

# CLEMSON

## UNIVERSITY

### OHR POLICY LIBRARY

#### Discipline for Covered Employees

Discipline for Covered Employees Policy

Responsible Executive: CHRO

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### POLICY STATEMENT

Clemson University expects its employees to conduct themselves in a professional, ethical and law-abiding manner. Because misconduct is often detrimental to the university and because inappropriate behavior—whether at work or off duty—reflects poorly on the university, Clemson reserves the right to manage employee behavior through discipline when necessary. This policy, and the complementary Discipline Policy for Non-Covered Employees, establishes the rules and procedures by which the University disciplines employees.

This progressive discipline policy does not apply to non-covered employees (e.g., probationary employees, temporary employees, temporary grant employees, time-limited project employees, research grant employees and other employees who are exempt from the State Employee Grievance Procedure Act) who may be disciplined at the University's discretion.

### REASON FOR POLICY

- To comply with South Carolina law
- To establish the University's expectations regarding employee behavior
- To provide a consistent discipline process for covered employees
- To provide guidance regarding the discipline process, such that the steps, limitations and appeals are clear and actionable

### ENTITIES AFFECTED BY THIS POLICY

- All colleges/divisions of the University

### WEB ADDRESS FOR THIS POLICY

[https://media.clemson.edu/humanres/policies\\_procedures/Discipline\\_Policy.pdf](https://media.clemson.edu/humanres/policies_procedures/Discipline_Policy.pdf)

### CONTACTS

Subject Matter	Office	Telephone	Email/Web Address
Policy Clarification and Interpretation	Staff and Faculty Relations	(864) 656-2000	<a href="mailto:staffrelations@clemson.edu">staffrelations@clemson.edu</a>

## **PRINCIPLES**

### **Appropriate Conduct**

Clemson University expects its employees to conduct themselves in a professional manner conducive to competent job performance, extend courtesy and respect to supervisors, co-workers and other members of the university community, and comply with university policies and procedures, as well as state and federal laws, rules and regulations. Employees who are found to be in violation of such policies, procedures, laws, rules or regulations may be given an opportunity to improve, if justified by the circumstances.

### **Staff Relations Assistance**

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 a staff relations manager in the Office of Human Resources (OHR) for assistance with employee relations matters. Supervisors are strongly encouraged to contact OHR at the onset of any employee performance or conduct issues.

### **Progressive Discipline**

Discipline, in general, is considered a constructive measure and should be used primarily to correct inappropriate conduct in an effort to prevent serious problems from occurring or recurring. For this reason, disciplinary action should be guided by the degree of severity necessary to obtain the desired improvement. However, if improvements in conduct are not observed, further discipline may be justified, including termination. Similarly, if the circumstances are egregious, stronger discipline, including termination, may be required for a first offense. Disciplinary actions include, but are not limited to verbal counseling, written reprimand, suspension, termination, reassignment, demotion, and unclassified state title change, or other appropriate action.

### **Leadership**

Employees involved with University administration, especially those tasked with supervising others, should set an example by their conduct, attitude and work habits.

## **PROCEDURES**

### **Eligibility**

This policy applies to covered employees. Covered employees are eligible to file grievances for certain disciplinary actions as described in Clemson University's Grievance Policy.

This policy does not apply to non-covered employees (i.e., employees who are exempt from the State Employee Grievance Procedure Act), to include the following:

- Temporary employees (employees in temporary, temporary grant, time-limited, research grant, and intermittent positions)
- Faculty or other employees exempt from the State Employee Grievance Procedure Act
- Probationary employees

## Definitions

### Covered Employee

A covered employee is a full-time or part-time employee occupying a part or all of an established full-time equivalent (FTE) position who has completed the probationary period and has an "improvement needed" or higher overall rating on the employee's performance evaluation and who has grievance rights. Instructional personnel are covered upon the completion of one academic year except for faculty at state technical colleges of not more than two full academic years' duration. If an employee does not receive an evaluation before the official review date, the employee must be considered to have performed in a satisfactory manner and be a covered employee. This definition does not include employees in positions such as temporary, temporary grant, research grant or time-limited employees who do not have grievance rights.

For more definitions, please refer to the [OHR Glossary of Terms](#).

### Special Circumstances

#### Arrest or Conviction

Any employee who is arrested for a misdemeanor or felony, other than minor traffic violations, must notify his or her supervisor of such arrest no later than five calendar days after the arrest. If an employee is convicted of a misdemeanor or felony while employed at the university, he or she must inform their supervisor of such conviction (including pleas of guilty and nolo contendere) no later than five calendar days after the conviction.

#### Job Abandonment

In accordance with Clemson's Separation from Employment Policy, an employee who fails to report to work for three consecutive workdays and fails to contact the university during this time is considered to have voluntarily separated from employment by means of job abandonment. A voluntary separation is not a grievable or appealable issue under the Clemson University Grievance Policy.

