

## Rule 6. Discipline

### A. Applicability and Purpose

**This rule applies to employees in the Classified Service.**

The purposes of this rule are to establish procedures for administering discipline and to recommend standard ranges of penalties to promote reasonable consistency in discipline. The level of discipline should be dependent on the facts and circumstances surrounding the behavior or performance issue. The impact of the behavior or performance, the totality of the employee's work record, and any mitigating or aggravating circumstances are relevant in determining the level of discipline administered.

### B. Authority to Effect Discipline

1. Subject to the grievance and appeal procedures herein, the Appointing Authority or designee shall have sole authority to administer discipline.
2. Any Classified Service employee may be disciplined for just cause. The types of performance and behavior identified in the attached chart are deemed to constitute just cause. Other causes not specifically listed which in the sole determination of the Appointing Authority negatively impact the efficiency, morale, good order, and discipline of the workplace, or the performance of a department, office, or agency may also constitute just cause. As per Rule 2, newly hired probationary employees whose performance is deemed unsatisfactory may be dismissed at any time prior to the expiration of the probationary period.

### C. Disciplinary Actions

Discipline should be progressive in nature. Progressive means that more severe discipline is warranted if an employee continues to exhibit performance and behavior problems, whether similar in nature or not. Additionally, there are circumstances where a transgression is egregious enough to warrant termination with no prior discipline.

#### 1. Levels of Disciplinary Action, in increasing order of severity:

- a. Level 1 Warning/Notification
- b. Level 2 Warning/Notification
- c. Level 3 Warning/Notification, choose from the following (considered the same level of discipline)
  - i. Final Written Warning/Notification
  - ii. Suspension
  - iii. Pay Reduction (temporary or permanent)
  - iv. Demotion
- d. Level 4 Dismissal

#### 2. Procedure

UPB Policy #10: Discipline Policy provides guidance for coaching and counseling that may be considered before administering discipline. The following procedure should be used when administering discipline. A Level 1 document will not be added to the

employee's Human Resources personnel file. Level 2 – 4 Warning/Notifications are sent to Human Resources and added to the employee's personnel file.

**a. Level 1 Warning/Notification**

Level 1 Warning/Notification is a level of formal discipline that does not require a pre-disciplinary hearing. However, Level 1's should be issued at a meeting with the employee. The meeting is the time to inform the employee of the factual basis for the discipline, explain expected corrective action and deliver the documentation. The employee shall be allowed to make comments during the meeting.

A Level 1 Warning/Notification will be memorialized in a written document which should be given to the employee at the meeting. The document should include the factual basis for the discipline and the expected corrective action. The document should also inform the employee that additional performance deficiencies or behavior problems, whether similar or not, could result in additional discipline. The employee shall be required to acknowledge receipt of the Warning/Notification by signing the document.

**b. Level 2 Warning/Notification**

Level 2 Warning/Notification is a level of formal discipline that does not require a pre-disciplinary hearing. However, Level 2 should be issued at a meeting with the employee. The meeting is the time to inform the employee of the factual basis for the discipline, explain expected corrective action and deliver the documentation. The employee shall be allowed to make comments during the meeting.

Level 2 Warning/Notifications will be memorialized in a written document, which should be given to the employee at the meeting. The document should include the factual basis for the discipline and the expected corrective action. The document should also inform the employee that additional performance deficiencies or behavior problems, whether similar or not, could result in additional discipline. The employee shall be required to acknowledge receipt of the warning/notification by signing the document.

**c. Level 3 - Final Written Warning/Notification**

Final Written Warning/Notification is an option under Level 3 for those departments that don't want to utilize pay reduction or demotion or if a suspension would present a hardship to the department or be an improper consequence (i.e. to performance, attendance). This is a written warning in lieu of suspension. Final Written Warnings require a pre-disciplinary hearing. The Final Written Warning/Notification shall include the factual basis for the warning and the expected corrective action. The notice shall also inform the employee that additional performance deficiencies or behavior problems, whether similar or not, could result in additional discipline.

