level One, nor required to utilize all five levels when disciplining an employee over a period of time. Supervisors are required, once a level of discipline is utilized, to adhere to the stated steps of that level. Unrelated violations by an employee may be considered as cumulative for purposes of applying discipline when such prior violations have been appropriately documented by the supervisor.

Disciplinary actions may be taken into account on employee evaluations, but only if within the lifetime of the disciplinary action and/or evaluation period. Disciplinary actions will not automatically result in an unsatisfactory evaluation.

The College may place an employee on leave at the College’s expense pending the outcome of an investigation into the employee’s alleged misconduct. Such leave will not reflect negatively on the employee.

THE PHILOSOPHY OF PROGRESSIVE DISCIPLINE

Progressive Discipline is proportionately and progressively administered, timely to the infraction. Minor infractions should receive minor discipline, moderate infractions should receive moderate discipline, and serious infractions should receive serious discipline. Repeated

or continued occurrences of the same infraction, or cumulative occurrences of similar infractions, should receive progressively higher levels of discipline. Multiple infractions of a like level may receive a higher level of discipline than a single infraction. Serious or egregious infractions may result in Level 5 disciplinary action.

RECORD KEEPING

Supervisor's Working File

Letters, reports, and warning notices addressing an employee's Level 1 or Level 2 discipline shall be considered expired after one (1) year. However, related expectations of behavior will carry forward. A further occurrence of the same or similar offense within one year will reset the expiration to the date of the latest occurrence.

Employee's Personnel File

Letters of reprimand (Level 3) and Suspension with Pay documents (Level 4) shall be removed from the employee's personnel file after written request of the employee and only after a minimum of three (3) years from the date of the document.

A further occurrence of the same or similar offense within three years will reset the expiration to the date of the latest occurrence.

DOCUMENTATION CHECKLIST

Documentation should contain all of the significant elements surrounding an incident. Review the following checklist when preparing documentation to ensure completeness and accuracy:

- Record the incident promptly
- Indicate the date, time, location of, and witnesses to the incident(s)
- Factually record the action or behavior
- Objectively record observations, not impressions
- Indicate specific rules or regulations violated
- List the specific performance standards violated or exceeded
- Indicate the other person(s) or work products involved or affected
- Record the consequences of the action or behavior on the employee's total work performance and/or the operation of the work unit
- Document prior interaction(s) about the employee's behavior/incident
- Indicate reaction to efforts to modify the employee's behavior/incident

SELECTING CLEAR DIRECTIONAL PHRASES

Examples:

- Please do the following by Friday ...
- I insist that you ...
- You are directed to ...
- I expect the following by ...
- You are required to ...
- The report is due by ...
- Regulations require that you ...
- You must comply with ...
- Return the following to me by ...
- A satisfactory evaluation will require ...

LEVEL ONE: VERBAL NOTICE

In general, a verbal notice may include any discussion with an employee designed to assist in fully developing their skills and abilities. The discussion may clarify standards, evaluate strengths and weaknesses, seek information, solve problems, or discuss why certain behavior or unsatisfactory performance is unacceptable. When there is a problem, this is usually the action taken to assist the employee in clarifying and remedying the problem.

Procedure and Guidelines

1. The supervisor will meet with the employee to discuss the unsatisfactory performance and/or misconduct, and to counsel the employee regarding the corrective action that must be taken to avoid further disciplinary action.
 - Describe in reasonable detail what the employee has done
 - Cite how this interferes with one or more of the following: employee's performance; the work environment; the business operations of the College or the well-being of other employees
 - Cite any applicable rule, regulation, policy, law, standard of work or behavior that is involved
 - Explain in reasonable detail what the employee must do to improve performance or change behavior
2. The supervisor should document the discussion, to include:
 - Occurrence date / time
 - Concise summary of discussion, including any action to be taken and any relevant employee input
3. The documentation:
 - Will be kept in the supervisor's file
 - Will be provided to the employee, typically via email
 - Will not be sent to the personnel file
4. Record of this notice may be noted on the employee's annual evaluation form.

LEVEL TWO: LETTER OF DIRECTION

A letter of direction is appropriate when previous attempts at improving performance have not resulted in the desired improvement, or where the inappropriate conduct is significant enough to require a written record of the inappropriate behavior and the direction given to improve the behavior.

