

**SOUTHERN WEST VIRGINIA COMMUNITY AND TECHNICAL COLLEGE  
BOARD OF GOVERNORS  
SCP-2900**

**SUBJECT:** Progressive Discipline

**REFERENCE:** WV Code 18B, 18B-1

**ORIGINATION:** June 15, 2021

**EFFECTIVE:** June 15, 2021

**REVIEWED:** NA

**SECTION 1. PURPOSE**

- 1.1 To establish a progressive disciplinary process for Southern West Virginia Community and Technical College (“Southern” or the “College”) to ensure that discipline is fair and consistent and that employees are placed on notice regarding problems with performance and behavior. This will allow an employee the opportunity to make improvements.

**SECTION 2. SCOPE AND APPLICABILITY**

- 2.1 This policy establishes a progressive disciplinary process for all classified staff as the method for remediating instances of inadequate work performance and inappropriate behavior. Each employee must maintain standards of performance and conduct as outlined by their immediate supervisor and comply with applicable policies, procedures, and laws.
- 2.2 It is best practice to administer progressive discipline for all classification of employees, and progressive discipline may be utilized for non-classified employees but is not required before suspension or termination. Non-classified employees are at-will, and their employment can be terminated at any time with or without notice or cause. Discipline for non-classified employees will be commensurate with the offense and solely at the discretion of the College.

**SECTION 3. DEFINITIONS**

- 3.1 Progressive discipline for unacceptable standards of performance or conduct includes communication with the employee to indicate the performance or behavior is not acceptable and clarify expectations. If the performance or behavior is not corrected, or the employee demonstrates additional unacceptable related performance or behavior, measures of disciplinary action shall consist of progressive steps taken by the immediate supervisor when an employee does not meet the established performance standards and/or commits an offense contrary to the policies of the College. This action should be reasonable, timely, and related to the severity of the offense.
- 3.2 In cases of more severe or repeated infractions, more severe disciplinary measures, such as written warning, suspension or dismissal may be immediate. Supervisors must contact the Director of

Human Resources for support, guidance, and consistent application of policy in regard to employee discipline prior to taking any action.

- 3.3 When the employee does not maintain the appropriate standards of performance or conduct, the supervisor will coach and/or counsel the employee to resolve the problem. If the behavior or performance does not improve as expected from performance management, disciplinary action will be taken. Disciplinary action includes, but is not limited to, warning, suspension, or termination of employment.

#### **SECTION 4. POLICY**

- 4.1 The College will utilize a four-part progressive discipline system as the prescribed method for attempts to remedy instances of inadequate work performance that do not rise to the seriousness of the infractions set forth in Section 4.5. Four-part progressive discipline is to be applied for classified employees in instances of inadequate work performance and inappropriate behavior that are believed to be remediable (e.g., can be improved or eliminated with some effort on the part of the employee). The goal of a four-part progressive discipline is to restore the employee's work performance and/or behavior to an acceptable level.
- 4.2 The four components of progressive discipline are (1) oral warning; (2) two written warnings; (3) suspension without pay; and (4) termination from employment. The components are applied in the order listed.
- 4.3 The principles of four-part progressive discipline are (1) to ensure that such discipline is provided fairly and consistently among employees and across departmental lines; (2) to provide clear communication about the problem; and (3) to set forth a plan of improvement for the employee, providing a reasonable opportunity to improve.
- 4.4 The employee's immediate supervisor is responsible for initiating the four-part progressive discipline for instances of inadequate work performance or behavior for which four-part progressive discipline is appropriate. The employee's immediate supervisor is responsible for creating and maintaining appropriate documentation and records to support the application of four-part progressive discipline. Supervisors must consult with the Director of Human Resources prior to disciplining an employee. Failure to utilize four-part progressive discipline when needed and/or failure to create and maintain appropriate documentation may result in disciplinary action against the supervisor.
- 4.5 Supervisors have the right to recommend dismissal of an employee for gross misconduct without prior warnings or suspension. Reasons for immediate dismissal for gross misconduct include, but are not limited to, the following:
  - 4.5.1 Theft of or malicious damage to or destruction of College property, the Board of Governors, or its visitors, patrons, or employees;
  - 4.5.2 Insubordination by refusal, by action or inaction, to abide by legitimate reasonable directions of a supervisor or administrator;

