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4.617 Corrective Action and Discipline

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ANTIOCH UNIVERSITY

Type of Policy <input checked="" type="checkbox"/> University <input type="checkbox"/> <i>Campus</i> <input type="checkbox"/> <i>Department/Unit</i> <input type="checkbox"/> Interim		Corrective Action and Discipline Policy 4.617	
Human Resource Policies		Effective date: October 11, 2011	
Policy History:	Approved by:	Resolution #	Date:
Approved	Chancellor	N/A	October 11, 2011
Revised (Non-substantive)	Office of University Counsel	N/A	May 17, 2017
Responsible Office:	Responsible Administrator:	Contact information:	Applies to:
Office of University Human Resources	Director of University Human Resources	937-769-1375	All Employees

I. Introduction

A. Purpose

Antioch University (“AU” or the “University”) uses a progressive discipline process to address job-related behavior that does not meet expected and communicated performance standards. Generally, the goal is to improve performance by assisting employees to understand that a performance problem or opportunity for improvement exists. However, the concept of progressive discipline does not require that all discipline begin with a verbal warning. Misconduct may result in more serious disciplinary action, including immediate termination from employment, depending upon the nature and severity of the violation.

Progressive discipline is most successful when it assists individuals to become effectively performing members of the University. Failing that, progressive discipline enables the University to fairly, and with substantial documentation, terminate the employment of employees who are unable and/or unwilling to improve.

B. Application

This policy applies to all AU employees who have completed their initial review period. This policy does not apply to employees in a recognized bargaining unit or to new employees during the initial review period. During this initial review period, employees are evaluated to determine whether they do indeed have the skills necessary to perform the job for which they were hired. In those cases in which employees are not able to demonstrate that they meet the University's expectations, they may be terminated without progressive discipline of any kind. It is nonetheless recommended and typical that employees will receive substantial coaching during the initial review period to advise them of deficiencies and to give them an opportunity to improve.

C. Authority to Discipline. Ultimate authority to hire or discipline employees of the University rests with the Chancellor. However, by delegation, the authority to discipline is ordinarily exercised as follows:

1. **Verbal and Written Warnings.** Immediate supervisors shall have authority to issue verbal or written warnings.
2. **Probation and Short-term Suspensions.** Immediate supervisors shall have authority to place an employee on disciplinary probation or to suspend an employee for up to 3 work days only upon review by HR and the campus Provost, and, in the case of faculty, the chief academic officer for the employee's unit. Probation should ordinarily be reserved for performance management issues and should typically be imposed only with a performance improvement plan which outlines the areas of performance deficiencies and a plan and timetable for improvement.
3. **Long term Suspensions and Termination.** Immediate supervisor shall have the authority to suspend an employee in excess of 3 work days or to terminate only upon review and approval by HR and the campus Provost. Ordinarily, legal review by University Counsel shall precede any decision to terminate employment.
4. Authority to discipline direct reports to the campus Provosts rests with the respective Provost. Authority to discipline direct reports to the Chancellor rests with the Chancellor.
5. All delegated power of the Chancellor may be directly exercised by the Chancellor as he / she deems appropriate.

II. Responsibilities of HR

- A. It is the responsibility of HR to ensure that all disciplinary actions are consistent with AU policy, and that similarly situated employees are treated similarly under the policies.
- B. It is the responsibility of HR to thoroughly review supervisory recommendations involving disciplinary warnings, suspensions, probations, and/or terminations, and make necessary recommendations prior to any action being taken. At times, it will be necessary to consult University Counsel for legal advice.
- C. It is the responsibility of HR to assist the supervisor as needed in the development of any performance improvement plan (PIP).

III. Responsibilities of Supervisors

- A. It is the responsibility of supervisors to keep accurate documentation, notes and records to substantiate all employee behavior and performance issues.
- B. Personnel actions can easily expose the University to unnecessary risk and liability if not handled in accordance with applicable law and University policies. Therefore, it's the responsibility of supervisors to consult with HR prior to taking any disciplinary actions other than informal coaching or verbal or written reprimands.
- C. It is the responsibility of supervisors to follow HR's guidance on discipline matters. Many times HR consults with University Counsel for legal advice prior to issuing a recommendation. If managers do not agree with HR's advice, then they shall consult with the campus Provost prior to discussions with the affected employee.

IV. Policy

A system of progressive discipline should be used to encourage employees to correct unacceptable behavior or poor performance and to adhere to existing AU Policies including the Code of Ethics and the Employee Code of Conduct. The University reserves the right to determine necessary steps to take after considering all aspects of each individual case. Disciplinary action can include verbal warning, written warning, suspension, probation, or termination depending on the severity of the offense; serious offenses may result in immediate termination of employment without progressive discipline.