**d. Level 3 - Suspension**

Suspension is a period of time off work without pay. Suspensions require a pre-disciplinary hearing. Written notice of suspension shall be given to the employee. The notice shall include the factual basis for the suspension, the length and details of the suspension, and the expected corrective action. The notice shall also inform the employee that additional performance deficiencies or behavior problems, whether similar or not, could result in additional discipline.

**e. Level 3 - Pay Reduction**

Pay Reduction is a reduction in an employee's pay rate. Pay Reduction may be a permanent or temporary reduction. The Appointing Authority has the discretion to reduce an employee's pay permanently or temporarily with a minimum of three (3) months to a maximum of twelve (12) months, which should be defined at the time of discipline. A deferred or denied general increase under Rule 3 C.1.e. is not a Pay Reduction under this Rule. Pay Reductions require a pre-disciplinary hearing. Pay Reductions shall be limited to a maximum of five percent. Written notice of Pay Reduction shall be given to the employee. The notice shall include the factual basis for the Pay Reduction, the amount and effective date of the Pay Reduction, and the expected corrective action. The notice shall also inform the employee that additional performance deficiencies or behavior problems, whether similar or not, could result in additional discipline.

**f. Level 3 - Demotion**

Demotion is a change to a position in a pay grade for which the maximum pay rate is lower than that of the employee's current pay grade. Demotions require a pre-disciplinary hearing. Written notice of Demotion shall be given to the employee. The notice shall include the factual basis for the demotion, identify the pay grade and pay rate of the position into which the employee is demoted, the effective date of the demotion, and the expected corrective action. The notice shall also inform the employee that future additional performance deficiencies or behavior problems, whether similar or not, could result in additional disciplinary action. Upon such demotion a probationary employee shall serve the balance of his/her probationary period and a regular status employee shall not be required to serve another probationary period.

**g. Level 4 - Dismissal**

Dismissal is separation from employment. Dismissals require a pre-disciplinary hearing. Written notice of Dismissal shall be given to the employee.

**3. Pre-Disciplinary Hearings**

Before issuing a Level 3 or 4 Warning/Notification, the Appointing Authority shall provide written notice of his or her intent to administer discipline and offer the employee the opportunity to discuss the situation at a pre-disciplinary hearing. Such hearing shall be held by the employee's Department Director or that Director's designee. The notice shall include the factual basis for the discipline being considered and the just cause for the discipline and advise the employee of the date and time of the pre-disciplinary hearing.

The pre-disciplinary hearing is the employee's opportunity to be heard on issues related to the proposed discipline. Employees may be represented by a person of their choice at their pre-disciplinary hearing.

Pre-disciplinary hearings may be conducted in the manner determined appropriate by the respective Appointing Authority.

**D. Retention of Disciplinary Documentation**

Discipline actions shall remain active for at least the minimum time specified below:

<b>Type of Action</b>	<b>Minimum Time Active</b>
Level 1	6 months
Level 2	9 months
Level 3	12 months

If the Appointing Authority has determined the problem necessitating the discipline has been corrected by the employee and additional performance or behavior problems have not occurred during the designated time frame, and/or no other formal disciplinary action has been administered, the disciplines maintained in Human Resources personnel files will be inactivated unless the Appointing Authority requests an extension. Even if inactive, all documentation will be retained as a part of the personnel file and available in accordance with Chapter 119, Florida Statutes. The determination of the Appointing Authority regarding inactivation is final.

An Appointing Authority, at their discretion, may extend the active period for any disciplinary action when:

- performance or behavior has not been corrected
- additional disciplinary action has been administered while any other disciplinary action is active.

Any active disciplinary action will be extended beyond the timeframe above if additional formal disciplinary action is administered prior to inactivation. The new minimum activation timeframe will be extended, at minimum, to the timeframes specified above related to the type of action taken.

