

BRIDGEVALLEY COMMUNITY & TECHNICAL COLLEGE**PROGRESSIVE DISCIPLINE**

Date approved by cabinet: April 26, 2023

Effective Date: June 5, 2023

Expiration date (5 years from effective date if not renewed): June 5, 2028

Section 1. Purpose

- 1.1. To establish disciplinary process for BridgeValley Community and Technical College to ensure that discipline is fair and consistent and that employees are placed on notice regarding problems with performance and behavior. This will allow an employee the opportunity to make improvements.

Section 2. Scope

- 2.1. This policy applies to classified and optionally to non-classified employees and provides for the application of four-part progressive counseling as the method for remedying instances of inadequate work performance and/or inappropriate behavior. Each employee must maintain standards of performance and conduct as outlined by their supervisor and comply with applicable policies, procedures, and laws.

Section 3. Policy

- 3.1. The College utilizes four-part performance counseling as the prescribed method for attempting to remedy instances of inadequate work performance that do not rise to the seriousness of the infractions set forth in the employee Code of Conduct. Four-part progressive discipline is to be applied for classified employees in instances of inadequate work performance and inappropriate behavior that are believed to be remediable (e.g., can be improved or eliminated with some effort on the part of the employee). The goal of a four-part progressive discipline is to restore the employee's work performance and/or behavior to an acceptable level.
- 3.2. The four components of progressive discipline are (1) oral warning; (2), written warnings; (3) suspension without pay; and (4) termination from employment. The components are applied in the order listed.
- 3.3. The principles of four-part performance counseling are (1) to ensure that such counseling is provided fairly and consistently among employees (to which it applies) and across departmental lines; (2) to provide clear communication about the problem; and (3) to set forth to the employee a plan for improvement which provides the employee a reasonable opportunity to improve.

- 3.4. The employee's immediate supervisor is responsible for initiating four-part performance counseling for instances of inadequate work performance for which such counseling is appropriate. The employee's immediate supervisor is responsible as well for creating and maintaining appropriate documentation and records to support the application of four-part progressive counseling. Failure to utilize four-part performance counseling when needed, to apply the steps in proper order, and/or failure to create and maintain appropriate documentation may result in disciplinary action against the supervisor.
 - 3.4.1. Inadequate work performance is defined as (1) work performance that does not meet minimum acceptable standards (as defined by the supervisor or manager) and (2) which can be remedied or eliminated through effort on the part of the employee. An example of inadequate work performance is not arriving at work on time. Such tardiness does not meet minimum acceptable standards and can be remedied through effort on the part of the employee.
- 3.5. Supervisors have the right to recommend dismissal of an employee for gross misconduct without prior warnings or suspension. Reasons for immediate dismissal from gross misconduct include, but are not limited to the following:
 - 3.5.1. Theft of or malicious damage to or destruction of college property, the Board of Governors, or its visitors, and/or employees.
 - 3.5.2. Insubordination by refusal, by action or inaction, to abide by legitimate reasonable directions of a supervisor or administrator.
 - 3.5.3. Deliberate falsification of employment applications or other College records.
 - 3.5.4. Wrongful injury, including assault, battery, or physical abuse of employees or any persons on college property or at any College authorized function or event.
 - 3.5.5. Absence from work for three consecutive workdays without proper notification, explanation, reasonable cause, and/or authorization.
 - 3.5.6. Conduct that directly or substantially impairs the individual's fulfillment of college responsibilities, including, but not limited to, verified instances of sexual harassment, sexual assault, or discriminatory practices.
 - 3.5.7. Refusal to comply with institutional rules, local/state/federal laws.
 - 3.5.8. Neglect of duty.
- 3.6. No workplace performance improvement plans other than that set forth in this procedure may be used. In the context of statutory grievances, the four-part plan has withstood legal scrutiny many times and is an accepted and approved methodology.

- 3.7. The goal of four-part performance counseling is to restore the employee's work performance and or behavior to an acceptable level.
- 3.8. This policy may apply optionally to a non-classified employee at the sole discretion of the President or his/her designee. A non-classified employee is a will-and-pleasure employee whose employment appointment may be terminated at any time for any reason or for no reason. A right to four-part performance counseling for non-classified employees does not exist. The application of four-part performance counseling in the case of a non-classified employee does not waive or supersede the non-classified employee's status as a will-and-pleasure. If four-part performance counseling is utilized in the case of a non-classified employee, it may be suspended or terminated at any time as approved by the President or his/her designee.
- 3.9. It is best practice to administer progressive discipline for all classification of employees, and progressive discipline may be utilized for non-classified employees but is not required before suspension or termination. Non-classified employees are at-will, and their employment can be terminated at any time with or without notice or cause. Discipline for non-classified employees will be commensurate with the offense and solely at the discretion of the College.