#### Workplace Domestic Violence

Section 7, Chapter 1, Title 1 of the 1976 Code of Laws, Article 21, Workplace Domestic Violence Policy (Section 1-1-1410) requires every state agency to develop and implement an agency workplace domestic violence policy and adopt a zero-tolerance response.

If employees engage in any violence in the workplace, or threaten violence in the workplace, their employment may be terminated immediately for cause. These actions include, but are not limited to, any one or more of the following:

- Physical violence (the use of force in order to harm)
- Threats of violence (a communicated intent to inflict harm or loss on another or on another's property)
- Harassment (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)
- Property damage (intentional damage to property owned or leased by the state, employees, visitors, or vendors)
- Domestic violence (physical harm, injury, or an offer or an attempt to cause physical harm or injury to a household member)

### Substandard Work Performance

While many of the behaviors addressed in this policy can affect job performance, the procedures for managing a covered employee's job performance are established in the Staff Performance Management Policy and are not part of the scope of this policy.

### **Steps in the Progressive Discipline Process**

**Special Note:** Discipline should not necessarily be progressive in nature when the situation or the severity of the violation should result in a termination for a first offense. This policy is intended to provide overall guidance; however, the circumstances of a particular situation may well warrant disciplinary actions less or greater than indicated in the guide for disciplinary action.

In the instances where documented, progressive discipline should be applied, the discipline process can be coordinated in a variety of ways depending upon individual circumstances, such as prior disciplinary actions, frequency of offenses, and the severity of offenses. Supervisors should review and determine the appropriate disciplinary action for an employee. For examples of misconduct and an appropriate range of disciplinary action, please see Appendix A of this policy.

### Informal Disciplinary Action

Whenever possible, coaching and counseling should precede any disciplinary action.

#### A. Verbal Coaching or Counseling

Although not considered a formal step in the progressive discipline process, informal counseling is often an appropriate response to first occurrences of minor disciplinary offenses. In such cases, supervisors can use early intervention to meet with the employee and communicate expected proper conduct. At this time, the supervisor should inform the employee that, unless the problem is corrected, the employee may be subject to stronger, formal disciplinary action. Supervisors should maintain written documentation of informal verbal counseling in supervisory files, to be used to support future discipline if needed. Informal counseling documents are not included in the official personnel file; however, they may be referenced in future actions. Verbal counseling may not be appropriate in all instances, depending on the severity of the first offense.

### Formal Disciplinary Actions

#### A. Verbal Reprimand

A record of this action with the employee's and the supervisor's signatures should be placed in the employee's personnel file.

#### B. Written Reprimand

The supervisor shall monitor work assignments and assure the employee does not engage in unacceptable conduct. When the supervisor determines that disciplinary action is appropriate, the supervisor may elect to issue a written reprimand. However, this policy does not require a written reprimand before other disciplinary action can be taken. After the first written reprimand, a supervisor may give additional written reprimands or a higher level of disciplinary action. A written reprimand may be issued for individual offenses or for cumulative lesser violations. The nature of the offense and the dates of any informal counseling sessions (if given) should be referenced in written reprimands. The Office of Human Resources should review all written reprimands prior to issuance to the employee. The employee should be told in the written reprimand that repetition of the offense or a

more serious offense may warrant further disciplinary action up to and including termination. The employee should sign the reprimand as acknowledgement of receipt, and a copy should be provided for the employee's records. Written reprimands will become part of the employee's official personnel file. While an employee is asked to sign disciplinary notices, the employee's signature means only that the employee has received a copy and not that the employee agrees with the contents or the action taken. If the employee refuses to sign the disciplinary notice, another supervisory employee or OHR representative should witness the refusal to sign the document.

A written reprimand should be in the form of a letter or memorandum clearly informing the employee that it is a written reprimand and a different non-disciplinary process such as counseling. The written reprimand should include the following:

- The effective date the action is issued
- Facts – Define the specific acts or omissions that are the reason(s) for the disciplinary action, including any past disciplinary problems
- Objectives and Time Frame – Define what must be done to correct the problem or what the desired behavior is, and specify the time frame allowed for correcting the performance or conduct
- Solutions – Indicate the resources that will be provided to help the employee achieve the desired behavior
- Actions – State the consequences of not correcting the behavior and the time limit within which the problem is to be corrected.

#### C. Suspensions Pending Investigation

In cases that have multiple issues or considerations or where the facts are not clearly evident, an investigatory suspension may be invoked by placing the employee on a leave of absence without pay pending investigation and a decision as to the extent of disciplinary action. Suspension pending investigation does not constitute a disciplinary action, however, the information discovered during the investigation may be the basis of disciplinary actions.