Procedures and Guidelines

1. A meeting will be held between the supervisor and employee to present and discuss the letter of direction.
2. The employee is advised in writing of the need to improve, and of the consequences of failing to improve, performance. The letter includes:

An explanation of the problem(s)

- Describe in reasonable detail what the employee has done.
- Cite how this interferes with one or more of the following: employee's performance; the work environment; the business operations of the College or the well-being of other employees.
- Cite the rule, regulation, policy, law, standard of work, or behavior that is involved.
- Enter the dates of previous verbal notices, written warnings or written reprimands related to this violation.

Improvement required

- Explain in reasonable detail what the employee must do to improve performance or change behavior.
- Cite a reasonable date by which improvement must occur or no further violations must occur.

Signature/Date

- The employee is required to sign and date the letter to acknowledge receipt of the letter.
3. The employee may respond in writing to the letter of direction and have the response attached.
 4. The documentation:
 - Will be kept in the supervisor's file
 - Will be provided to the employee
 - Will not be sent to the personnel file
 5. Record of this notice may be noted on the employee's annual evaluation form.

Sample
LEVEL TWO: LETTER OF DIRECTION

Employee's Name:

Position Title:

Date(s) of Occurrence:

Explanation of Problem(s):

The problem(s) described above is/are serious enough to warn you that improvement is required.

Required Improvement:

In order to avoid further disciplinary measures, you must:

If you do not improve, stronger disciplinary measures will be implemented, up to and including termination. A copy of this notice will not be placed in your personnel file, but will be maintained in my working file. If you have any questions concerning this matter, or if you need help in improving your performance, you are encouraged to contact me.

You may respond in writing to this letter within ten (10) working days. Your response will be attached to this notice.

I acknowledge receipt of this letter: _____
Employee Date

Supervisor Title Date

cc: Supervisor's working file.

LEVEL THREE: WRITTEN REPRIMAND

The written reprimand notifies an employee their performance or behavior is not meeting standards, and that continuation or repetition of that performance may result in suspension, demotion, or termination. This level is appropriate when either prior progressive discipline was not effective, or the behavior was so serious as to warrant beginning at this level. The reprimand should fully disclose the nature of the employee's violation, stipulate the employee is to correct this behavior immediately, and note the consequences for failure to comply. This step shall be documented in the personnel file and noted on the employee's annual evaluation. Copies of the written reprimand will be provided to the employee and the Human Resources office.

Procedures and Guidelines

1. A meeting will be held between the supervisor and employee to present and discuss the unsatisfactory performance and/or misconduct, and the possible consequences.
2. The supervisor will engage in fact-finding.
 - The employee may be placed on paid administrative leave during the fact-finding period. Paid administrative leave shall not be construed to imply any culpability on the part of the employee
 - The fact-finding period will be expeditiously completed and limited to the scope of the performance and/or misconduct
 - Fact-finding may include interviewing staff, faculty, students, and individuals not employed by the College
 - The employee's privacy will be protected as much as possible
3. The supervisor will present their findings and recommendations to their supervisor and HR.
4. A meeting will be held between the supervisor and employee to present and discuss the findings, and the recommended outcome.
 - An HR representative will be present
 - The employee will present their response. If requested, the employee shall be granted a reasonable additional period of time to prepare their response
 - The supervisor will consider in good faith the employee's response, and present the final outcome to the employee
 - If a written reprimand is issued, the employee will be asked to sign the reprimand, acknowledging they have received it
 - The supervisor will send the signed copy of any written reprimand to HR, to be placed in the employee's file, and provide a copy to the employee.
5. The employee may respond in writing to a written reprimand.
 - Any such response will be sent to HR by the employee within ten working days of receiving the reprimand
 - HR will place the response in the employee's personnel file and send a copy to the supervisor
6. Written reprimands should:

- Be individually written, stating specific material facts, such as date, time, place, and actions of the individual(s) involved
- Include a quotation of the regulation(s), rule(s), contract provision(s), performance expectations, and/or order(s) violated or breached.
- Reference any applicable previous verbal and written reprimands or warnings.
- Be objective, drawing conclusions as appropriate based on the facts discovered during the fact-finding.
- State that the staff member is being given another opportunity to improve their performance, and if the staff member does not improve, they will be subject to further disciplinary action.

Sample
LEVEL THREE: REPRIMAND FORM

Employee's Name:

Position Title:

Date(s) of Occurrence:

Explanation of Problem(s):

The problem(s) described above is/are serious and is/are the cause for this disciplinary notice.

