

College Operating Procedures (COP)



Procedure Title: Disciplinary Procedures
Procedure Number: 05-0901
Originating Department: Office of Human Resources

Specific Authority:
Board Policy 6Hx6:5.02
Florida Statute 1001.65
Florida Administrative Code n/a

Procedure Actions: Adopted: 11/21/1996; 07/1/2000; 12/2/2008; 11/01/2010;
09/19/2014; 02/05/2021

Purpose Statement: To provide College employees with guidelines to operate business in a constructive manner.

Guidelines:

Florida SouthWestern State College (FSW) strives to provide a safe and harmonious work environment where employees are able to perform their work productively and effectively. Employees' conduct should uphold the integrity and reputation of the College. FSW's Board of Trustees has adopted a policy, Employee Code of Ethics and Professional Responsibilities 6Hx6:5.03, which establishes standards that all employees must follow in their dealings with other employees, students, and the community at large. Employees must be aware of, and follow, all other college policies, in addition to those set out in the Employee Code of Ethics and Professional Responsibilities [6Hx6:5.03](#), must also follow all local, state, and federal laws in fulfilling their employment duties. Corrective Action or Disciplinary Action may be taken in cases where an employee does not meet conduct or performance expectations or violates any law or college policy or procedure. This Policy does not constitute a contract, either express or implied, between the College and its employees. The College may change, alter, modify, or discontinue any of its policies, including this one, in accordance with College policy. This Operating Procedures only applies to professional and career service employees who are not employed pursuant to an annual contract.

SCOPE:

This policy applies to non-instructional regular full-time and part-time employees. It does not apply to probationary employees, to temporary employees, to faculty, to employees working for the College under the terms of a separate employment contract, or to individuals hired on contract to perform professional services.

Progressive Discipline

To address issues of performance or conduct that involve regular non-probationary employees, the College encourages on-going honest feedback and communication between supervisors and staff. Therefore, the College expects a supervisor to share any conduct or performance concern with the individual employee as early and as informally as appropriate. For typical performance issues, the supervisor should then give the employee a reasonable opportunity to address and resolve the concern. If the employee fails to resolve the concern, the progressive discipline model is provided as a guideline. Depending on the particular circumstances and/or severity of the occurrence, any step or steps in the progressive discipline outlined in this policy may be skipped. A severe sanction, up to and including termination, may be appropriate for a first or subsequent offense. The College distinguishes between Corrective Action and Disciplinary Action.

Corrective Action

Corrective Action is designed to assist employees to correct job-related performance or conduct that does not meet expected or required standards at the College. This level of discipline is designed to provide employees with a fair understanding of what is expected of them and an opportunity to improve their performance or correct their conduct. Corrective Action includes verbal coaching, formal verbal warnings and written warnings.

Verbal Coaching

Verbal coaching involves a discussion between a supervisor and an employee to address performance or conduct concerns of a minor nature. Verbal coaching is intended as an informal discussion between the supervisor and the employee and does not need to be documented.

Verbal Warning

In situations where the employee has demonstrated performance or conduct problems that an employee's supervisor considers to be in need of correction, the supervisor will meet with the employee, explain that the meeting is a verbal warning, the nature of the unsatisfactory performance or conduct and indicate what is expected of the employee. The employee will have the opportunity in the meeting to discuss the issues raised with the supervisor and to clarify expectations. A verbal warning is intended to help the employee to improve their performance and to correct any inappropriate conduct. The supervisor will document the fact that a verbal warning was given to the employee and placed in the supervisor's own file. This note will include the date, issues discussed, recommendations made and the response by the employee. Written documentation of the verbal warning will not be placed in the employee's personnel file when a verbal warning occurs. A record of the verbal warning should be retained in the supervisor's file for two years after which time the employee may request its removal.

Written Warning

If a verbal warning has been given to an employee and Corrective Action was not taken or in cases where the employee's supervisor believes, after consultation with Human Resources, that more severe action is appropriate, a written warning may be issued. The supervisor will meet with the employee regarding his or her performance or conduct and will issue a written warning to the employee. The warning will include the following:

- a summary of basis for the warning;
- a clear statement of what the supervisor expects of the employee in the future;
- a warning that disciplinary action will be taken if the issue is not resolved by the employee; and
- a statement that the employee is encouraged to discuss the issues raised by the supervisor and request assistance in dealing with employment related issues.