Examples of reasons for a suspension pending investigation include, but are not limited to: to investigate allegations of discipline or conduct deficiencies that would constitute just cause for disciplinary action; to avoid disruption of the work place and/or to maintain the integrity of the workplace; to facilitate a management directed referral or fitness for duty evaluation to ensure the employee's safety and the safety of others and to obtain medical information regarding the employee's fitness to perform his or her essential job functions.

The leave of absence without pay during a suspension pending investigation may be used towards part of the disciplinary suspension period if the investigation finally determines that disciplinary suspension is appropriate.

#### D. Suspension

A suspension may be administered for the first offense of a serious nature or for cumulative lesser violations<sup>1</sup>. The period of suspension is dependent on the seriousness of the offense and on whether previous disciplinary actions

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<sup>1</sup> In cases where the suspension is based on cumulative lesser violations, details of the previous disciplinary actions that led up to the suspension, including documented counseling sessions, should be cited in the notice of suspension.

have been issued. The chief human resources officer (CHRO) or the CHRO's designee as well as the division head or the division head's designee must approve all suspensions for covered employees. The employee should be made aware of the reasons for the suspension and the consequences of future violations or problems. The employee should sign the notice of suspension as having been received and a copy of the suspension notice should be given to the employee. Suspensions are grievable actions in accordance with Clemson University Grievance Policy.

The chief human resources officer (CHRO) or the CHRO's designee, in addition to the division head, must approve all suspensions for covered employees. Documentation should contain a summary of events leading up to the suspension, including prior disciplinary action and/or aggravating circumstances. A record of the suspension becomes a permanent part of the employee's official personnel file.

All suspensions are without pay. (Accrued annual or sick leave may not be used for a suspension.) During the suspension period, the employee is not to be allowed in the workplace or to conduct any work remotely.

#### E. Termination

If other disciplinary action fails to eliminate or correct the violation(s), or if an employee commits a serious disciplinary infraction, the employee may be subject to termination. Serious misconduct may require immediate termination without prior warning.

All pertinent facts should be considered in the evaluation of events leading up to termination. If it is determined that termination is proper and justified, OHR will work with the division head (vice president or dean) to obtain necessary documentation and approval. The chief human resources officer (CHRO) or the CHRO's designee, in addition to the division head, must approve all terminations for covered employees. Documentation should contain a summary of events leading up to the termination, including prior disciplinary action and/or aggravating circumstances. A record of the termination becomes a permanent part of the employee's official personnel file.

#### F. Reassignment, Demotion, Reclassification, and Unclassified State Title Change

Reassignment, demotion, reclassification, and unclassified State title change may also be used separately or in conjunction with the above sanctions as a form of disciplinary action.

### **DISCIPLINE PROCEDURES AND GUIDELINES**

In general, disciplinary actions are considered constructive measures used to correct an employee's conduct, and disciplinary actions should seek to prevent the future occurrence or recurrence of serious problems.

Disciplinary actions including the written reprimand and beyond must be pre-authorized and reviewed by the Office of Human Resources, before administering to the employee.

The following steps must be followed in such cases when discipline beyond the written reprimand is necessary.

1. If a supervisor believes discipline is appropriate, the supervisor should recommend this disciplinary action to an employee relations manager in OHR. All such recommendations require documented support from relevant managers in the chain of command.

2. The employee relations manager confirms the appropriateness of the disciplinary action and works with the supervisor(s) to finalize the disciplinary action. The Employee Relations unit or 3<sup>rd</sup> party investigator may conduct an investigation and coordinate the involvement of the Office of General Counsel as needed.
3. Disciplinary actions should be documented in writing, signed by the employee and supervisor(s), and placed in the employee’s official personnel file in Clemson University’s OHR. The employee may attach additional comments to any disciplinary action, if desired, within 30 days of receipt of the disciplinary action.
4. The above steps should occur prior to disciplinary action becoming effective unless the Employee Relations unit determines that circumstances, such as conduct, dictate the immediate suspension without pay of an employee pending the outcome of an investigation.

While an employee is asked to sign disciplinary notices, the employee’s signature means only that the employee has received a copy and not that the employee agrees with the contents or the action taken. If the employee refuses to sign the disciplinary notice, another supervisory employee or OHR representative should witness the refusal to sign the document.

## RELATED RESOURCES

<b>University Policies and Documents</b>
<a href="#">Discipline Policy for Non-Covered Employees</a>
<a href="#">Faculty Manual</a>
<a href="#">Staff Performance Management Policy</a>
<a href="#">Grievance Policy</a>
<a href="#">Workplace Violence Policy</a>
<a href="#">Separation from Employment Policy</a>
<b>External Documentation</b>
<a href="#">State Human Resources Regulations Sections 19-710304B. 5. and 19-717</a>

## APPENDIX A: Examples of Misconduct and Appropriate Disciplinary Actions

Though not exhaustive, the following list is intended to provide guidance of discipline responses to general offenses. While supervisors are expected to rely on judgment and administrative experience to arrive at the appropriate disciplinary action, the Office of Human Resources encourages supervisors to consult with an OHR Staff Relations manager, especially when misconduct is severe or the circumstances are complex.

