

ADMINISTRATIVE DIVISION HR Division of Human Resources		POLICY NUMBER HR 1.39
POLICY TITLE Disciplinary Action and Termination for Cause		
SCOPE OF POLICY USC System	DATE OF REVISION <i>May 28, 2020</i>	
RESPONSIBLE OFFICER Vice President for Human Resources	ADMINISTRATIVE OFFICE Division of Human Resources	

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PURPOSE

Outlines the university’s progressive discipline guidelines for supervisors when correcting inappropriate behavior of employees to ensure discipline is applied consistently.

DEFINITIONS

Bullying: Repeated, unwelcome severe and pervasive behavior that intentionally threatens, intimidates, humiliates or isolates the targeted individual(s), or undermines their reputation or job performance.

Counseling or Oral Warning: A private discussion between the supervisor and employee to correct minor deficiencies in conduct or inappropriate workplace behavior.

Demotion: The assignment of an employee from one established position to a different established position having a lower State salary range or, for employees in positions without a State salary range, assignment of a lower rate of pay to the employee.

Termination: Disciplinary action whereby the employee is separated from employment with the University of South Carolina due to the frequency or nature of their misconduct or inappropriate workplace behavior.

Suspension: An enforced leave of absence without pay pending investigation of charges against an employee or for disciplinary purposes.

Unauthorized Use or Misappropriation of University Equipment or Property: Theft or unauthorized use of university equipment or property, or other misappropriation of university assets, including but not limited to cash, equipment, or supplies.

Workplace Violence: The act or threat of violence of any kind.

Written Reprimand: Official statement given to an employee documenting misconduct or inappropriate workplace behavior and identifying a timeline for necessary remedial actions.

POLICY STATEMENT

This document sets forth the University of South Carolina policy on disciplinary action and termination for cause. It is intended to assist supervisors in taking consistent disciplinary action for similar instances of employee misconduct or inappropriate workplace behavior, pursuant to regulations of the Division of State Human Resources. This policy applies to classified and unclassified non-academic employees who have completed their probationary period.

- A. University employees are expected to perform their work efficiently and effectively and to be mindful of the public's expectations of the university and its employees. Supervisors are expected to set an example by their own conduct, attitude, and work habits.
- B. Employee Relations Assistance
 - 1. Supervisors and employees are encouraged to seek resolution of workplace disputes through their supervisory line of authority first; however, if that option is not realistic given the elements of the dispute, both supervisors and employees are encouraged to contact an employee relations representative in the USC Division of Human Resources or their campus Employee Relations Officer for assistance with employee relations matters.
 - 2. Employees who seek employee relations assistance from the Division of Human Resources or campus Employee Relations Officer will be given reasonable time away from their jobs for that purpose.
 - 3. Employees and supervisors may not be forbidden or discouraged from contacting Human Resources, nor may any retaliatory action be taken against any employee or supervisor for that reason.
- C. Disciplinary Action
 - 1. Disciplinary action should be conducted by progressive and constructive measures for the correction of employee misconduct or inappropriate workplace behavior, and prior to a request for termination.
 - 2. Whenever practical, coaching and counseling should precede any disciplinary action.
 - 3. For just cause any classified or unclassified non-academic employee may be counseled,

warned, reprimanded, suspended, demoted, reassigned, downward reclassification, downward unclassified title change or terminated whenever such action is considered necessary by the authorized supervisor, department chair, or higher level administrative official within the employee's line of supervision.

