



## REGULATION: FGCU-PR5.016

Effective Date of  
Regulation:

### Disciplinary Actions

06/18/13

#### A. Scope and Authority.

1. This regulation applies to all out-of-unit Faculty, Administrative and Professional (A&P), Support Personnel (SP), and Executive Service employees of the University. Employee discipline is considered to be a very serious action that is undertaken with care, objectivity and full consideration for the rights and interests of both the employee and the University. Discipline shall be administered in a judicious manner that strives to achieve equitable treatment for all employees.
2. The authority to discipline employees is vested in the University President. The level of delegation authority varies with the severity of the particular disciplinary action. The President has delegated authority to Vice Presidents to approve disciplinary actions within the administrative area for which he/she is responsible, regarding the demotion, suspension and termination of any SP, A&P, and out of unit faculty employee. In the case of Executive Service employees, disciplinary action remains with the President. Authority has been delegated to Department Heads and/or immediate supervisors to administer oral and written reprimands.

#### B. Standards of Conduct. Employees shall respect the rights of others, exhibit a level of behavior supporting the University Mission, Guiding Principles and best interests of the University, perform assigned duties in an orderly and efficient manner, and adhere to all University regulations, policies and directives.

#### C. Disciplinary Procedures. An employee, who repeatedly violates the University's standards of conduct, whether of the same or different nature, and who, despite repeated warnings, fails to correct his or her behavior to conform to reasonable conduct or work standards may be subject to progressive and cumulative disciplinary action.

In general, disciplinary actions are based on the concept of progressive and cumulative discipline. Progressive discipline is based on the principle that employees have been informed of the performance and behavior expected of them. As offenses occur appropriate discipline will be administered in a progressive manner. Penalties shall be appropriate to the circumstances of the offense.

These standards do not preclude the imposition of more or less severe penalties depending upon all circumstances surrounding a particular incident.

1. Job-related offenses. Generally, the standards for disciplinary action apply to offenses that occur while the employee is at work. For offenses occurring off the job, disciplinary action will be determined based on the facts and circumstances of each situation, including but not

limited to, the employee's ability to continue to perform his/her current job, and whether it adversely affects the University's ability to carry out its assigned mission.

2. **Counseling.** Except for offenses which warrant immediate disciplinary action, supervisors may counsel an employee and provide an opportunity for him or her to comply with the instructions before administering disciplinary action. If the problem is not resolved, the supervisor will notify the employee that disciplinary action will be taken.
3. **Investigatory Interview.** Investigatory interviews may be used to determine whether the employee committed the alleged offense. The provisions of Part VI of Chapter 112, F. S., shall apply to law enforcement employees covered by that statute.
4. **SP Probationary Employees.** The probationary period for each SP employee is intended to be a working test period following appointment to any class in which the employee does not hold regular status. Probationary employees may be disciplined without a right of appeal and are subject to dismissal for any single offense or for failure to meet required performance levels during the probationary period. For purposes of discipline, regular status refers to an employee's status in the Support Personnel and not a specific job. Consequently, an employee with regular status in SP, but serving in probationary status in a class may be removed from the class during this probationary period, without the application of these standards. New employees, in probationary status in the SP classification, may be dismissed during this probationary period without the use of these standards and without the right of appeal. If dismissed within the first ninety (90) days of hire for unsatisfactory work performance, the University will not have its account charged for any unemployment benefits for which an employee is later determined to be eligible.

#### D. Types and Guidelines for Disciplinary Action.

1. All forms of disciplinary action shall be in a memorandum format, informing the employee of the nature of the offense that was violated, briefly noting the specific incident, the corrective action expected, and the possible consequences if the offense is repeated. This document shall be signed by the immediate supervisor with a signature line for the employee to acknowledge receipt. A copy shall be provided to the employee with a copy to Human Resources for inclusion in the employee's personnel file.
2. **Oral Reprimand.** This is the least severe type of disciplinary action and is administered to bring about a change in inappropriate behavior.
3. **Written Reprimand.** A written reprimand is a more significant type of disciplinary action designed to correct continued or more serious offenses.
4. **Suspension.** This is a severe form of discipline which can be administered as a step in the progressive and cumulative discipline procedure following one or more written reprimands, or for the first commission of a serious offense. Suspension is defined as an action taken by the University to temporarily relieve the employee of duties and place the employee on leave without pay.
5. **Dismissal.** This is the final and most severe form of discipline that can be imposed on an employee. Dismissal is defined as the action taken by the University to separate an employee from employment. Employees dismissed for cause are not eligible for rehire.