Required Improvement:

In order to avoid further disciplinary measures, you must:

If you do not improve, it will be necessary to consider stronger disciplinary measures, up to and including termination. A copy of this reprimand will be placed in your personnel file. If you have any questions concerning this matter, or if you need help in improving your performance, you are encouraged to contact me.

You may respond in writing to this letter within ten (10) working days. Your response will be attached to this reprimand.

I acknowledge receipt of this letter: _____
Employee Date

Supervisor Title Date

Management Representative Title Date

Human Resources Title Date

LEVEL FOUR: SUSPENSION WITHOUT PAY/DISCIPLINARY TRANSFER/REDUCTION IN PAY

Level Four discipline is normally made in cases involving gross misconduct, or when prior progressive discipline was not effective.

Suspension is the temporary removal of an employee from duty without pay.

Disciplinary transfer is the removal of an employee from their present position to a different position. The new position may be in either the same or lower pay group. In no case will the position be in a higher pay group. Transfer will only be to a position in which it is anticipated the employee will function effectively. Pay will be reduced in accordance with the Classified Collective Bargaining Agreement Article 9.B.4.c. The employee will serve a new probation.

Reduction in pay is when an employee remains in their current position, but their pay rate is reduced to entry level. In exceptional circumstances as determined by the College, the placement may be higher than entry level.

A Level Four discipline will not preclude any future contractual rights and benefits, including pay increases.

A Level Four discipline is made after consultation with the Human Resources Department. A copy of the written record of the discipline is forwarded to Human Resources for review and placement in the employee's personnel file. The supervisor will document the discipline in the Employee's next annual evaluation.

Procedures and Guidelines

1. A meeting will be held between the supervisor and employee to present and discuss the unsatisfactory performance and/or misconduct, and the possible consequences.
2. The supervisor will engage in fact-finding.
 - The employee may be placed on paid administrative leave during the fact-finding period. Paid administrative leave shall not be construed to imply any culpability on the part of the employee
 - The fact-finding period will be expeditiously completed and limited to the scope of the performance and/or misconduct
 - Fact-finding may include interviewing staff, faculty, students, and individuals not employed by the College
 - The employee's privacy will be protected as much as possible
3. The supervisor will present their findings and recommendations to their supervisor and HR.
4. A meeting will be held between the supervisor and employee to present and discuss the findings, and the recommended outcome.
 - An HR representative will be present
 - The employee will present their response. If requested, the employee shall be granted a reasonable additional period of time to prepare their response

- The supervisor will consider in good faith the employee's response, and present the final outcome to the employee
 - If a Level 4 discipline is issued, the employee will be asked to sign the discipline form, acknowledging they have received it
 - The supervisor will send the signed copy of any written discipline form to HR, to be placed in the employee's file, and provide a copy to the employee.
5. The employee may respond in writing to a Level 4 discipline.
- Any such response will be sent to HR by the employee within ten working days of receiving the discipline
 - HR will place the response in the employee's personnel file and send a copy to the supervisor
6. Level 4 discipline forms should:
- Be individually written, stating specific material facts, such as date, time, place, and actions of the individual(s) involved
 - Include a quotation of the regulation(s), rule(s), contract provision(s), performance expectations, and/or order(s) violated or breached.
 - Reference any applicable previous verbal and written reprimands or warnings.
 - Be objective, drawing conclusions as appropriate based on the facts discovered during the fact-finding.

Sample
LEVEL FOUR: DISCIPLINE FORM
(SUSPENSION WITHOUT PAY/DISCIPLINARY TRANSFER/REDUCTION IN PAY)

Employee's Name:

Position Title:

Date(s) of Occurrence:

Explanation of Problem(s):

The above referenced employee will receive the following discipline:

Suspension:

___ day(s) without pay

Effective date(s): _____

Disciplinary Transfer:

Position: _____

___ Entry level

___ Other: \$ _____ Rationale: _____

Effective date: _____

Reduction in Pay:

___ Entry level

___ Other: \$ _____ Rationale: _____

Effective date: _____

You may respond in writing to this letter within ten (10) working days. Your response will be attached to this reprimand.

Please be advised that you have the right to appeal this decision in accordance with Article 12.D of the Classified Agreement

I acknowledge receipt of this letter: _____
Employee Date

Supervisor Title Date

Management Representative Title Date

Human Resources Title Date

LEVEL FIVE: TERMINATION

Termination is the procedure which permanently removes an employee from service. This occurs when the employee has been given the opportunity to meet performance or behavior standards and has failed to do so or their conduct is so serious or egregious to justify termination.