4. Employees who have completed their probationary period, but who have engaged in misconduct or inappropriate workplace behavior may be given the opportunity to improve before being terminated, depending on the level of the offense.
5. The circumstances surrounding the misconduct or inappropriate workplace behavior will normally suggest what disciplinary action should be taken. Circumstances to be considered include the severity of the misconduct or behavior, the number of times it has occurred, and any previous counseling or disciplinary actions taken.
6. Any disciplinary action beyond a written reprimand should include the following steps:
 - a. The supervisor presents all facts surrounding the incident(s) to the manager, or in cases where the manager is initiating the action, the facts must be presented to the head of the division, department, or campus with a recommendation for discipline.
 - b. If the manager, head of the division, department, or campus agrees with the recommendation, the matter is discussed with the Division of Human Resources Employee Relations Office.
 - c. Employee Relations will provide feedback, as necessary, and present the case and recommendations to the Vice President for Human Resources and General Counsel, as necessary.
7. Disciplinary actions should be signed and dated by the employee and supervisor. The employee's signature on such documents denotes only receipt of the action and does not necessarily imply agreement with its contents. If the employee refuses to sign the disciplinary action, a notation of this will be made on the document. If possible, a witness should sign to acknowledge that the employee received the information, but refused to sign the documentation.
8. Any disciplinary or performance-based action that may be grieved through University Grievance Policy HR 1.42, or through the State Employee Grievance Procedure Act, must be reviewed and approved by the Vice President for Human Resources or the Vice President's designee prior to the action being taken, unless the seriousness of the violation or deficiency calls for immediate action. In all cases of immediate action, consultation with USC's Division of Human Resources must take place as soon as practicable.

D. Types of Progressive Disciplinary Action

1. Counseling or Oral Warning

- a. An oral warning or counseling by the supervisor is normally sufficient for the first occurrence of a minor offense.
- b. Counseling and oral warning may not be grieved through the university grievance procedure.

2. Written Reprimand

- a. If a repetition of a first offense occurs, or if a more serious problem occurs, a written reprimand should be given to the employee.
- b. Written reprimands may not be grieved through the university grievance procedure.

3. Suspension

- a. If repetition of an offense occurs for which a written reprimand has been given, or if misconduct or inappropriate workplace behavior occurs that is serious but for which termination is not appropriate, the employee may be suspended.
- b. Disciplinary suspension is without pay.
- c. If an employee has been charged with a crime for which there is probable cause for arrest or which raises a reasonable concern or belief by the Vice President for Human Resources or the Vice President's designee, that the presence of the employee on the job would or could be harmful to the employee, other employees, students, or other members of the university community, or that the employee would be unable to properly perform the duties of his or her position, the employee may be suspended pending the outcome of the criminal charge and/or a thorough review by the university. In the event no wrongdoing by the employee is established, the employee may be entitled to back pay.
- d. Suspension may be grieved through the university grievance procedure. As stated above, any disciplinary or performance-based action that may be grieved must be reviewed by the Vice President for Human Resources or the Vice President's designee prior to the action being taken unless the seriousness of the violation or deficiency calls for immediate action.

4. Demotion

- a. An employee may be demoted when circumstances warrant removal from a specific position, but the offense does not rise to the level of termination.
- b. Serious misconduct or inappropriate workplace behavior may be cause for demotion without prior disciplinary steps having been taken.

- c. A demotion may be grieved through the university grievance procedure. As stated above, any disciplinary or performance-based action that may be grieved must be reviewed by the Vice President for Human Resources or the Vice President's designee prior to the action being taken unless the seriousness of the violation or deficiency calls for immediate action.

5. Termination

- a. An employee may be terminated due to the frequency or nature of his or her misconduct or inappropriate workplace behavior.
- b. Serious misconduct or inappropriate workplace behavior may be cause for termination without prior disciplinary steps having been taken.
- c. Termination may be grieved through the university grievance procedure. As stated above, any disciplinary or performance based action that may be grieved must be reviewed by the Vice President for Human Resources or the Vice President's designee prior to the action being taken unless the seriousness of the violation or deficiency calls for immediate action.

B. Unauthorized Use or Misappropriation of University Equipment or Property

In addition to normal disciplinary procedures, any case of theft or unauthorized use of university equipment or property, or other misappropriation of university assets, including but not limited to cash, equipment, or supplies, will be evaluated for possible criminal prosecution by the Divisions of Human Resources, Law Enforcement and Safety, and the Office of the General Counsel.

