

## **RULE 12 - Disciplinary Actions and Administrative Suspension**

### **12.1 General.**

- A. A process of progressive discipline will be followed in Pinal County. Such a process ensures that classified employees are afforded adequate notice and opportunity to correct unacceptable behavior. However, the seriousness of the offense may dictate overriding progressive discipline, and serious offenses may lead to immediate dismissal. A combination of disciplinary actions may be used.
- B. Verbal and written counseling and other supervisory actions to improve conduct and performance should be used whenever possible before taking formal disciplinary action. All such actions shall be documented by the supervisor and acknowledged by the employee.
- C. Any of the following constitute cause for disciplinary action:
  - 1. The employee does not demonstrate sufficient competency or efficiency to perform assigned duties and responsibilities.
  - 2. The employee is unsafe to himself/herself, other employees, the public, or County property in the performance of duties and responsibilities; or the employee has frequently violated safety rules or practices.
  - 3. The employee has been abusive in attitude, language, behavior, or conduct toward a fellow employee, a supervisor, or the public; or their action has resulted in physical harm, injury, or fear of it to such persons.
  - 4. The employee has been insubordinate, willfully disobedient, or has failed to follow reasonable direction from a supervisor.
  - 5. The employee has been convicted of a criminal offense while employed by the County.
  - 6. The employee has stolen public or private property, misappropriated County funds, or has been an accomplice in any of these practices while employed by the County.
  - 7. The employee has made unauthorized use and/or removal of County property.
  - 8. The employee, through negligence or willful misconduct, has caused damage to public property or waste of public supplies.
  - 9. The employee has engaged in conduct, on or off duty that is of such a nature that it would tend to bring discredit to the County.
  - 10. The employee has purchased, possessed, used, manufactured, distributed, dispensed, or sold alcoholic beverages, unauthorized drugs or controlled substances, or any other intoxicants on County property, while operating County equipment, or while in the performance of County duties unless authorized to do so; or

The employee has reported to work under the influence of alcohol or drugs as defined in the County's Drug-Free Workplace Policy; or the employee's off-duty use, possession, or sale of drugs or alcohol adversely affects work performance, safety, or the County's reputation.

11. The employee has intentionally falsified any document, report, or statement relating to their employment with the County.
12. The employee has secured employment with the County through misrepresentation or fraud or has been found to have used misrepresentation or fraud in conjunction with any employment related activity.
13. The employee has refused to subscribe to any oath or affirmation required in connection with County employment.
14. The employee has violated the County's policies governing outside employment.
15. The employee has been inexcusably absent, has failed to receive prior approval for any paid or unpaid absence, has abandoned their position, feigns sickness or injury, or otherwise deceives a supervisor as to their condition or ability to perform the duties of the position, or the employee has falsified any documentation submitted to justify an absence.
16. The employee has had excessive absenteeism or tardiness.
17. The employee has refused to perform reasonable light duty that is assigned because of an illness, injury, or disability.
18. The employee has worked at outside employment while on medical leave, industrial accident leave, or Family and Medical Leave without prior authorization.
19. The employee has concealed information or failed to properly report an accident or incident under the purview of any state statute or County resolution or regulation.
20. Revocation, suspension or loss of certification issued by a governmental or administrative entity or loss of Arizona driving privileges where such certification or privileges are a mandatory requirement for the position.
21. Failure of an employee convicted under a criminal drug statute for a violation to notify his/her Department Director within five (5) days after such conviction.
22. The employee has used or attempted to use political influence in securing a promotion, leave of absence, transfer, or an increase in pay.
23. The employee has accepted a fee, gift, or other item in the course of performing the duties and responsibilities of their position, if the gift is given in hope of receiving a favor or preferred treatment, or if the gift is given after receipt of the favor or preferred treatment.
24. The employee has committed an act of discrimination or harassment because of race, color, religion, sex, national origin, veteran status, age, or disability.
25. Any other improper conduct or performance of such severity as to constitute cause for disciplinary action.

## 12.2 Types of Formal Disciplinary Actions and Administrative Suspension.

- A. **Verbal Reprimand.** A verbal reprimand is the non-written notification to an employee of job performance deficiency or misconduct and notification of the County's level of expectations. The supervisor documents the date and nature of the reprimand. The immediate supervisor is responsible for verbal reprimands
- B. **Performance Improvement Recommendation.** An employee may be issued a Performance Improvement Recommendation, setting forth specific methods by which the employee's performance may be improved over a definite period of time. A copy of the Performance Improvement Recommendation with the employee's acknowledgment shall be placed in the employee's personnel record in the Human Resources Department. The immediate supervisor is responsible for Performance Improvement Recommendations.
- C. **Letter of Reprimand.** A Letter of reprimand is an official written notification to an employee that there is cause for dissatisfaction with the employee's job performance or that there is misconduct. The written reprimand is documented and placed in the employee's personnel file. The immediate supervisor is responsible for written reprimands.
- D. **Disciplinary Suspension.**
1. A disciplinary suspension is considered to be a significant disciplinary action and may be used by an Appointing Authority for more serious incidents or repetitions of improper performance or conduct.
  2. An Appointing Authority may, as a disciplinary action, suspend any employee for cause without pay. A Regular Status employee shall be furnished with a written statement from the Appointing Authority of its intentions to suspend the employee. The written statement shall state specifically the reasons for the suspension and shall contain a definite date by which the employee must respond orally or in writing to the reasons stated and the right to a pre-suspension review session to respond to the reasons given for the suspension.
  3. The pre-suspension review session shall be held no earlier than twenty-four (24) hours after service of the written statement of intention to suspend. An extension shall be granted only for good cause. The employee is not entitled to an evidentiary hearing at the pre-suspension review session and shall not be entitled to be represented by counsel, or to confront and cross examine adverse witnesses, or to present testimony of witnesses on his/her own behalf at the pre-suspension review session.
  4. At the close of the pre-suspension review session, the Appointing Authority shall furnish the employee a written statement stating the reasons for the action and the duration of the suspension. The order must be delivered personally or sent by registered mail to the employee within two calendar (2) days of, and no more than nine calendar (9) days prior to, the effective date of such suspension, and a copy filed with the Director.
  5. Except as otherwise provided by these Rules, suspension shall not exceed thirty calendar (30) days for any single cause of suspension.
  6. An employee with Regular Status may Appeal his/her suspension as set forth in these Rules. An employee, regardless of his/her status, may Appeal suspension when he/she alleges discrimination as described in Rule 2.4.

