

## 11.0.0 Disciplinary Actions

**\*This Section is not applicable to those in Sheriff Service and Unclassified Service. This is only applicable to Classified Service.** *Sheriff Service positions should refer to the Sheriff Office's Rules & Regulations Manuals (if applicable) as determined by the Sheriff.*

### 11.1.0 General

Supervisory personnel will strive for high standards of performance in their various departments and will fairly and impartially implement disciplinary measures when necessary. Employees who do not perform satisfactorily or who cannot meet established and agreed-upon standards will be disciplined.

### 11.2.0 Disciplinary Actions Policy

County employees may be disciplined for violations of established County Policies and Procedures and/or for the good of the County.

- A. No employee will be disciplined for any legal political activity or absence thereof.
- B. Normally, disciplinary action will be administered by an employee's supervisor or Appointing Authority. The supervisor and/or Appointing Authority retain the discretion to determine if a violation of policy has occurred and if disciplinary action is warranted.
- C. A supervisor or Appointing Authority is expected to administer discipline according to the facts and circumstances of each situation involved.
- D. If a supervisor or Appointing Authority refuses to take disciplinary action for an obvious violation of County rules, the County Commission may take action so long as such action is consistent with the intent of these policies and procedures.

### 11.3.0 Types of Discipline

All Classified Employees are subject to the following types of disciplinary action by their supervisor or Appointing Authority for unacceptable conduct that falls under the intent of this section. Disciplinary action may be taken at any level according to the nature of the offense.

- A. Counseling - Counseling will normally be used for unacceptable conduct by an employee that does not warrant more serious disciplinary action.
- B. Written Warning - A written warning report may be used for employee misconduct

that does not warrant more serious disciplinary action or is needed for formal recognition of an issue when counseling has not produced the desired results. Such warning will include the reasons for the warning and inform the employee that further unacceptable conduct may result in more severe disciplinary action such as suspension without pay or dismissal. The report will be signed by both the employee and the supervisor or Appointing Authority. This report should provide **specific, appropriate** information regarding the misconduct. The employee will be provided a copy of the report and a copy will be forwarded to the Personnel Department for inclusion in the employee's personnel file.

- C. Suspension Without Pay - A suspension without pay may be used by a supervisor or Appointing Authority when an employee's conduct is unacceptable. However, nothing should be interpreted herein to prevent the suspension of an employee at the first occurrence of unacceptable conduct, when the circumstances warrant.
- (1) no earned leave may be used during suspension;
  - (2) employees who are suspended without pay are not eligible for a merit raise for at least a year following the disciplinary action or forfeit of earned leave in lieu of;
- D. Dismissal From Service - Dismissal from service normally will be used when an individual's conduct continues to be unacceptable. However, nothing should be interpreted herein to prevent the dismissal of an individual at the first occurrence of unacceptable conduct that meets the intent of these policies and procedures. A dismissed employee may file an appeal as covered under Appeal of Suspension/Dismissal covered later in this section.

## **11.4.0 Classification of Offenses**

Examples of employee actions that are considered to be unacceptable are grouped below with a summary of the disciplinary actions recommended for each group. The disciplinary action is a recommendation and not a mandate. Disciplinary actions should be based on the facts and circumstances in each individual situation. These offenses and actions, as described, are neither all inclusive, nor automatic. Supervisors and Appointing Authorities are permitted, and expected, to treat individual situations according to the circumstances and facts involved. **THESE ARE EXAMPLES. ANY ACTIONS** that are contrary to the good of the County and the citizens of the County can be considered an offense, which warrants disciplinary action.

### **11.4.1 Group One Offenses**

- A. Group one offenses include, but are not limited to, the following types of situations:
- (1) Failure to give proper notice of an absence which could be anticipated (unauthorized absences);
  - (2) Irregular attendance and/or excessive absenteeism;

- (3) Tardiness (not at his/her assigned work station at the beginning of the first hour of the employee's work day or late returning from breaks or lunch);
- (4) Interfering with the work of others to include offensive personal habits which interfere with efficient operations;
- (5) Excessive inefficiency, including waste, poor job performance, poor judgment, loafing or leaving the work area without permission, and defective workmanship;

*Please Note:*

The Appointing Authority will counsel the employee about his/her unacceptable performance, and discuss the actions that the employee must take to improve his/her performance. The employee will be warned that if his/her conduct does not improve to meet acceptable standards, he/she may be dismissed. The Appointing Authority will prepare a record of the counseling session. If the employee's performance continues to be unacceptable, he or she may be suspended or dismissed by his or her Appointing Authority.