At the occurrence of any offense, the appropriate discipline shall be determined after the particular circumstances of the case have been carefully considered. The state and federal laws referenced are not all-inclusive in administering discipline.

Offense	Range of Disciplinary Actions	Notes
Abuse of leave	Verbal Counseling to Termination	Refer to Family and Medical Leave Act and Americans With Disabilities Act
Carelessness or negligence that results in personal injury or damage to property	Verbal Counseling to Termination	
Conduct that interferes with or adversely affects the normal operations or other employees of the university	Written Reprimand to Termination	
Conduct unbecoming a state employee or improper conduct	Written Reprimand to Termination	
Conviction of a misdemeanor or felony which adversely reflects on an individual's suitability for continued employment	Written Reprimand to Termination	Convictions for charges other than minor traffic violations must be reported by the employee to his/her supervisor within five calendar days after the conviction
Destruction, defacement or misuse of property or equipment	Written Reprimand to Termination	
Discourteous treatment of or failure to maintain satisfactory working relations with others, including visitors, students, faculty or staff	Verbal Counseling to Termination	
Drinking alcoholic beverages on the job	Termination	Refer to Section 8-11-110 of the SC Code of Laws; Act on Alcoholism
Engaging in incompatible employment or serving in a conflicting interest	Written Reprimand to Termination	
Excessive Absenteeism	Verbal Counseling to Termination	To be used for employees who become unreliable because of frequent absenteeism, even if for good and sufficient reasons. Termination should be preceded by oral counseling in an attempt to inform the employee of the problem. Refer to Family and Medical Leave Act and Americans With Disabilities Act.
Excessive use of telephone, computer, or email for personal matters	Verbal Counseling to Termination	
Failure to obtain or maintain a license or certificate required as a condition of employment	Suspension to Termination	

Failure to report arrest for charges other than minor traffic violations	Verbal Counseling to Termination	Arrest must be reported by the employee to his/her supervisor within five calendar days after the arrest
Failure to report to work and not notifying supervisor for up to two work days	Written Reprimand to Termination	
Falsification of records or documents	Suspension to Termination	
Gambling during work hours	Written Reprimand to Termination	
Habitual tardiness or failure to observe assigned work hours	Verbal Counseling to Termination	
Horseplay	Verbal Counseling to Termination	
Insubordination	Verbal Counseling to Termination	
Interference with another employee's work	Verbal Counseling to Termination	
Leaving work station without authorization	Verbal Counseling to Termination	
Loafing	Verbal Counseling to Termination	
Mishandling of department funds or documents	Written Reprimand to Termination	
Negligence	Verbal Counseling to Termination	
Negligent operation of a state vehicle or operating a state vehicle while impaired	Suspension to Termination	
Offensive use of profane/abusive language to others	Verbal Counseling to Termination	
Operation of a state vehicle or equipment without required valid license	Suspension to Termination	
Possession of or using illegal drugs on the job or at a university-sponsored activity	Termination	Action must be in accord with the University Drug and Alcohol Policy
Refusal to cooperate during an administrative investigation	Written Reprimand to Termination	
Sleeping while on duty	Written Reprimand to Termination	
Stealing	Termination	
Unauthorized distribution of written or printed material of any kind	Written Reprimand to Termination	
Unauthorized leave	Written Reprimand to Termination	
Unauthorized overtime worked by a nonexempt employee	Verbal Counseling to Termination	
Unauthorized possession of firearms on the job	Termination	
Unauthorized release of confidential information	Written Reprimand to Termination	
Unauthorized solicitation or sales on state premises	Verbal Counseling to Termination	
Unauthorized use of state equipment or property	Verbal Counseling to Termination	
Unlawful harassment (contact and coordination through the Clemson University Office of Access and Equity)	Written Reprimand to Termination	Refer to the Clemson University Anti-Harassment Policy and/or Workplace Violence Policy
Violation of state or federal laws, rules, or regulations	Written Reprimand to Termination	

Violation of University Drug and Alcohol Policy or Drug and Alcohol Testing Policy (i.e., reporting to work under the influence of alcohol and/or drugs)	Written Reprimand to Termination	Action must be in accord with the University Drug and Alcohol Policy  Refer to Section 8-11-110 of the SC Code of Laws; Act on Alcoholism
Violation of university or department rules, policies, or procedures	Verbal Counseling to Termination	
Willful false statement to a supervisor	Written Reprimand to Termination	
Working on personal job or business during work hours	Written Reprimand to Termination	
Workplace violence	Termination	Refer to the Clemson University Workplace Violence Policy