- E. **Written Notice.** Following written notice but prior to the date of dismissal or suspension without pay of an out-of-unit faculty, regular SP, A&P or Executive Service employee, one of the following options may be used by the University: retain the employee in his/her usual duties; temporarily assign the employee to other duties; place the employee on administrative leave with pay; or opt to provide a lump sum amount to be paid to the employee in lieu of providing the applicable time as notice of separation, subject to limitations under Section 215.425, Florida Statute, if applicable. In the case of exigent circumstances, the University reserves the right to suspend or terminate an employee without notice.
- F. **Standards for Disciplinary Action.** The following standards for disciplinary action shall be used by supervisors to strive to achieve uniformity in treatment in the most common disciplinary problems. The list of offenses is not exclusive and the disciplinary action selected for a particular offense will be chosen based on the facts of the specific situation taking into consideration any extenuating circumstances. These standards do not preclude the imposition of more or less severe penalties depending upon all circumstances surrounding a particular incident. In prescribing disciplinary actions it is recognized that some offenses are so serious that suspension or dismissal may be warranted on the first occurrence even though the employee has no prior record of having been disciplined. All offenses can have a cumulative effect and offenses need not be identical to impose a penalty more severe than prescribed for a similar offense. These standards are meant to be illustrative of the most common disciplinary problems and the actions to be taken. Failure to follow the standards for disciplinary action shall not be grounds to invalidate the disciplinary action unless the failure materially prejudices the employee's rights.
1. Employees who violate the University's standards with respect to the following offenses will be subject to disciplinary action:
    - a) **Excessive Tardiness.** As determined by the workplace supervisor, the repeated failure of an employee to follow established work schedules including, reporting late at the beginning of the work schedule, or leaving early or returning late from breaks or lunch, or leaving work early at the end of the schedule, without approval, shall constitute tardiness, subject to disciplinary action.
    - b) **Excessive Absenteeism.** Excessive absenteeism is the inability or unwillingness of an employee to report to work with a reasonable degree of regularity. It also occurs when an employee demonstrates a pattern of absences, whether necessary or excusable, or in instances where the employee does not have sufficient accrued leave to cover the period of absence.
    - c) **Loafing.** Frequent or significant idleness or non-productiveness during working hours which diverts the employee from performing assigned tasks. This includes, but is not limited to, wasting time when there is assigned work to be performed, engaging in idle talk or gossip, or conducting personal business during the work period.
    - d) **Unauthorized Distribution and Solicitation.** The distribution of written, printed or reproduced material of any kind, sales to, or solicitation of, students or employees by another employee, for any purpose not specifically authorized by the University, while either employee is on duty shall constitute unauthorized distribution and solicitation.

- e) Improper Uniform or Untidy Appearance. Non-compliance with a Department's uniform and dress appearance code shall be subject to disciplinary action.
- f) Leaving the Work Station or Duty Assignment Without Authorization. The unauthorized absence by an employee from the work station or duty assignment during the established work period, or the leaving of the work station without being properly relieved, if that station must be maintained during such period.
- g) Horseplay. Inappropriate acts, such as pranks, whether intended to be mischievous or malicious, that result in disruption or have the effect of disrupting the work place. If any personal injury or damage to property results, more severe disciplinary actions may be taken on the first occurrence.
- h) Violation of Safety Practices. The failure to adhere to or follow established safety practices. This includes the performance of unsafe acts or failure to wear or use safety equipment, including but not limited to vehicle safety belts.
- i) Negligence. Carelessness in, omission of, or inattention to, the performance of assigned duties and responsibilities. Negligence is synonymous with carelessness and signifies lack of care, caution, attention, diligence, or discretion.
- j) Disruptive Conduct. Behavior that interferes with the employee's work performance or the work performance of others. This may include but is not limited to: loud, boisterous language; creating a disturbance; throwing objects; slamming doors, or other activities which would have a detrimental effect on the work environment.
- k) Failure to Report Revocation or Suspension of Driver's License. The failure to immediately report the revocation or suspension of an employee's driver's license to a supervisor shall be subject to disciplinary action where driving is a job-related function or the employee operates University owned vehicles.
- l) Improper or Careless Use or Operation of State Property or Equipment. The negligent, improper or careless use of State property or equipment, abuse or misuse, including but not limited to failure to observe the established speed limit while driving a State vehicle. If the violation causes personal injury, more severe discipline may be imposed.
- m) Absence Without Authorized Leave. Failure to obtain approval prior to any absence from work, to notify or call the appropriate supervisor or the supervisor's designee on the first day of an absence or obtaining leave based upon a misrepresentation or falsification. In the case of a proven emergency, an employee who must be absent, prior to receiving approval from the proper authority, shall not be subject to disciplinary action. This regulation shall apply, but shall not be limited to, employees who fail to return to work as specified in an approved leave of absence.