- (6) Violation of normal safety practices to include failure to report a work related accident or injury;
- (7) Improper use and/or care of County property;
- (8) Unauthorized solicitation;
- (9) Political activities during working time;
- (10) Misconduct to include lack of cooperation, contravention of civil or criminal law, and any disgraceful conduct which reflects unfavorably on the County as an employer while on duty;
- (11) Similar situations that meet the intended definitions for a group one offense.

B. The disciplinary actions normally **recommended** for group one offenses are as follows:

- (1) First Offense - Counseling

(2) Second Offense - Written Warning

*Please Note:*

Merit raises should not be considered for an individual that receives a written warning, *unless* that individual has responded in a very positive manner with improved performance and the supervisor believes the individual has learned from the action.

(3) Third Offense – a second written warning, suspension without pay, or dismissal as appropriate

(4) Three written warnings and/or suspensions without pay for offense within a twelve (12) month period may constitute justification for dismissal. (See 'Suspension/Dismissal Process')

(5) The Appointing Authority has the additional option of returning a suspended individual with a demotion or a reduction in step(s) with a written notice to the employee with a copy forwarded to the Personnel Department.

C. An individual who receives a third written warning or has been suspended (regardless of offense type) is **NOT ELIGIBLE for Merit Raise consideration** for at least a year following the disciplinary action.

D. Whenever anticipated disciplinary action results in a suspension without pay or dismissal of any employee, the Appointing Authority should comply with the Suspension/Dismissal Process covered later in this section.

E. A classified employee who believes a Commission policy or procedure was misapplied or not followed properly in relation with a suspension or dismissal may file for an appeal of such action. An appeal of a suspension or dismissal is covered later in this Section. Other discipline actions under this section NOT involving a suspension or a dismissal may be handled as a grievance as *covered by Section 12* of these Policies.

#### 11.4.2 Group Two Offenses

A. Group two offenses include, but are not limited to, the following types of situations:

(1) Violation of the County's Substance Abuse Policy which includes possession and/or use of alcohol,

unprescribed drugs, or similar intoxicants while on County property or on the job;

- (2) Operation of a County vehicle or County equipment while under the use or influence (as defined in the Substance Abuse Policy) of intoxicants such as alcohol, or illegal unprescribed drugs, and/or prescribed drugs which induce an unsafe mental and/or physical state;
- (3) Loss of a driver's license and/or driving privileges, when the employee's job requires the operation of a motor vehicle in the performance of his/her duties (this includes Commercial Driver's Licenses);
- (4) Use of a deadly weapon and/or force on County property;
- (5) Deliberate falsification of applications or resumes, records and/or personal misrepresentation of statements given to a supervisor, an official, an Appointing Authority, the public, or the Personnel Department;
- (6) Dishonesty as related to an individual's job duties and/or profession, use of benefits, or the use of one's official position for personal advantages;
- (7) Fighting, except when the employee is a victim of an unwarranted assault;
- (8) Insubordination;
- (9) Conviction of a criminal offense;
- (10) Theft, destruction, unauthorized, careless or negligent use, or damage of County property or the property of others;
- (11) Horseplay on the job;
- (12) Gambling;
- (13) Violation of safety practices that might endanger the life or health of the employee or others;
- (14) Intentional violation of County administrative regulations, department rules, lawful orders or

directions made or given by a supervisor;

- (15) Membership in any organization which advocates the overthrow of the United States government by force or violence;
- (16) Acceptance of any consideration of value or gratuity which was given to improperly influence the employee in the performance of his/her duties;
- (17) Refusal to be examined by a County authorized fully licensed physician when so directed by the County for a matter in relation to the individual job duties, the safety of employees and the general wellbeing of the citizens of Lee County;
- (18) Political activities that are violations of federal and/or state laws and these policies and procedures;
- (19) Harassment (including sexual harassment) or discrimination;
- (20) Sleeping on the job, except when authorized by department or County rules;
- (21) Abusive personal conduct or language toward the public or fellow employees, or abusive public criticism of a superior or other County official;
- (22) Violation of any duly adopted County policy or Federal or State regulations in the performance of one's duties;
- (23) Conduct or actions determined to be a conflict of interest as defined by state law and/or County Polices or procedures;
- (24) Misuse of confidential information or records or the use of such records for personal gain or the gain of family or friends;
- (25) Falsifying reports of hours worked by oneself or others;
- (26) Passing NSF checks or IOU slips to the County;
- (27) Repeated violation of group one type offenses;

(28) Similar types of violations that meet the intended definition of a group two offense.