Termination is made by management after consultation with the Human Resources Department.

An employee may offer to resign instead of facing disciplinary action. If the resignation is accepted by the College, the employee loses the right to appeal. No employee can be compelled to resign; resignation must be voluntary.

Procedures and Guidelines

1. An investigatory meeting will be held between the supervisor, employee, and an HR representative to present and discuss the unsatisfactory performance and/or misconduct, and the possible consequences.
2. The supervisor will engage in fact-finding.
 - The employee may be placed on paid administrative leave during the fact-finding period. Paid administrative leave shall not be construed to imply any culpability on the part of the employee
 - The fact-finding period will be expeditiously completed and limited to the scope of the performance and/or misconduct
 - Fact-finding may include interviewing staff, faculty, students, and individuals not employed by the College
 - The employee's privacy will be protected as much as possible
3. If, after consultation with HR and management, the supervisor determines there is sufficient justification to recommend termination, the supervisor will send a pre-termination letter, with attached pre-termination form, to the employee advising them of the recommendation to terminate, including the date and time of the pre-termination meeting.
4. The pre-termination form should:
 - Be individually written, stating specific material facts, such as date, time, place, and actions of the individual(s) involved
 - Include a quotation of the regulation(s), rule(s), contract provision(s), performance expectations, and/or order(s) violated or breached.
 - Reference any applicable previous verbal and written reprimands or warnings.
 - Be objective, drawing conclusions as appropriate based on the facts discovered during the fact-finding.
5. A pre-termination meeting will be held between the supervisor and employee to present and discuss the findings, and the recommended outcome.
 - An HR and management representative will be present

- The employee will present their response. If requested, the employee shall be granted a reasonable additional period of time to prepare their response
 - The College will consider in good faith the employee's response
6. If, after the pre-termination meeting, the College determines there is sufficient justification for the termination, HR will prepare an appropriate letter to the employee notifying them of the termination.
 7. A meeting may be held with the employee, supervisor, management, and an HR representative to deliver the termination letter and to inform the employee of the decision to terminate.
 8. If a meeting is not held, the termination letter will be sent to the employee via certified return-receipt mail.

Sample

LEVEL FIVE: PRE-TERMINATION FORM

Employee's Name:

Position Title:

Date(s) of Occurrence:

Explanation of Problem(s):

It is recommended that the above-referenced employee be terminated from employment at Rogue Community College.

Supervisor

Title

Date

Sample
LEVEL FIVE: PRE-TERMINATION LETTER

Date:

Name:

Address:

City/State:

Dear Mr./Ms.:

This letter is to inform you of my recommendation to the College you be terminated from your position of (title) with Rogue Community College. You are hereby notified that on (date) at (time), we will hold a pre-termination meeting with you to discuss the reasons to terminate. At that meeting you will be given the opportunity to present information or arguments rebutting the proposed disciplinary action. The meeting will be held at the (meeting location).

See the attached Pre-Termination Form for the recommendation rationale.

Be advised you have the right to have an Association Representative present at the pre-termination meeting. The union has been informed of the meeting, and plans to participate unless you decline their representation.

If you have any questions concerning the above, do not hesitate to call me at (phone number).

Sincerely,

Supervisor Name

Title

JUST CAUSE

Generally post-probationary employees may be suspended, demoted, or terminated for just cause. In situations where suspension, demotion, or termination are necessary, it is of importance the supervisor follows required standards of due process and be able to establish cause for the level of discipline administered. The following tests are applicable in determining whether an employer had just cause for disciplining an employee:

- *Notice* – Did the College give the employee forewarning or foreknowledge of the possible or probable disciplinary consequences of the employee’s conduct?
- *Nexus* – Was the College’s rule or managerial order reasonably related to:
 - the orderly, efficient, and safe operation of the College’s business, and
 - the performance that the College might properly expect of the employee?
- *Investigation* – Did the College, before administering discipline to an employee, make an effort to discover whether the employee did, in fact, violate or disobey a rule or order of management?
- *Fair Investigation* – Was the College’s investigation conducted fairly and objectively?
- *Proof* – Did the College’s investigation result in substantial evidence or proof that the employee was guilty as charged?
- *Discrimination / Disparate Treatment* – Has the College applied its rules, orders, and penalties evenhandedly and without discrimination to all employees?
- *Fair Penalty* – Was the degree of discipline administered by the College in a particular case reasonably related to:
 - the seriousness of the employee’s, proven offense, and
 - the record of the employee in their service with the College?