- 4.5.3 Use or possession of illegal narcotics, consumption or possession of alcoholic beverages, or reporting to work under the influence of alcohol or narcotics, or partaking of these substances while at work;
- 4.5.4 A crime that could seriously affect the employee's work performance or the College;
- 4.5.5 Deliberate falsification of employment applications or other College records or any violation of the West Virginia Governmental Ethics Act or the Rules of the West Virginia Ethics Commission;
- 4.5.6 Regular, intentional, unauthorized obstruction or disruption of teaching, research, or administration;
- 4.5.7 Wrongful injury, including assault, battery, or physical abuse of employees or any persons on College property or at any College authorized function or event;
- 4.5.8 Absence from work for three consecutive work days without proper notification, explanation, reasonable cause, and/or authorization;
- 4.5.9 Conduct that directly or substantially impairs the individual's fulfillment of institutional responsibilities, including, but not limited to, verified instances of sexual harassment, sexual assault, or of racial, gender-related, or other discriminatory practices;
- 4.5.10 Refusal to comply with institutional rules;
- 4.5.11 Neglect of duty;
- 4.5.12 Dishonesty;
- 4.5.13 Sleeping on duty;
- 4.5.14 Failure to maintain established performance standards;
- 4.5.15 Habitual absence from work without permission or proper explanation;
- 4.5.16 Demonstrated incompetence or dishonestly in performance of professional duties, including academic misconduct; and
- 4.5.17 Failure to return at the end of a leave of absence.

## **SECTION 5. BACKGROUND AND EXCLUSIONS**

- 5.1 None.

## SECTION 6. GENERAL PROVISIONS

6.1 The four components of progressive discipline are (1) oral warning; (2) two written warnings; (3) suspension without pay; and (4) termination from employment. The components are applied in the order listed.

### 6.1.1 Verbal Warning:

6.1.1.1 When a supervisor observes a work performance or behavioral deficiency that (a) is not a deficiency requiring immediate suspension without pay or termination of employment as set forth in the rule on employee infractions and (b) has happened once for a more serious issue or several times for a minor issue, he/she shall discuss the problem or issue with the affected employee.

6.1.1.2 The employee is asked to take steps to improve the workplace performance and/or behavior and is given a reasonable timeframe in which to demonstrate the required improvements. The timeframe varies according to the nature of the problem. (For instance, a problem such as chronically arriving late for work should be remedied immediately unless there is a compelling situation that would require a longer timeframe in which to improve).

6.1.1.3 A verbal warning is a spoken warning. No written communication should be presented to the employee in the event of verbal warning. The issue should be simply and clearly discussed with the employee by the immediate supervisor. The employee should not be required to sign anything written in connection with the verbal warning.

6.1.1.4 The supervisor should retain in his/her files a brief note that identifies the employee, the situation, the required improvement, the timeframe for improvement, and the consequences of failure to improve. This note should be retained in the event that it is necessary to go to the next step in four-part progressive discipline.

6.1.1.5 If a calendar year or less goes by during which the supervisor is satisfied with the improvement made by the employee, he/she may at his/her own discretion determine the progressive discipline process to be concluded.

### 6.1.2 Two Written Warnings:

6.1.2.1 If a verbal warning does not result in an acceptable level of improvement or remedy of the problem cited, the supervisor shall proceed to write and tender at least two written warnings.

6.1.2.2 The written warning(s) should state that the step of verbal warning has not proven sufficient and should identify the employee, the problem, the timeframe for improvement, and the consequences of failure to improve.

- 6.1.2.3 All written warnings should be signed by the supervisor. An original and one copy of the written warning(s) are provided to the employee.
  - 6.1.2.4 The employee should sign one copy, acknowledging receipt of the written warning(s), and return the copy signed by him/her to the supervisor. If the employee refuses to sign the written warning(s), the supervisor should write a note on the copy of the written warning(s) indicating the employee refused to sign.
  - 6.1.2.5 The copy of the written warning(s) with the employee's signature or the supervisor's note that the employee would not sign the written warning(s) should be retained by the supervisor.
  - 6.1.2.6 If a calendar year or less goes by during which the supervisor is satisfied with the improvement made by the employee, he/she may at his/her own discretion determine the progressive discipline process to be concluded at the written warning stage.
  - 6.1.2.7 Copies of the written warning(s) in the possession of the supervisor may be destroyed according to the retention standards outlined in Section 6.2. Beginning at the written warning stage, the supervisor shall send a copy of the written warning(s) to the Director of Human Resources where it will be maintained in the employee's personnel file.
  - 6.1.2.8 The supervisor shall attach to the copy of the written warning(s) forwarded to the Director of Human Resources a copy of the notes created by the supervisor at the time of the verbal warning event.
  - 6.1.2.9 If requested by the employee, the supervisor must document that the unsatisfactory behavior has been corrected and the document must be signed by the employee and the supervisor and a copy forwarded to the employee and to the Director of Human Resources.
  - 6.1.2.10 The two written warning requirements also applies to transferred or promoted employees serving their probationary period.
- 6.1.3 Suspension Without Pay:
- 6.1.3.1 If written warnings do not result in an acceptable level of improvement or remedy of the problem cited, the supervisor shall recommend to the President that the employee be suspended without pay for a reasonable period of time. Such communication must be shared with and approved by the appropriate cabinet-level administrator. Final approval for suspension without pay rests with the President.
  - 6.1.3.2 A copy of this written communication shall be sent to the Director of Human Resources who shall obtain a decision from the President or his/her designee to approve or disapprove suspension without pay.