## **E. Grievance of Discipline Actions & Appeals of Dismissal**

### **1. Grievances**

An employee may grieve disciplinary action, except dismissal, by filing a written grievance in accordance with the grievance procedure specified in Rule 7.

### **2. Appeals of Dismissal**

Except as provided herein, a regular status employee may appeal a dismissal directly to the Unified Personnel Board by filing a written notice of appeal with the Director of Human Resources within 15 calendar days from the notice of the dismissal. An employee serving the initial one-year probationary period may not appeal a dismissal.

Human Resources staff may advise the employees and the Appointing Authority of all rights and responsibilities in the appeal procedure but shall not act as a representative or advocate for either.

Conference for Probationary Employees: When incidental to the dismissal of a probationary employee, the Department places in the employee's personnel file any information concerning the employee which might be considered stigmatizing to future employers, i.e., termination for misconduct; and if the employee contends that the information is false, the employee may, in writing, demand a name clearing conference. If such demand is made, the Department shall provide the employee an opportunity to demonstrate the falsity of the information, and the burden of proof shall be on the employee. The sole issue to be determined shall be the truth or falsity of the information alleged by the employee to be false, and the decision shall not necessarily affect the dismissal.

### **3. Representation**

The employee may, if desired, be represented by counsel or lay person during hearings conducted under the provisions of this Rule.

### **4. Unified Personnel Board Appeal of Dismissal Hearings**

Employees appealing their dismissal under this Rule shall be provided a fact-finding hearing before the Unified Personnel Board at which both parties shall have the opportunity to be heard in person, to be represented by lay person or by counsel, and to introduce testimony and evidence. Board Hearings shall be conducted in accordance with the Unified Personnel Board's appeal procedures.

## **F. Suspensions Pending Judicial Review**

When an employee has been indicted or has had an information filed against him or her for a felony, a misdemeanor involving moral turpitude, or any offense in which a conviction would adversely affect the efficiency or morale of the County Service, the Appointing Authority may, in his or her sole discretion, suspend that employee with or without pay until any such charge has been prosecuted to its conclusion. Written notice of suspension shall be provided to the employee.

In the event the suspension is without pay, the employee will be given an opportunity, either orally or in writing to present to the Appointing Authority reasons why the suspension without pay would be inappropriate.

At the conclusion of the charge, if the employee has been found guilty, has pled guilty whether adjudication is withheld or not, or entered a pre-trial intervention or similar program, the Appointing Authority may proceed with termination, in accordance with the procedure in Section 2.

In the event the employee has been tried and acquitted or the information or indictment is quashed or dismissed, the employee may present appropriate documentation to the Appointing Authority and request reinstatement in writing within 15 calendar days of the acquittal or other disposition of the case. This request must be made by delivering the request and documentation to the Appointing Authority. Failure of an employee to request reinstatement from the Appointing Authority within 15 calendar days of the acquittal or other disposition of the case shall be deemed a voluntary resignation of employment. Upon verification that such documentation is genuine and accurate, the Appointing Authority may reinstate the employee with or without back pay.

If the Appointing Authority does not reinstate the employee, the employee may, within 15 calendar days of denial of reinstatement, petition the Unified Personnel Board for reinstatement by delivering a written request for reinstatement to the Director of Human Resources. Failure of an employee to timely file such written request with the Director of Human Resources shall be deemed a voluntary waiver of the employee's right to seek reinstatement from the Unified Personnel Board and will be considered a voluntary resignation. Such resignations shall not be appealable.

Back pay is limited to wages and benefits lost during the suspension period, less sums from all other sources including wages or salary earned and monies received from any and all public assistance and unemployment compensation for the suspension period. The Personnel Board has no authority to grant pay. Only the Appointing Authority may grant back pay.