B. The disciplinary action normally **recommended** for group two offenses is as follows:

**The first such offense will normally constitute a suspension without pay or grounds for dismissal.**

C. In the event of a particularly violent action or intolerable offense on the part of an employee (e.g. fighting, destruction of County property, insubordination, etc.) or the position is a safety sensitive position, the employee may be suspended with pay for up to ten (10) working days by the Appointing Authority *pending completion* of a suspension hearing. Such suspension will be reported to the Personnel Department. If additional days are required, the additional days are to be approved by the County Commission. The employee's suspension with pay will also be recorded on the department's time and attendance report.

### **11.5.0 Suspension/Dismissal Process**

\*This section does not apply to temporary employees or probationary employees.

When any anticipated disciplinary action involves a suspension without pay or dismissal from service, the Appointing Authority should comply with the following procedures:  
*(The Personnel Department will provide assistance if needed)*

- A. The Appointing Authority will inform an employee in writing before the date of the proposed Suspension or Dismissal hearing:
- (1) the reason(s) for the proposed discipline;
  - (2) the proposed disciplinary action to be taken, including effective date;
  - (3) the date, time, and place of such hearing;
  - (4) of his/her right to answer the charges orally or in writing;
  - (5) of his/her right to appear in person at the hearing and/or to be represented by reasonable representation of his/her choice at his/her expense;
  - (6) of witnesses, if any, to appear and of his/her right to ask questions of such witnesses; and
  - (7) of his/her right to call individuals to speak in his/her behalf.

- B. A suspension or dismissal hearing may be omitted if the employee does not dispute the charges and recommended disciplinary action. Failure of an employee to attend the suspension or dismissal hearing is considered an employee's concurrence with the reason(s) for the discipline and recommended disciplinary action.
- C. If the employee fails to respond to the hearing notice, or if after holding such hearing the Appointing Authority decides to impose the proposed disciplinary action, the disciplinary action will be effective on the date specified.
- D. The hearing notification, record of the suspension or dismissal hearing, and the employee's response, will be incorporated into a report to the Personnel Department.
- E. An employee that believes a Commission policy or procedure was misapplied or not followed properly in relation to the actions under this section may file a Review of Suspension/Dismissal as covered below.

### **11.6.0 Review of Suspension/Dismissal**

\*This section does not apply to temporary employees or probationary employees.

- A. If an employee believes that a Commission policy or procedure was misapplied or not followed properly, the employee has three (3) working days after the suspension or dismissal hearing to submit a written request for review by the Chief Administrative Officer and Personnel Department. This request for review shall be submitted directly to the Chief Administrative Officer and shall include a copy of all documentation related to the issue in question.
- B. The Chief Administrative Officer will request the involved Appointing Authority to submit a copy of all documentation related to the same matter. The matter shall be reviewed by the Administrator, the Personnel Department and/or the County Attorney, within five (5) working days of the receipt of the related documentation.

*Please Note:*

If the Appointing Authority involved is the Chief Administrative Officer, the request shall be submitted to the Chairman of the Commission and the Chairman will fulfill the Administrator's role.

- C. The Chief Administrative Officer, the Personnel Department and/or the County Attorney will state their opinion after the conclusion of the review whether or not a Commission policy or procedure was misapplied or not followed properly.
- D. The employee and Appointing Authority will be notified of the results of the review, in writing, within three (3) working days of the conclusion of the review.



## **11.7.0 Appeal of Suspension/Dismissal**

\*This section does not apply to temporary employees or probationary employees.

- A. If the employee wishes to continue the appeal after the recommendation is issued, they must file a written request for a Commission appeal hearing within three (3) business days of the notification of the opinion with the Chairman of the County Commission.
- B. The Chairman of the County Commission shall set a Commission appeal hearing on the date of the next regularly scheduled County Commission meeting and shall notify the employee, the Appointing Authority, and the members of the Commission of the date and time of the appeal hearing. **The appeal hearing may be a closed executive session of the County Commission.**
- C. In a Commission appeal hearing, the Commission may examine the facts by reviewing the submitted documentation and/or interviews of involved parties.
- D. The Commission may overturn a disciplinary action of an Appointing Authority only if the Commission determines that a Commission policy was misapplied or a Commission procedure was not followed properly. The Commission will rule on the application of policy and procedure and not the underlying factual determinations and judgments made by the Appointing Authority, unless those factual determinations and/or judgments appear to be made in a discriminatory manner. If the Commission determines that a policy was misapplied, the suspension or dismissal will be overturned and the employee and Appointing Authority will be notified within three (3) working days.
- E. If the Commission determines that no misapplication of a policy occurred, the employee and Appointing Authority will be notified in writing of the conclusion of the appeal hearing within three (3) working days, and the decision of the Appointing Authority shall stand.
- F. The Appointing Authority has the option to go back through the Suspension/Dismissal Process if their decision was overturned based on failure of proper application of procedure.