C. Workplace Violence

If an employee engages in any violence in the workplace, or threatens violence in the workplace, their employment may be terminated immediately for cause. Violent acts include but are not limited to:

1. The use of physical force in order to harm;
2. A communicated intent of threat to inflict harm or loss on another or on another's property;
3. Harassment including, but not limited to, substantial and unreasonable words, gestures, or actions that are intended to frighten, alarm, or abuse another person or that would cause a reasonable person mental or emotional distress;
4. Intentional damage to property owned by the state, employees, visitors, or vendors; and
5. Domestic violence including, but not limited to, physical harm, injury, or an offer or an attempt to cause physical harm or injury to a household member.

PROCEDURES

The chart of Causes for Disciplinary Action and Recommended Consequences (Appendix A) contains the recommended uniform consequences for examples of misconduct and inappropriate workplace behavior that may require disciplinary action. The chart is to be used as a guide to ensure that all supervisors are being consistent in taking disciplinary action against employees involved in similar situations. It is not inclusive of all misconduct or inappropriate workplace behavior or resulting consequences.

At the occurrence of any of the listed examples of misconduct or inappropriate workplace behavior, or any that are not listed, the appropriate discipline will be determined after the circumstances of the matter are considered.

A. Counseling or Oral Warning

1. The supervisor should speak privately with the employee to correct minor deficiencies in conduct or inappropriate workplace behavior. The conversation should include:
 - a. a review of what is expected of the employee and why
 - b. an explanation to the employee of how expectations for appropriate conduct or behavior have not been met
 - c. an opportunity for the employee to explain his or her conduct or behavior
 - d. specific suggestions by the supervisor to the employee about how the employee's conduct or behavior may be improved.
2. A written record of a counseling or oral warning discussion should be made and retained by the supervisor. At this stage it is not necessary to send a copy to the employee's official personnel file maintained by the USC Division of Human Resources.

B. Written Reprimand

1. A written reprimand should be given to the employee if the seriousness of their misconduct or inappropriate workplace behavior calls for it, or if previous counseling discussions or oral warnings have not produced the desired results.
2. A written reprimand must be addressed to the employee, placed in the employee's official personnel file maintained by the USC Division of Human Resources and should include:
 - a. caption or heading that the document is a written reprimand;
 - b. description of the misconduct or inappropriate workplace behavior, or other action

necessitating disciplinary action;

- c. a statement of how the misconduct or inappropriate workplace behavior may be corrected;
 - d. the period of time the employee has to improve, if applicable; and,
 - e. the potential consequences for repeated violations.
3. The employee may explain the misconduct or inappropriate workplace behavior in writing and append the explanation to the written reprimand.

C. Suspension

1. The employee should be suspended if repetition of the misconduct or inappropriate workplace behavior occurs for which a written reprimand has been given, or if a different instance of misconduct or inappropriate workplace behavior occurs that is serious but for which termination is not appropriate.
2. Before an employee is suspended, the manager or head of the division, department, or campus must give authorization for the action as stated in the Policy Statement unless the seriousness of the misconduct or behavior calls for immediate action. Disciplinary suspension is without pay.
3. Suspension without pay may be grieved through the university grievance procedure; therefore, as stated in the Policy Statement, the suspension must be reviewed by the Vice President for Human Resources or the Vice President's designee prior to the action being taken unless the seriousness of the violation or deficiency calls for immediate action.
4. The notice of suspension must be addressed to the employee, placed in the employee's official personnel file maintained by the USC Division of Human Resources, and should include:
 - a. a caption or heading that the document is a notice of suspension without pay;
 - b. the specific dates of the suspension;
 - c. a description of the misconduct, inappropriate workplace behavior, or other action necessitating suspension;
 - d. a listing of any previous disciplinary actions, if applicable;
 - e. corrective action the employee must take;
 - f. the possibility of termination in the case of a subsequent occurrence, or if the employee is

found guilty of a felony, or if there is other evidence of serious wrongdoing;

- g. notice of the employee's right to grieve the suspension through the University's grievance procedure; and,
 - h. a copy of the University's grievance policy and procedure. ([HR 1.42 Grievance](#))
5. The employee may explain the misconduct or behavioral problem in writing and append the explanation to the notice of suspension.
 6. If an employee has been charged with a crime for which there is probable cause for arrest or which raises a reasonable concern or belief by the Vice President for Human Resources or the Vice President's designee, that the presence of the employee on the job would or could be harmful to the employee, other employees, students, or other members of the University community, or that the employee would be unable to properly perform the duties of his or her position, the employee may be suspended without pay pending the outcome of the criminal charge and/or a thorough review by the University. In the event no wrongdoing by the employee is established, the employee may be entitled to back pay.