## Disciplinary Guidelines and Disciplinary Action Ranges

The infractions contained in the Disciplinary Guidelines and Disciplinary Action Range Chart are intended to provide only general guidance for consequences and the types of behavior that may be considered a violation of work rules. Although not part of discipline, it is recommended to consider utilizing the Coaching and Counseling Form when appropriate on first and/or minor incidents. The infractions listed are not all inclusive and the Appointing Authorities have the discretion to begin the disciplinary action at any step depending on other aggravating and mitigating circumstances. As a supervisor, it is recommended to review discipline prior to administering with your department leaders and/or Human Resources.

<b>Category</b> A. Poor Performance	<b>Infraction</b> <i>Select the infraction(s) that apply.</i>	<b>First Infraction</b>	<b>Second Infraction</b>	<b>Third Infraction</b>	<b>Fourth Infraction</b>
	Substandard quality or quantity of work	Level 1 to Level 2	Level 2 to Level 3	Level 3 to Level 4	Level 4
	Failure to perform assigned duties	Level 1 to Level 3	Level 2 to Level 4	Level 4	n/a
	Failure to follow rules, regulations, policies or statutes not already covered under disciplinary infractions	Level 1 to Level 4	Level 2 to Level 4	Level 3 to Level 4	Level 4
	The employee is incapable of performing the essential functions of the job position because of a mental or physical disability after a reasonable accommodation has been made by the Appointing Authority or after the Appointing Authority has determined that no reasonable accommodation can be made.	Demotion or Dismissal	n/a	n/a	n/a
	Failure to perform a reasonable amount of emergency work outside normal working hours when directed to so do by proper authority	Level 3 to Level 4	Level 4	n/a	n/a

<b>Category</b> B. Attendance	<b>Infraction</b> <i>Select the infractions that apply.</i>	<b>First Infraction</b>	<b>Second Infraction</b>	<b>Third Infraction</b>	<b>Fourth Infraction</b>
	Excessive absences or tardiness and absence without authorized leave	Level 1 to Level 2	Level 2 to Level 3	Level 3 to Level 4	Level 4
	Leaving workstation without authorization	Level 1 to Level 3	Level 3 to Level 4	Level 4	n/a
	Job abandonment - Unauthorized absences from work for a period of three consecutive working days may be considered as the employee's voluntary resignation by the Appointing Authority and as such may not be grieved or appealed	Auto Resignation	n/a	n/a	n/a
<b>Category</b> C. Insubordination	<b>Infraction</b> <i>Select the infractions that apply.</i>	<b>First Infraction</b>	<b>Second Infraction</b>	<b>Third Infraction</b>	<b>Fourth Infraction</b>
	Refusal to follow supervisor's lawful orders, direction and/or workplace requirements/insubordination	Level 1 to Level 4	Level 2 to Level 4	Level 4	n/a
	Refusal to answer questions from a superior or investigative agency relating specifically and directly and narrowly to the employee's official duties, after the employee had been warned that refusal to answer such questions could lead to disciplinary action and that statements made by employees under such circumstances were inadmissible as evidence in a criminal prosecution	Level 3 to Level 4	Level 4	n/a	n/a
<b>Category</b> E. Violation of Workplace Violence Policy <i>(NOTE: Letter D was omitted as previous infraction numbers began with D)</i>	<b>Infraction</b> <i>Select the infractions that apply.</i>	<b>First Infraction</b>	<b>Second Infraction</b>	<b>Third Infraction</b>	<b>Fourth Infraction</b>
	Physically fighting while on duty	Level 3 to Level 4	Level 4	n/a	n/a