- 6.1.3.3 A copy of the written warning issued earlier to the employee should be in the personnel file maintained by the Director of Human Resources. If this was not done for whatever reason a copy of the written warning with the notes of verbal counseling attached should be forwarded immediately to the Director of Human Resources.
- 6.1.3.4 Suspension without pay cannot be imposed without a complete record of the preceding steps in progressive discipline being in the hands of the Director of Human Resources.
- 6.1.3.5 Suspension without pay for three days, if approved by the President or his/her designee, will be imposed on three consecutive work days to be determined by the supervisor.
- 6.1.3.6 Suspension without pay must be supported by documentation submitted to the Director of Human Resources. The payroll office shall process the request as a set number of days without compensation and without charging any type of accrued leave. No accrued leave may be taken in lieu of time without pay under the provisions of suspension without pay.
- 6.1.3.7 If after a reasonable period of time following the employee's return to work from suspension without pay the supervisor is satisfied with the improvement made by the employee, he/she may recommend that the progressive discipline process end at the stage of suspension without pay.
- 6.1.3.8 Copies of the written warning in the possession of the supervisor may be destroyed according to the retention standards outlined in Section 6.2. The removal of such items shall be solely at the discretion of the Director of Human Resources or the President.

6.1.4 Termination of Employment:

- 6.1.4.1 If suspension without pay does not result in an acceptable level of improvement or remedy of the problem cited, the supervisor shall recommend to the President that the individual's employment be terminated. An employee may be recommended for discharge for offenses after he/she has received two written warnings.
- 6.1.4.2 A copy of this written communication should be sent to the Director of Human Resources for a decision from the President or his/her designee on approving or disapproving termination of employment.
- 6.1.4.3 A copy of the communication recommending termination should be in the employee's personnel file maintained by the Director of Human Resources. If this was not done for whatever reason a copy of the communication should be forwarded immediately to the Director of Human Resources.

- 6.1.4.4 Termination of employment for infractions listed in Section 4.5 of this policy cannot be imposed without detailed documentation of the complete infraction.
  - 6.1.4.5 The recommendation for termination of employment should identify the employee, the problem, and the reasons that led to the decision to recommend termination and should be signed by the supervisor. The original should be submitted to the Director of Human Resources, and the supervisor should keep one copy.
  - 6.1.4.6 Termination of employment can occur in this situation only with the written approval of the President as communicated by the Director of Human Resources. Termination of employment, if approved by the President, becomes effective at the close of business on the working day that the signed approval is received by the supervisor. Termination of employment must be supported by documentation and submitted to the Director of Human Resources.
- 6.2 All written warnings and/or notices of suspension must specify how long it will remain in the employee's personnel file. In no case shall the period specified be longer than twelve months from the date the letter was written.
  - 6.3 Written warnings and recommendations to the President for suspension and/or termination are to be delivered in person or via certified mail with return receipt requested. Supervisors must document in-person delivery of disciplinary actions.
  - 6.4 An employee who has been recommended for suspension without pay and/or termination will be provided the opportunity to meet with the President prior to the effective date of the suspension or termination to present explanations and reasons why the suspension or termination should not take place.
    - 6.4.1 A written request must be made to the Director of Human Resources for a pre-termination and/or pre-suspension meeting with the President within twenty-four (24) hours from the time the employee was notified in writing of the recommendation.
    - 6.4.2 The meeting will be conducted by the Director of Human Resources with the employee and the President within the next three working days. The employee may bring a representative to assist him/her during the meeting.
    - 6.4.3 All information presented during the meeting will be used to determine the President's (or his/her designee) final written decision to uphold, modify, or repeal the recommendation. Only the President will make the final determination regarding suspension without pay and or termination of employment.
  - 6.5 If after a pre-termination meeting with the President (or his/her designee), the employee is dismissed for gross misconduct, he/she may respond by filing a written request for a hearing and/or conference with the West Virginia Public Employees Grievance Board (WV Code §6C-2-1 et seq). A request for such hearing and/or conference does not cancel the immediate dismissal.