D. Demotion

1. An employee may be demoted when circumstances warrant removal from a specific position, but the offense does not rise to the level of termination.
2. Demotions may be grieved through the university grievance procedure; therefore, the demotion must be reviewed by the Vice President for Human Resources or the Vice President's designee prior to the action being taken.
3. The notice of demotion must be addressed to the employee, signed by the department chair or the department chair's designee, placed in the employee's official personnel files maintained by the USC Division of Human Resources, and should include:
 - a. caption or heading that the document is a notice of demotion;
 - b. a description of the misconduct, inappropriate workplace behavior, or other action necessitating demotion;
 - c. a description of previous disciplinary actions, if applicable;
 - d. include the new job title, job classification, salary, and effective date of action;
 - e. notice of the right to grieve the demotion through the university grievance procedure; and
 - f. a copy of the University's grievance policy and procedure. ([HR 1.42 Grievance](#))

E. Termination

1. An employee who has been given the opportunity to improve deficiencies in conduct or inappropriate workplace behavior in accordance with this policy and whose misconduct or inappropriate behavior continues will be terminated. Serious offenses may be cause for immediate termination without prior opportunity to improve.
2. Terminations may be grieved through the university grievance procedure; therefore, the termination must be reviewed by the Vice President for Human Resources or the Vice President's designee prior to the action being taken unless the seriousness of the violation or deficiency calls for immediate action.
3. The notice of termination must be addressed to the employee, signed by the department chair or the department chair's designee, placed in the employee's official personnel files maintained by the USC Division of Human Resources, and should include:
 - a. caption or heading that the document is a notice of termination;
 - b. a description of the misconduct, inappropriate workplace behavior, or other action necessitating termination;
 - c. a description of previous disciplinary actions, if applicable;
 - d. notice of the right to grieve the termination through the university grievance procedure; and
 - e. a copy of the University's grievance policy and procedure. ([HR 1.42 Grievance](#))

RELATED UNIVERSITY, STATE AND FEDERAL POLICIES

[SC Code of Laws Sections 1-1-1410, 8-11-230 \(6\), 44-107-10 through 44-107-90](#)
[State Human Resources Regulations 19-710.04 B.5. and 19-717](#)
[State Human Resources Progressive Discipline Model Policy](#)
[HR 1.36 Performance Evaluation for Classified and Unclassified non-Academic Non-Academic Staff](#)
[HR 1.42 Grievance](#)
[HR 1.58 Demotions](#)

HISTORY OF REVISIONS

DATE OF REVISION	REASON FOR REVISION
August 2010	Provides for resolution of disputes through the supervisory chain of authority.

	<p>Prohibits retaliation for employees who seek assistance through the Division of Human Resources. Requires prior review by the Division of Human Resources of all grievable actions.</p> <p>Provides that cases of theft or other unauthorized use of university assets will be evaluated for possible criminal prosecution.</p> <p>Changes the maximum steps for recommended discipline from four to three.</p>
May 28, 2020	<p>Updated to new format.</p> <p>Added statement regarding the consequences for workplace violence.</p> <p>Added recommendation that supervisors first attempt to resolve issues through coaching or counseling.</p> <p>Added demotion as possible action.</p> <p>Provided guidance for circumstances in which an employee refuses to sign a disciplinary action.</p>
<u>XXX</u>	<p><u>Updated to comply with new State Human Resources regulations and other clarifications</u></p>