	The employee is in possession of a deadly weapon on County owned or leased property or in a County owned or leased vehicle at any time, or in a personal vehicle while being used for County business except: a. if specifically authorized in advance by the employee's Appointing Authority or designee, or b. With regard to a firearm, is otherwise specifically allowed under Florida Statute §790.251. Deadly weapon means any instrument which will cause great bodily harm or death when used in its ordinary and usual manner. For this infraction, deadly weapons include, but are not limited to: firearms, clubs, knives (other than a common pocket knife with a folding blade or an eating utensil), stun guns, brass knuckles, nunchucks, throwing stars, and other martial arts weapons.	Level 3 to Level 4	Level 4	n/a	n/a
	Making threats of violence	Level 3 to Level 4	Level 4	n/a	n/a
<b>Category</b> F. Property or Equipment Damage/ Misuse	<b>Infraction</b> <i>Select the infractions that apply.</i>	<b>First Infraction</b>	<b>Second Infraction</b>	<b>Third Infraction</b>	<b>Fourth Infraction</b>
	Misuse of public/County property or equipment	Level 1 to Level 4	Level 3 to Level 4	Level 4	n/a
	Destruction of public/County property or equipment	Level 1 to Level 4	Level 3 to Level 4	Level 4	n/a
	Unauthorized use of public/citizen/County equipment or property	Level 1 to Level 4	Level 3 to Level 4	Level 4	n/a

<b>Category</b> G. Negligence/Poor Judgement	<b>Infraction</b> <i>Select the infractions that apply.</i>	<b>First Infraction</b>	<b>Second Infraction</b>	<b>Third Infraction</b>	<b>Fourth Infraction</b>
	Decision/action resulting in minor consequences such as no injuries, minimal damages, costs, operational disruption, etc.	Level 1 to Level 2	Level 2 to Level 3	Level 4	n/a
	Decision/action resulting in serious consequences such as injuries or damages, higher costs, large operational disruption, etc.	Level 3 to Level 4	Level 4	n/a	n/a
	Sleeping on the job	Level 2 to Level 3	Level 3 to Level 4	Level 4	n/a
<b>Category</b> H. Intentional Falsification of Records	<b>Infraction</b>	<b>First Infraction</b>	<b>Second Infraction</b>	<b>Third Infraction</b>	<b>Fourth Infraction</b>
	Falsification of work-related documents and records or employment application	Level 3 to Level 4	Level 4	n/a	n/a
<b>Category</b> I. Theft	<b>Infraction</b> <i>Select the infractions that apply.</i>	<b>First Infraction</b>	<b>Second Infraction</b>	<b>Third Infraction</b>	<b>Fourth Infraction</b>
	Misappropriation or personal use of County funds or property; illegal disposition of County property or illegal possession of a co-worker's or member of the public's property	Level 3 to Level 4	Level 4	n/a	n/a
	Time paid - The employee has intentionally falsified a time record or made a false claim for leave	Level 3 to Level 4	Level 4	n/a	n/a
	Failed to report absence from duty to supervisors	Level 3 to Level 4	Level 4	n/a	n/a

<b>Category</b> J. Violation of Drug-Free Workplace Policy or Alcohol and Controlled Substance Testing Policy for Commercial Motor Vehicle Drivers	<b>Infraction</b>	<b>First Infraction</b>	<b>Second Infraction</b>	<b>Third Infraction</b>	<b>Fourth Infraction</b>
	Violation of Drug-Free Workplace Policy or Alcohol and Controlled Substance Testing Policy for Commercial Motor Vehicle Drivers	Level 3 to Level 4	Level 4	n/a	n/a
<b>Category</b> K. The Employee Has Engaged in Conduct Unbecoming of an Employee of the County	<b>Infraction</b> <i>Select the infractions that apply.</i>	<b>First Infraction</b>	<b>Second Infraction</b>	<b>Third Infraction</b>	<b>Fourth Infraction</b>
	Violation of Pinellas County Statement of Ethics	Level 1 to Level 4	Level 4	n/a	n/a
	Engaging in conduct unbecoming of a County employee or other behavior that affects the public trust or is a poor representation of a County employee	Level 1 to Level 4	Level 2 to Level 4	Level 3 to Level 4	Level 4
	Attempt to use political influence in personnel matters	Level 2 to Level 4	Level 4	n/a	n/a
	Unauthorized distribution, solicitation, or sales.	Level 1 to Level 2	Level 2 to Level 3	Level 4	n/a