Corrective action for unsatisfactory performance is typically limited to annual job evaluations, coaching, counseling, verbal and written warnings, and probation. These are all non-punitive efforts to alert employees to deficiencies and to cause them to improve. Failure to improve performance despite such efforts may result in non-renewal or termination of employment without further progressive discipline. Corrective action for poor attendance may also be limited to non-punitive coaching, counseling and warnings prior to termination. Suspensions from work are rarely used to address attendance problems.

A. Investigative Suspension

1. Investigative suspensions are periods during which employees are placed on leave and relieved of their job duties pending an investigation of alleged misconduct. Such investigative suspensions are administrative, non-disciplinary suspensions and are typically imposed when the employee's presence at work would potentially jeopardize the integrity of the investigation or pose a risk of harm to others. Investigative suspension may result in leave without pay pending the outcome of the investigation. However, if it is determined that the employee did not engage in the alleged misconduct, he / she will be reinstated with back pay.

2. Employees should be instructed to leave the University campus and should leave a current contact number where they can be contacted immediately following investigation of the incident. HR will ordinarily manage the investigations with the direct involvement of the supervisor.

- a) If after the investigation termination is warranted, the discharge shall be effective on the date of the termination meeting.
- b) If misconduct is determined, although not of a sufficiently serious nature to warrant termination, employees shall receive a warning or may be placed on disciplinary suspension.
- c) If no misconduct is determined, employees shall be allowed to return to work immediately following the conclusion of the investigation. Employee shall be paid any back pay owed from the period the investigation began to the point when it is concluded.

B. Verbal Warning

1. A verbal warning is a conversation between supervisors, employees and in some cases, HR typically held in private about a behavior or performance problem. It is the initial step in the progressive discipline process. A verbal warning is to correct a performance or behavior problem by bringing it to the employee's attention. It is recommended that verbal warnings be issued after supervisors are certain that:

- a) Any prior conversations with employees have not been successful in solving the problem;
- b) Employees understand existing policies and procedures, and the consequences of violating the same;
- c) Employees are properly trained; and
- d) Nothing is preventing employees from doing their job in a satisfactory manner.

2. There are several procedures which must be followed whenever a verbal warning is issued by supervisors:

- a) Conversations about discipline are conducted in a confidential setting;
- b) Specific problems are presented in terms of desired goals and actual performance;
- c) References are made to previous conversations about the issues;
- d) Employees are accorded the opportunity to respond and explain why their performance has not improved;
- e) Employees should confirm an understanding of exactly what is expected of them including timeframes; and
- f) Conversations must be documented with the following by the supervisor or HR to be filed in the personnel file as a written record of the verbal warning:
 - 1) The employee's name;
 - 2) The date of the Verbal Warning;
 - 3) The specific offense or rule violation;
 - 4) A specific statement of the expected performance and timeframe for improvement; and
 - 5) Any explanation given by the employee or other information the supervisor feels is significant.

C. Written Warning

1. A written warning is designed to correct a performance or behavior problem by discussing it with employees and providing a written record of that conversation to the employee. It is the second step of the progressive discipline process. A written warning is a documented conversation between supervisors, employees and in some cases, HR about a performance or behavior issue. The written warning is usually used after a verbal warning has been given and no change or too little change in performance or behavior has resulted. A written warning is issued to document the fact that employees have been officially advised of the precise nature of their misconduct or performance deficiencies and warned that any future violations will result in further disciplinary actions, including disciplinary suspension or possible termination. Employees shall be asked to sign a copy of the written warning. Employees' signatures represent proof of receipt only and do not necessarily infer agreement of the written warning or the facts surrounding it. If employees refuse to sign the written warning, supervisors or HR should indicate that fact and the reasons why on the copy.

2. The following procedure is recommended when supervisors issue a written warning:

- a) Prepare for the meeting by reviewing notes on the verbal warning(s) and any other relevant material;
- b) State the specific problem(s) in terms of actual performance or behavior and desired performance or behavior;
- c) Make reference to any prior conversations and the verbal warning;
- d) Give employees a chance to respond and explain;
- e) Tell employees the specific change expected in their performance or behavior;
- f) Have employees confirm that they know exactly what is expected or required;
- g) Inform employees that a written memo will be issued to them summarizing the conversation;
- h) The supervisor or HR should write a short memo summarizing the conversation no later than the following day of the conversation which must include:
 - (1) The specific rule violated or performance problem that has occurred;
 - (2) References to previous conversation(s) about the problem;
 - (3) A statement of the specific change in the employees' performance or behavior expected or required and timeframe for improvement;
 - (4) Any comments or statements employees made during the conversation;
 - (5) A statement indicating that future infractions could result in further discipline up to and including termination;
 - (6) State the employee's right to appeal the action under the Grievance and Conflict Resolution Policy # 4.627; and
- i) Distribute copies of the signed memo to the employee; one is retained by the department, and one is sent to HR and becomes a part of the employee's personnel record.