APPENDIX A

Causes for Disciplinary Action and Recommended Consequences

	OFFENSE	FIRST OCCURRENCE	SECOND OCCURRENCE	THIRD OCCURRENCE	NOTE
General	Any accumulation of three offenses, within 365 calendar days, where the 1st offense calls for oral or written reprimand	Suspension to dismissal	Dismissal		
	Any accumulation of three offenses, within 365 calendar days, where the 1st or 2nd offense calls for suspension	Dismissal			
	Substandard job performance	See HR 1.36 - Performance Evaluations for Classified and Unclassified Non-Academic Staff			
Attendance and Leave (Refer to Family and Medical Leave Act (FMLA) and American with Disabilities Act (ADA))	Abandonment of position	Employees who voluntarily fail to report to work for three (3) consecutive workdays and fail to contact appropriate University management during the time period will be considered to have voluntarily resigned			
	Excessive absenteeism (LWOP & sick leave)	Oral warning	Written reprimand to suspension	Dismissal	To be used for employees who become unreliable because of frequent absenteeism/absenteeism, even if for good and sufficient reasons. Employee should be informed of the problem before termination. Refer to FMLA and ADA.
	Excessive use/abuse of sick leave	Oral warning to written reprimand	Written reprimand to dismissal	Dismissal	
	Habitual tardiness or failure to observe assigned work hours	Oral warning	Written reprimand to dismissal	Dismissal	
	Leaving work station without authorization	Oral warning to written reprimand	Written reprimand to dismissal	Dismissal	
	Unauthorized leave	Written reprimand	Suspension to dismissal	Dismissal	
Misconduct	Conviction of a felony which adversely reflects on an individual's suitability for continued employment	Dismissal			
	Conviction of a misdemeanor such that the employee's presence on the job could or would be harmful to the employee or others such that the employee's fitness to perform assigned duties is affected	Written reprimand to dismissal	Dismissal		
	Criminal charges such that the employee's presence on the job could or would be harmful to the employee or others such that the employee's fitness to perform assigned duties is affected	Suspension to dismissal	Dismissal		
	Failure to pass an alcohol or drug test required by Federal or State law, regulation or policy	Suspension to dismissal	Dismissal		Action must be in accord with the state statute on alcoholism 8-11-110 SC code of laws
	Refusal to submit to an alcohol or drug test required by Federal or State law, regulation or policy	Suspension to dismissal	Dismissal		Action must be in accord with the state statute on alcoholism 8-11-110 SC code of laws
	Reporting to work under the influence of alcohol and/or illegal drugs	Suspension to dismissal	Dismissal		Action must be in accord with the state statute on alcoholism 8-11-110 SC code of laws
	Drinking alcoholic beverages on the job	Suspension to dismissal	Dismissal		Action must be in accord with the state statute on alcoholism 8-11-110 SC code of laws

Stealing or misappropriation of University assets	Dismissal			
Using, possessing, or selling illegal drugs on the job	Dismissal			
Willful acts that would endanger the lives or property of others	Dismissal			

	OFFENSE	FIRST OCCURRENCE	SECOND OCCURRENCE	THIRD OCCURRENCE	NOTE
Misuse of University Property	Careless, negligent or improper use of University equipment or property	Written reprimand	Suspension to dismissal	Dismissal	
	Destruction, defacing or willful misuse of University property or equipment	Written reprimand to dismissal	Suspension to dismissal	Dismissal	
	Excessive use of telephone or computer for personal matters	Oral warning to written reprimand	Written reprimand to dismissal	Dismissal	
	Unauthorized use of University equipment or property	Written reprimand to dismissal	Suspension to dismissal	Dismissal	
	Working on personal jobs during work hours	Oral warning to written reprimand	Written reprimand to dismissal	Dismissal	
Negligence	Failure to follow established safety precautions, or failure to use safety equipment	Written reprimand to suspension	Suspension to dismissal	Dismissal	
	Gross negligence	Written reprimand to dismissal	Suspension to dismissal	Dismissal	
	Negligence in the performance of job duty(ies)	Oral warning to written reprimand	Written reprimand to dismissal	Dismissal	
	Sleeping or appearing to sleep while on duty	Written reprimand to dismissal	Suspension to dismissal	Dismissal	
	Willful violation of written rules, regulations or policies	Written reprimand to dismissal	Suspension to dismissal	Dismissal	
Unauthorized Actions	Acceptance, without prior approval, of work assignment or compensation that is found to be a conflict of interest	Written reprimand to dismissal	Dismissal		
	Unauthorized distribution of written or printed material of any kind on University premises	Written reprimand	Suspension to dismissal	Dismissal	
	Unauthorized overtime worked by a non-exempt employee	Oral warning	Written reprimand to dismissal	Dismissal	
	Unauthorized release or dissemination of records or any information contained therein, including client data, company records and proprietary materials.	Written reprimand to dismissal	Suspension to dismissal	Dismissal	
	Unauthorized communication, release, disclosure, or misuse of confidential information or disclosing confidential information specifically prohibited by a confidentiality agreement	Written reprimand to dismissal	Suspension to dismissal	Dismissal	
	Unauthorized sales or solicitation on University premises	Written reprimand	Suspension to dismissal	Dismissal	See Policy HR 1.48 Solicitation and Distribution
Falsification	Failure to provide accurate, truthful, and complete information	Written reprimand to suspension	Suspension to dismissal	Dismissal	
	Falsification of records (including employment application)	Written reprimand to dismissal	Suspension to dismissal	Dismissal	
	Knowingly submitting a report or complaint that is false or not made in good faith or making a materially false statements during the course of an investigation, hearing or request	Written reprimand to dismissal	Suspension to dismissal	Dismissal	
	Willful false statements to a supervisor	Suspension to dismissal	Dismissal		