The supervisor and the employee should sign the written warning to acknowledge receipt of it and the employee shall be provided with a copy. The employee may attach a written statement to the written warning. If the employee refuses to sign the written warning, the supervisor should note the refusal in the employee signature line. A copy of the written warning will be placed in the employee's personnel file.

Disciplinary Action

Disciplinary Action is used to address situations where the employee has failed to address concerns outlined in earlier Corrective Action, there has been a serious violation of a policy or a law or there has been a serious performance issue. Disciplinary Action may include disciplinary probation, demotion, suspension without pay, or termination. In a case where the supervisor believes Disciplinary Action is appropriate, the supervisor shall confer with the Office of Human Resources regarding the situation. The Office of Human Resources and the Vice President or Executive Council level supervisor must approve any Disciplinary Action before the supervisor implements it.

Performance Improvement Plan (PIP) is a special condition for continued employment. It may be appropriate for circumstances when the employee has completed an initial probationary period but has subsequently violated a policy or procedure or has had performance issues that were either not resolved through Corrective Action or are sufficiently serious to warrant an immediate PIP. A PIP may not exceed six months. A supervisor must consult with Human Resources prior to issuing a PIP. The terms and conditions of the PIP should be documented and must include:

- a summary of the basis for the disciplinary probation;
- a clear statement of what the supervisor expects of the employee in the future, and the steps required to successfully complete the probation;
- a warning that further Disciplinary Action, up to and including termination, may be taken if the issue is not resolved by the employee; and
- a statement that the employee is encouraged to discuss the issues raised by the supervisor and to request assistance from Human Resources in dealing with employment related issues.

During the term of the PIP, the employee and supervisor should meet regularly to discuss any concerns and to assess progress.

Demotion

Demotion is the reduction of the employee's salary or job level for a disciplinary reason. Demotion is appropriate in circumstances when an employee has been unable to carry out the duties assigned in a particular job after attempts to correct the concern. Demotion may also be used in situations where an employee's conduct is such that it is no longer appropriate to maintain the person in a particular position of trust or responsibility. After consultation with Human Resources, a supervisor may recommend a demotion and a corresponding decrease in pay, and Human Resources, with the approval of the President or designee, will implement the adjustments.

Suspension

A suspension is a removal of the employee from the workplace without pay for disciplinary reasons. A suspension may be used to address situations where the employee has failed to address concerns outlined in earlier Corrective Action, or there has been a serious violation of a policy or law or if there has been a serious performance issue. A suspension may be from one to 30 work days depending on the severity of the situation. Human Resources must approve the term of the suspension.

Termination

Termination is the involuntary separation of an employee from employment with the College. It is considered for the most serious situations where the employee has failed to address concerns outlined in earlier Corrective Action or Disciplinary Action, or the employee's conduct is so serious as to warrant immediate termination. If an employee is terminated, the record of their termination shall remain in that employee's personnel file indefinitely.

Investigative Leave

An employee may be placed on administrative leave with pay when the College determines it is appropriate to remove the employee from the workplace pending conducting an investigation relating to alleged misconduct. Investigatory leave should only be considered in exceptional circumstances for health or safety reasons or to protect the interests of the employee facing suspension, other employees involved in the matter, information pending an investigation, or other interests of the College. Investigative leave must be authorized in writing by the appropriate Vice President or Executive Counsel level member, in consultation with the Director of Human Resources.

Emergency Leave

A supervisor may place an employee on emergency leave with pay if the supervisor believes that the employee's continued presence in the workplace poses an immediate risk to the health, safety, or security of the College. The supervisor must immediately advise Human Resources and, if appropriate, notify campus police. Human Resources will coordinate with the supervisor to make a determination about appropriate further steps. Emergency leave may not exceed two (2) Working Days.

Definitions

1. **Employment contract** Refers to the agreement by which certain employees who are not considered Regular Employees or Faculty are employed by FSW. Employees who are typically hired by an employment contract include executive level directors, employees in sensitive positions; and any other employee which the College proposes to hire as a contract employee because the circumstances warrant.
2. **Probationary Employee** An employee who has been hired to fill a regular full or part-time position who is working in the position during a probationary period.
3. **Corrective Action** A statement of acceptable behavior and a plan designed to assist employees to correct performance issues or conduct that do not meet the expected or required standards at the College. Corrective Action includes verbal coaching, formal verbal warnings and written warnings.
4. **Disciplinary Action** Actions taken to address situations where the employee has failed to address concerns outlined in earlier Corrective Action, there has been a serious violation of a policy or a law or there has been a serious performance issue. Disciplinary Action may include disciplinary probation, demotion, suspension without pay, or termination.
5. **Employee – Regular** Hired to fill a regular full- or part-time position and who has successfully completed his or her probationary period.
6. **Working Days** means Monday – Friday, except for regularly scheduled holidays.