7. When an employee has received a disciplinary suspension without pay, the employee will not be permitted to receive salary continuation through the use of accrued vacation or compensatory time.

**E. Demotion.**

1. A demotion for a disciplinary reason is considered to be a significant disciplinary action and may be used for more serious incidents or repetitions of improper performance or conduct.
2. An Appointing Authority may demote a Regular Status employee for a disciplinary reason, as provided in Rule 8.
3. An employee demoted for a non-disciplinary reason who fails a demotion probationary period may be subject to termination in accordance with these rules.

**F. Termination.** A termination for a disciplinary reason is the most significant disciplinary action and may be used for the most serious incidents or repetitions of improper performance or conduct. An Appointing Authority may terminate a Regular Status employee for a disciplinary reason. Employees terminated for a disciplinary reason will not be considered eligible for rehire.

1. Reconsideration of Rehire Status

- a. Employees marked as ineligible for rehire may have their classification changed by submitting a request for reconsideration to the Director.
- b. The Director will forward the request to the County Manager for review and final approval. The County Manager may approve the request after:
  - i. Endorsement by the Director; and
  - ii. Endorsement by the Appointing Authority attempting to rehire (if the employee is in the process of seeking re-employment at the time of request); and
  - iii. A determination that there has been sufficient passage of time, sufficient change in responsibility and position, sufficient rehabilitation, and/or lack of supporting documentation.

**G. Administrative Suspension.**

1. Non-disciplinary suspensions may be given to an employee with pay, without pay, or with reduced pay by the Appointing Authority upon prior approval of the County Manager under the following circumstances:
  - a. In cases where an employee is charged with a felony or other crime involving moral turpitude of a serious nature.
  - b. An employee may be suspended in cases where it is deemed to be in the best interest of the County while an inquiry is being made into the conduct of the employee. Such cases may include, but are not limited to, matters involving alleged criminal activities which are not described in subparagraph 1(a) above, serious breaches of or deficiencies in job-related standards of conduct and serious non- job-related conduct.

- c. Where an Appointing Authority has suspended an employee without pay, or with reduced pay, the employee may receive salary continuation through the use of accrued vacation or compensatory time.
2. An employee may be administratively suspended for up to thirty (30) working days. For extensions beyond thirty (30) working days, approval by the appropriate Elected Official and County Manager is required.
3. Notification shall be the same as for disciplinary suspension.
4. The employee may be suspended until the inquiry is completed and the employee is acquitted of the charges, the charges are dismissed, the employee is otherwise exonerated, or the charges are affirmed.
5. At the conclusion of the suspension, the employee shall be returned to work with or without back pay, or advised of disciplinary or other action.
6. An Administrative Suspension, regardless of pay status, is not subject to appeal.

**12.3 Effective Date of Disciplinary Actions.** The demotion, suspension, or termination for a disciplinary reason of an employee shall be effective on the date stated in the notice even though the employee exercises the right of Appeal.

**12.4 Termination for a Disciplinary Reason.**

- A. The Appointing Authority shall furnish the employee and the Director, (personally, or by certified or registered mail) with a written statement of their intention to terminate the employee. The Appointing Authority shall include in the written statement the statutory or other grounds and the specific reasons for the Termination in sufficient detail to apprise the employee of the facts. The notice shall contain a definite date by which the employee must respond orally or in writing to the reasons given for the Termination and the right of the employee to a pre-termination review session to respond to the reasons given for the Termination.
- B. The pre-termination review session shall be held no earlier than twenty-four (24) hours after service of the written statement of intention to terminate. An extension shall be granted only for good cause. The employee is not entitled to an evidentiary hearing at the pre-discharge review session and shall not be entitled to be represented by counsel, or to confront and cross examine adverse witnesses or to present testimony of witnesses on his/her own behalf at the pre-Termination review session.
- C. At the close of the pre-termination review the Appointing Authority shall furnish to the employee and the Director, personally or by mail, with a written statement of the statutory or other grounds and the specific reasons for Termination in sufficient detail to apprise the employee of the facts. The Appointing Authority shall include in the written statement to the employee notice of the employee's right to Appeal in writing to the Commission within ten calendar (10) days from the date of notice of Termination. If the copy is mailed to the employee, a statement of the circumstances of the mailing, including date mailed, address mailed to, and any other pertinent facts, shall be completed by the Appointing Authority and filed in the employee's personnel file in the Human Resources Department. This provision shall not, however, be construed as precluding the Appointing Authority from relieving an employee immediately from his/her official position, or from excluding him from his/her post or place of duty or employment pending preparation and giving notice of Termination, but no

pay shall be withheld for such period.

- D. At any time before receiving the Commission's notice of the time and place of the hearing, the Appointing Authority may serve on the employee and file with the Commission an amended or supplemental notice or statement of Termination. If the amended or supplemental notice states new causes, the Commission may grant the employee's request for a continuance of the hearing for a reasonable time to allow the employee to prepare his/her case.