	OFFENSE	FIRST OCCURRENCE	SECOND OCCURRENCE	THIRD OCCURRENCE	NOTE
Insubordination	Insubordination or refusal to accept a reasonable and proper assignment from an authorized supervisor	Written reprimand to dismissal	Suspension to dismissal	Dismissal	
	Refusal to cooperate with an official University investigation	Written reprimand to dismissal	Suspension to dismissal	Dismissal	

Other Forms of Misconduct	Acceptance of gifts in exchange for favors or influence	Suspension to dismissal	Dismissal		
	Engaging in work stoppages, slowdowns or strikes	Written reprimand to dismissal	Dismissal		
	Failure to obtain or maintain a license or certificate as a condition of employment, or as required by law	Oral warning to dismissal	Written reprimand to dismissal	Dismissal	
	Guilty of gross misconduct or conduct unbecoming a University employee that substantially affects the reputation of the institution.	Written reprimand to dismissal	Suspension to dismissal	Dismissal	
	<u>Engaging or participating in a prohibited consensual relationship</u>	<u>Written reprimand to dismissal</u>	<u>Dismissal</u>		<u>Refer to policy UNIV 2.10</u>
	Horseplay or loafing	Oral warning to written reprimand	Written reprimand to dismissal	Dismissal	
	Interference with another employee's work	Oral warning to written reprimand	Written reprimand to dismissal	Dismissal	

Inharmonious Conduct	Failure to maintain satisfactory and harmonious working relations with the public, students, and/or employees	Oral warning to dismissal	Written reprimand to dismissal	Dismissal	
	Fighting (other than reasonable defense to an unprovoked attack)	Suspension to dismissal	Dismissal		
	Inappropriate aggressive workplace behavior or bullying; including verbal or physical threats towards another employee	Written reprimand to dismissal	Suspension to dismissal	Dismissal	
	Malicious use of profane or abusive language to others	Oral warning to written reprimand	Written reprimand to dismissal	Dismissal	
	Sexual harassment	Written reprimand to dismissal	Suspension to dismissal	Dismissal	<u>See Policy EOP 1.02 Sexual Harassment CR 1.00 Discrimination Harassment and Sexual Misconduct</u>
	Trespassing on the home of any state official or employee or student for the purpose of harassing or forcing dialog or discussion	Written reprimand to dismissal	Dismissal		
	Unauthorized possession of firearms or lethal weapons on the job	Dismissal			

The above indicated range of disciplinary actions in response to specific offenses is to be used as a guide and is not intended to be all-inclusive. At the occurrence of any of the listed offenses, or any that are not listed, the appropriate discipline shall be determined after the particular circumstances of the case have been carefully considered. The state and federal laws referenced above are not all-inclusive in administering discipline.