- n) Unauthorized Use of State Property, Equipment or Personnel. The use of any State property, equipment or personnel for any purpose other than official University business.
- o) Sleeping on Duty. The failure of an employee to remain awake or alert while on duty during the established work period.
- p) Insubordination. The deliberate and indefensible refusal or failure to obey a reasonable order which relates to an employee's job function. An unwillingness to submit to authority, and both an expressed refusal to obey a proper order, as well as a deliberate failure to carry out an order.
- q) Threatening or Abusive Language. The use of language which is threatening or abusive, whether directed towards a supervisor, fellow employee or any other person. It includes but is not limited to offensive language, whether or not directed towards anyone in particular, regardless of the intent.
- r) Conduct Unbecoming a Public Employee. Conduct, whether on or off the job, which adversely affects the employee's ability to continue to perform his/her assigned duties, the University's ability to carry out its assigned mission, or which tends to promote mistrust or embarrassment of the University.
- s) Failure to Report Bribe. Failure of an employee to immediately report any bribe or attempted bribe of a department employee or public official.
- t) Abuse of Position or Unauthorized Use of Department Identification. The abuse of an employee's University position or identification to obtain personal gain or influence or to avoid the consequences of unlawful acts, including but not limited to, soliciting or accepting any gratuity, gift, loan, reward, promise of future employment, favor or service that would cause the employee to be influenced in the exercise of official duties or that is based on any understanding that any official action or judgment of the employee may be influenced thereby or the use of name, photograph, or title which identifies one as an employee of the University or a department in connection with testimonial, advertisements of any commodity or service, commercial enterprise, charity or other public or private uses without the written approval of the University.
- u) Unlawful or Careless Use or Display of a Weapon. The failure of an employee who is required to carry a weapon during the performance of duties to use or display the weapon in a lawful manner or under circumstances which negligently endanger the lives or safety of others.
- v) Handling of Evidence by Law Enforcement Officers. Failure by a University law enforcement officer to inventory, process and reasonably care for recovered or seized property or any act which displays an intent to convert, falsify, conceal, destroy or withhold any property or evidence which belongs to another or which is taken into custody by the University.
- w) Failure to Give Truthful or Requested Information during Internal Investigation. Failure of an employee, including a law enforcement officer, to timely respond to

or give truthful information during the course of an internal investigation concerning matters which occurred during the performance of his or her duties.

- x) Possession of Unauthorized Weapons and/or Firearms on University Property. Possession or use of firearms, fireworks of any description, explosives, chemicals which are disruptive, explosive, or corrosive in nature, or any weapon other than a common pocket knife on University premises or during University-related activities.
- y) Display of Uncooperative or Antagonistic Attitude. Display of words or actions by an employee which flouts authority, is disruptive to the work place and/or has the effect of causing dissension among fellow employees and/or which is rude to the public.
- z) Failure to Make Restitution of Debts. Failure upon the accumulation of debts owed to the University or State of Florida by an employee to make appropriate arrangements for payment or for restitution. Nothing herein restricts the right of the University or the State to set off debts owed by the employee against wages or any sums due to the employee.
- aa) Falsification of Records. The willful and deliberate misrepresentation, falsification or omission of any fact whether verbal, written, or communicated in some other medium, including but not limited to application, time and attendance, employment status, travel, or work and production records.
- bb) Violation of a Provision of Law or University Regulation. The violation of the provisions of law or University regulation including, but is not limited to discrimination in employment, sexual harassment, illegal campaigning, or any other act or omission which could constitute a violation of Federal, State Laws or University Regulations or Policy.
- cc) Fighting on the Job, Battery or Threat. The commission of any oral or written threat of injury to another, or the commission of an actual physical battery against another employee or member of the public, except when justified in the interest of self-defense.
- dd) Drinking on the Job or Reporting to Work under the Influence of Alcohol. Drinking of any alcoholic beverage on the job or reporting to work under the influence of alcohol is prohibited and subject to disciplinary action. An employee exhibiting a pattern of alcohol abuse to the extent that it affects work performance shall not be subject to disciplinary action, unless the employee has refused to recognize his or her alcoholism and cooperate by seeking help, fails to complete the program of treatment, or unless treatment has proved unsuccessful.
- ee) Reporting to Work Under the Influence or Use of Illegal Drugs. The use of any illegal drug on the job or reporting to work under its influence is prohibited.
- ff) Misdemeanor or Felony Incident. A conviction for, or plea of nolo contendere (no contest), to a misdemeanor or felony which substantially affects an employee's