<b>Category</b> L. Conduct/Behavior	<b>Infraction</b> <i>Select the infractions that apply.</i>	<b>First Infraction</b>	<b>Second Infraction</b>	<b>Third Infraction</b>	<b>Fourth Infraction</b>
	The employee's conduct is offensive or antagonistic toward management, fellow employees or the public. The actions include but are not limited to: verbal abuse, intimidation or the use of profane or obscene language.	Level 1 to Level 4	Level 2 to Level 4	Level 4	n/a
	The employee's conduct interferes with the proper cooperation of coworkers or impairs the efficiency, morale, good order or discipline of the workplace	Level 1 to Level 4	Level 2 to Level 4	Level 4	n/a
	Violation of the Anti-Harassment Policy	Level 2 to Level 4	Level 4	n/a	n/a
<b>Category</b> M. Arrests/Charges/ Convictions of a Felony while Employed	<b>Infraction</b> <i>Select the infractions that apply.</i>	<b>First Infraction</b>	<b>Second Infraction</b>	<b>Third Infraction</b>	<b>Fourth Infraction</b>
	During employment the employee fails to report to management that they were arrested by the first scheduled work day immediately following the arrest	Level 1 to Level 4	Level 2 to Level 4	Level 4	n/a
	Finding of guilty or plea of guilty or no contest to an employment-related first degree misdemeanor or any felony, regardless of whether adjudication of guilt is withheld or not	Level 3 to Level 4	Level 4	n/a	n/a
	Finding of guilty or plea of guilty or no contest to any misdemeanor involving moral turpitude, whether adjudication of guilt is withheld or not	Level 2 to Level 4	Level 4	n/a	n/a

<b>Category</b> N. Failure to Meet Certification/Licensure Requirements	<b>Infraction</b> <i>Select the infractions that apply.</i>	<b>First Infraction</b>	<b>Second Infraction</b>	<b>Third Infraction</b>	<b>Fourth Infraction</b>
	The employee operated a County owned or leased vehicle, or the employee's own vehicle, on County business without a valid driver's license or operator's license	Level 3	n/a	n/a	n/a
	The employee's driver's license was suspended or revoked and a valid driver's license is required to perform essential functions of the job	Demotion or Level 4	Level 4	n/a	n/a
	The employee was notified that his or her driver's license was suspended or revoked and the employee failed to report the suspension or revocation to the employee's supervisor by the next scheduled work day immediately following notification	Level 1 to Level 2	Level 2 to Level 3	Level 3 to Level 4	Level 4
	The employee has failed to obtain or maintain the required certification for their job position	Demotion or Level 4	n/a	n/a	n/a
<b>Category</b> O. Secondary Employment	<b>Infraction</b> <i>Select the infractions that apply.</i>	<b>First Infraction</b>	<b>Second Infraction</b>	<b>Third Infraction</b>	<b>Fourth Infraction</b>
	The employee is actively employed by another employer or self-employed; and such employment is in conflict with their assigned duties with the County and/or the County's Statement of Ethics	Level 1 to Level 4	Level 2 to Level 4	Level 4	n/a
	The employee is actively employed by another employer or self-employed and such employment was not authorized by their Appointing Authority or designee	Level 2 to Level 4	Level 4	n/a	n/a

<b>Category</b> P. Violation of Florida Statute 447.505	<b>Infraction</b>	<b>First Infraction</b>	<b>Second Infraction</b>	<b>Third Infraction</b>	<b>Fourth Infraction</b>
	That the employee has violated Section 447.505, Florida Statutes, or any subsequent amendments thereto or any other related, applicable Florida Statute, or has induced or attempted to induce, or aided or abetted any employee of Pinellas County to engage in any strike or walk-out against Pinellas County or any organizational department or unit thereof	Level 4	n/a	n/a	n/a