D. **Disciplinary Suspension and Probation**

1. Employees may be placed on probation or suspended from employment for serious conduct violations or when previous attempts to correct performance or behavior issues are ineffective. It is typically the third step of the progressive discipline process. Disciplinary suspension or probation is usually used after a written warning has been given and no change or too little change in performance or behavior has resulted.
2. Disciplinary suspension or probation should be issued in writing to document the fact that employees have been officially advised of the precise nature of their misconduct and warned that any future violations will result in further disciplinary actions, up to and including termination. Suspension notices should indicate the date(s) of suspension and the employee's right to appeal the action under the Grievance and Conflict Resolution Policy # 4.627.
3. Disciplinary suspensions are ordinarily without pay and will be for a specified period of time.
4. Employees may be put on probation as a condition of returning to work after suspension, or as a condition of continued employment without suspension. Probationary periods will be for a specified time, and for no less than thirty (30) days and no more than ninety (90) day, and will specify the corrective action required to successfully complete the probation. A record of the suspension or probation is placed in the employee's personnel file.
5. **Performance Improvement Plans.** During this probationary period, the employee may be provided a specific performance improvement plan (PIP) with detailed areas for improvement and a time frame within which to achieve these results. Failure to comply with the terms of the PIP may result in non-renewal or termination from employment.

E. **Termination**

1. Termination should be used as a last resort when employees fail to respond to previous efforts to improve performance or behavior, or for more serious offenses. All reasonable steps to assist employees should be taken prior to termination. Nevertheless, immediate termination may occur without progressive discipline for serious infraction(s) which warrant such an action.
2. In the event of a termination, supervisors or HR will be required to prepare their recommendation with relevant documentation supporting the action, as in all other kinds of disciplinary actions. Documentation must be reviewed by HR to ensure accuracy and completeness. In addition, the action plan and all supporting documents should be reviewed with University Counsel prior to termination discussions with employees.

3. When employees are terminated, the supervisor or HR must provide a letter to employees notifying them of termination procedures, including the employee's right to appeal the action under the Grievance and Conflict Resolution Policy 4.627. The letter should typically summarize the major performance or behavior problem(s), identify the major actions taken by management to cause the employee to improve, and describe the general results of those actions. However, termination letters need not contain an exhaustive whitepaper on the employee's performance record or the reasons supporting the decision to terminate. Employees will have the right to appeal the discharge as per the Grievance and Conflict Resolution Policy # 4.627.

V. Relevance of Past Disciplinary Actions

Past disciplinary action will be maintained as a part of the employee's permanent personnel file and may be considered relevant in determining the degree of any future discipline for poor performance or misconduct. However, relevancy will diminish the longer the period of satisfactory performance. Less severe disciplinary action will diminish in relevancy more quickly than more serious disciplinary action. Whether past disciplinary action is relevant in a particular case will depend upon the facts and circumstances.

VI. Levels of Discipline

Levels of discipline are ordinarily progressive and are used to ensure that employees have the opportunity to correct their performance or behavior shortcomings. In general, verbal warnings should, at the next offense, be followed by a written warning, succeeded at the next infraction by suspension, and finally termination. This is especially true in those cases where the time interval between offenses is short and the employee demonstrates a lack of desire and/or job skill to improve his / her performance. However, there is no set benchmark of how many verbal warnings must be given prior to a written warning or how many written warnings must precede suspension or termination. Factors that should be considered include:

- A. The nature and number of problems involved;
- B. The seriousness of the infraction;
- C. The employee's response to prior disciplinary action(s);
- D. The amount of time that has elapsed between offenses; and
- E. The employee's work performance prior to the infraction.

Once again, for serious offenses such as fighting, theft, threats of violence, insubordination, refusal to perform assigned duties, or the sale or possession of drugs, termination may be the first and only disciplinary step taken. Any step(s) in the disciplinary process may be skipped at the discretion of the supervisor, HR, and/or University Counsel, after an investigation and analysis of the circumstances.

VII. Non-Renewal

Employment with the University is typically based upon an annual contract ending June 30 of each year. The University is under no contractual obligation to renew a contract from year to year and may decide, at its discretion, not to renew a contract for any legitimate, non-discriminatory reason which does not violate federal, state or local laws. In the event that an employee is experiencing performance problems at the time of contract renewal, the University may determine to extend employment with a contract of less than one year as part of a probationary improvement plan. If the employee successively satisfies the terms of the probation, a contract of employment may be offered for the balance of the academic year. See also Appointments and Contracts Policy # 4.203.

Policy Cross References

Appointments and Contracts Policy	Policy # 4.203
Initial Review Period –update	Policy # 4.301
Employee Code of Conduct	Policy # 4.601
Employee Code of Ethics	Policy # 4.603
Grievance and Conflict Resolution	Policy # 4.627