ability to perform his or her job duties or for a crime which involving moral turpitude or which would tend to promote public mistrust or embarrassment to the University.

- gg) Possession, Sale, Distribution of Alcoholic Beverages or Illegal Drugs. The possession, sale, or distribution of illegal drugs on University property or on the job is prohibited at all times. Possession, sale or distribution of alcoholic beverages except at authorized events is prohibited.
  - hh) Divulging Confidential Information or Unauthorized Release of Records. The dissemination, release, alteration, defacement or removal of official University records by an employee without proper authorization.
  - ii) Sabotage. Participation in a deliberate act of destruction or attempted destruction of University property or equipment which obstructs University operations.
  - jj) Theft or Stealing. The unauthorized taking of any property of the University, including surplus or salvage, or of any other person or entity.
  - kk) Strike. Instigating or supporting in any manner a strike, as defined in Chapter 447, Florida Statutes.
  - ll) Substandard Performance of Assigned Duties or Failure to Maintain Minimum Qualifications for Job. The failure to satisfactorily meet the minimum performance standards that specifically relate to the employee's duties and responsibilities, with or without use of progressive discipline, failure to follow oral or written instructions from supervisory personnel, or failure to maintain the minimum qualifications set for a position by either the University or a certifying agency.
  - mm) Criminal Background Check. Failure to comply with the requirements of the criminal background check as outlined in FGCU Policy#3.037.
- G. Extraordinary Situations. When circumstances exist whereby the retention of an employee would result in imminent injury or the threat of imminent injury to the employee or another person, damage to property, or be detrimental to the best interests of the University.
- H. Investigatory Leave. An employee may be placed on administrative leave when the employee is under investigation by the University for violation of the University's Standard of Conduct and it is determined that the employee's absence from the worksite is determined to be in the best interest of the University.
- I. Demotion. Demotion is defined as moving an employee from a position in one class to a different position in another class having a lesser degree of responsibility and a lower salary range maximum. An employee shall not be demoted as a form of disciplinary action. Demotion shall also be used to remove an employee from his or her class when the employee fails to achieve performance standards in his or her assigned duties.

## Guidelines for Progressive Disciplinary Action

The following chart is intended to provide suggested guidelines for progressive disciplinary action with reference to procedures fully outlined in section (6) Standards for Disciplinary Action of Regulation PR5.016 Disciplinary Actions.

<b>Examples of Offenses</b>	<b>1<sup>st</sup> Offense</b>	<b>2<sup>nd</sup> Offense</b>	<b>3<sup>rd</sup> Offense</b>	<b>4<sup>th</sup> Offense</b>
Excessive Tardiness	Oral to written reprimand	Written reprimand	Suspension	Dismissal
Excessive Absenteeism	Oral to written reprimand	Written reprimand	Suspension	Dismissal
Loafing	Oral to written reprimand	Written reprimand	Suspension	Dismissal
Unauthorized Distribution or Solicitation	Oral to written reprimand	Written reprimand	Suspension	Dismissal
Improper Uniform or Untidy Appearance	Oral to written reprimand	Written reprimand	Suspension	Dismissal
Leaving the Workstation or Duty Assignment Without Authorization	Oral to written reprimand	Written reprimand	Suspension	Dismissal
Horseplay	Oral to written reprimand	Written reprimand	Suspension	Dismissal
Violation of Safety Practice	Oral to written reprimand	Written reprimand	Suspension	Dismissal
Negligence	Oral to written reprimand	Written reprimand	Suspension	Dismissal
Disruptive Conduct	Oral to written reprimand	Written reprimand	Suspension	Dismissal