Offenses – this listing is not considered all inclusive.

1. Types of offenses may include, but are not limited to, the following:
 - A. Violation of any college policy(ies), procedure(s), standard(s), etc.
 - B. Conflict of interest; improper activities (see policy 6Hx28:1-10)
 - C. Conduct on or off campus which adversely affects the operation of the College or the College in the community
 - D. Insufficiency of productivity, quality work, or neglect of duty – Isolated incidents or continued pattern of inefficiency, missed deadlines, disorganization, lack of initiative, reduced productivity, inability or unwillingness to follow procedures/processes or any other performance deficiency that is not meeting acceptable standards.
 - E. Excessive or habitual tardiness, absenteeism, and unauthorized or unexcused absences – An unreasonable or unacceptable number or frequency of absences (which may include a pattern which coincides on the day preceding or following the employee's regular days off, absence on the same day of each week or each month, or failure of an employee to obtain prior approval for an absence from work) or habitual failure to report to work at the established time after a lunch or break period of an employee that results in a negative impact on the workplace. (Absences or tardiness authorized by law, regulation, policy, or procedure cannot be taken into consideration.)
 - F. Failure to obtain or loss of minimum job qualifications/certifications; or failure to report loss.
 - G. Leaving assigned work area or workplace without authorization – Unauthorized absence from the workplace or assignment during the established work schedule or

- leaving the workplace for a lunch or break period without proper relief where coverage is required during specific periods of time.
- H. Safety violations – Failure to wear safety equipment, performing unsafe acts, or failure to abide by or follow established safety procedures or practices.
 - I. Horseplay – Actions or non-work-related activities that result in property damage or injury to self or others.
 - J. Insubordination (blatant disregard of supervisor directions) or failure to follow supervisor directions or other employee in a position of authority at the College – Unwillingness to carry out a directive from a manager or supervisor as a verbal refusal, a nonverbal refusal or an unreasonable delay in completing the work; and/or disrespectful behavior towards a manager or supervisor including cursing at a supervisor, verbally or physically intimidating a manager or supervisor, or speaking loudly or argumentatively to or about a supervisor.
 - K. Disruptive or Aggressive Behavior – Behavior that is considered disruptive or aggressive in the workplace. This may include, and not limited to, the following:
 - 1. Gossip or language that may be considered or perceived as threatening, profane, vulgar, or abusive towards others.
 - 2. Violence committed against any member or guest of the College community;
 - 3. Forcible interference with the freedom of movement of any member or guest of the College;
 - 4. Obstruction of the normal processes, activities, and functions of the college community;
 - 5. Assault or battery upon College security officers in violation of Section 240.381, Florida Statutes.
 - 6. Disruptive activities as defined and prohibited in accordance with the criminal provisions of Section 877.13, Florida Statutes.
 - L. Inability or failure to work cooperatively with others.
 - M. Revealing Privileged Information – Revealing information considered privileged or confidential based on law, policy, or procedure to unauthorized individuals.
 - N. Sleeping on FSW compensated time – Observed inability of an employee to remain awake during the scheduled work period and/or in the performance of duties; typically with intent to sleep or dozing off.
 - O. Fraud, misrepresentation, or dishonesty – Willful and deliberate misrepresentation or omission of any verbal and/or written documented facts with the intent to mislead or defraud, including fabricating information or knowingly furnishing false information to the College or to College officials acting in the performance of their duties.
 - P. Unauthorized entry to, possession of, receipt of, abuse, defacement, or unauthorized removal of college property or property of others while on College premises.
 - Q. Failure to report lost or stolen college property (i.e. supplies, technology devices, keys, equipment, etc.)
 - R. Misuse or inappropriate use of FSW work time – Isolated incident or continued pattern of non-productiveness or inactivity which diverts the employee from performing his/her assigned duties or interferes with the business needs and operations of the College, unless it is work-related as authorized by a manager or supervisor.
 - S. Violation of the law, pleading guilty or no contest or being found guilty of a felony or job-related misdemeanor, or failure to notify supervisor of an arrest or that an information has been filed against the employee by a prosecuting official.
 - T. Employees who are officially designated as Sexual Offenders/Sexual Predators shall be given the opportunity to resign, or in the alternative, shall be separated from the College in accordance with applicable policies and procedures.