<b>Examples of Offenses</b>	<b>1<sup>st</sup> Offense</b>	<b>2<sup>nd</sup> Offense</b>	<b>3<sup>rd</sup> Offense</b>	<b>4<sup>th</sup> Offense</b>
Failure to Report Revocation or Suspension of Driver's License	Oral reprimand to suspension	Written reprimand to suspension	Suspension to Dismissal	Dismissal
Improper or Careless Use or Operation of State Property	Oral reprimand to suspension	Written reprimand to suspension	Suspension to Dismissal	Dismissal
Absence Without Authorized Leave	Oral reprimand to suspension	Written reprimand to suspension	Suspension to Dismissal	Dismissal
Unauthorized Use of State Property, Equipment or Personnel	Oral reprimand to suspension	Written reprimand to suspension	Suspension to Dismissal	Dismissal
Sleeping on Duty	Oral reprimand to suspension	Written reprimand to suspension	Suspension to Dismissal	Dismissal
Insubordination	Oral reprimand to suspension	Written reprimand to suspension	Suspension to Dismissal	Dismissal
Threatening or Abusive Language	Oral reprimand to suspension	Written reprimand to suspension	Suspension to Dismissal	Dismissal
Conduct Unbecoming a Public Employee	Oral reprimand to suspension	Written reprimand to suspension	Suspension to Dismissal	Dismissal
Failure to Report Bribe	Oral reprimand to suspension	Written reprimand to suspension	Suspension to Dismissal	Dismissal
Abuse of Position or Unauthorized Use of Department Identification	Oral reprimand to suspension	Written reprimand to suspension	Suspension to Dismissal	Dismissal
Unlawful or Careless Use or Display of a Weapon	Oral reprimand to suspension	Written reprimand to suspension	Suspension to Dismissal	Dismissal

<b>Examples of Offenses</b>	<b>1<sup>st</sup> Offense</b>	<b>2<sup>nd</sup> Offense</b>	<b>3<sup>rd</sup> Offense</b>	<b>4<sup>th</sup> Offense</b>
Handling of Evidence by Law Enforcement Officers	Oral reprimand to suspension	Written reprimand to suspension	Suspension to Dismissal	Dismissal
Failure to Give Truthful or Requested Information During Internal Investigation	Oral reprimand to suspension	Written reprimand to suspension	Suspension to Dismissal	Dismissal
Possession of Unauthorized Weapons and/or Firearms on University Property	Oral reprimand to suspension	Written reprimand to suspension	Suspension to Dismissal	Dismissal
Display of Uncooperative or Antagonistic Attitude	Oral reprimand to suspension	Written reprimand to suspension	Suspension to Dismissal	Dismissal
Failure to Make Restitution of Debts	Written reprimand if restitution is not arranged to the satisfaction of the University.	Dismissal if restitution is not made after second notice to pay the debt.		
Falsification	Written reprimand to dismissal	Dismissal		
Violation of a Provision of Law or University Regulation	Written reprimand to dismissal	Dismissal		
Fighting on the Job, Battery or Threat	Suspension to Dismissal	Dismissal		

<b>Examples of Offenses</b>	<b>1<sup>st</sup> Offense</b>	<b>2<sup>nd</sup> Offense</b>	<b>3<sup>rd</sup> Offense</b>	<b>4<sup>th</sup> Offense</b>
Drinking on the Job or Reporting to Work under the Influence of Alcohol	Suspension to Dismissal	Dismissal		
Reporting to Work Under the Influence or Use of Illegal Drugs	Suspension to Dismissal	Dismissal		
Misdemeanor or Felony Incident	Suspension to Dismissal	Dismissal		
Possession, Sale, Distribution of Alcoholic Beverages or Illegal Drugs	Suspension to Dismissal	Dismissal		
Divulging Confidential Information or Unauthorized Release of Records	Suspension to Dismissal	Dismissal		
Sabotage	Dismissal			
Theft or Stealing	Dismissal			
Strike	Dismissal			
Substandard Performance of Assigned Duties or Failure to Maintain Minimum Qualifications for Job	Dismissal			

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