Section 4. Procedure

- 4.1. The steps in four-part performance counseling consist of the following:
 - 4.1.1. Verbal Warning:
 - 4.1.1.a. When a supervisor observes a work performance deficiency that (a) is not a deficiency requiring immediate suspension without pay or termination of employment as set forth in the procedure on workplace infractions and (b) has happened once for a more serious issue or several times for a minor issue, he/she shall discuss the problem or issue with the affected employee.
 - 4.1.1.b. The employee is asked to take steps to improve the workplace performance or behavior and is given a reasonable timeframe in which to demonstrate the required improvements. The timeframe varies according to the nature of the problem. (For instance, a problem such as chronically arriving late for work should be remedied immediately unless there is a compelling situation that would require a longer timeframe in which to improve).
 - 4.1.1.c. A verbal warning is a spoken warning. The issue should be simply and clearly discussed with the employee. No written communication should be presented to the employee at the event of verbal warning. The employee should not be required to sign anything written in connection with the verbal warning.

- 4.1.1.d. The supervisor should retain in his/her files a brief note that identifies the employee, the situation, the required improvement, the timeframe for improvement, the consequences of failure to improve, and the date on which the verbal warning was issued. This note should be retained in the event that it is necessary to go to the next step in four-part progressive discipline.
- 4.1.1.e. If a period of time lapses that is no less than 6 months and no more than 1 calendar year, during which the supervisor is satisfied with the improvement made by the employee, he/she may at his/her own discretion determine the progressive counseling process to be concluded.
- 4.1.2. Written Warning:
 - 4.1.2.a. If verbal warning does not result in an acceptable level of improvement or remedy of the problem cited, the supervisor shall proceed to write and deliver to the employee a written warning.
 - 4.1.2.b. The written warning should state that the step of verbal warning has not produced sufficient improvement and should identify the employee, the problem, the timeframe for improvement, the consequences of failure to improve, and the date on which the written warning was presented to the employee.
 - 4.1.2.c. A written warning should be signed by the supervisor. An original and one copy of the written warning are provided to the employee.
 - 4.1.2.d. The employee should sign one copy acknowledging receipt of the written warning and return the copy signed by him/her to the supervisor. If the employee refuses to sign the written warning, the supervisor should write a note on a copy of the written warning indicating the employee refused to sign.
 - 4.1.2.e. The copy of the written warning with the employee's signature or the supervisor's note that the employee would not sign the written warning should be retained by the supervisor.
 - 4.1.2.f. The supervisor shall also send a copy of the written warning to the Human Resources Office, where documentation will be maintained in the subject employee's personnel file. The supervisor shall attach to the copy of the written warning forwarded to the Human Resources Office a copy of the note created by the supervisor at the time of the verbal warning event.
 - 4.1.2.g. If a period of time lapses that is no less than 6 months and no longer than 1 calendar year during which the supervisor is satisfied with the

improvement made by the employee, he/she may discuss the matter with the Chief Human Resources Officer, or designee. If he/she is in agreement with the proposal of the supervisor, the performance counseling process may be considered ended.

4.1.3. Suspension without Pay:

- 4.1.3.a. If written warning does not result in an acceptable level of improvement or an acceptable remedy of the problem cited, the supervisor shall write to the employee indicating that he/she is recommending that the employee be suspended without pay for a reasonable period of time. Such communication must be recommended for approval in advance by the level of supervision or management next above the immediate supervisor. Ultimate approval for suspension without pay rests with the President or his/her designee.
- 4.1.3.b. A copy of this written communication shall be sent to the human resources representative who shall obtain a decision from the President or his/her designee to approve or disapprove suspension without pay.
- 4.1.3.c. A copy of the written warning issued earlier to the employee should be in the personnel file maintained in the Human Resources Office. If this was not done for whatever reason a copy of the written warning with the notes of verbal counseling attached should be forwarded immediately to the Chief Human Resources Officer.
- 4.1.3.d. Suspension without pay cannot be imposed without a complete record of the preceding steps in progressive counseling being in the possession of the Chief Human Resources Officer.
- 4.1.3.e. Suspension without pay must be supported by documentation submitted to the Chief Human Resources Officer. The Payroll Office shall process the request as a set number of days without compensation and without charging any type of accrued leave. No accrued leave may be taken in lieu of time without pay under the provisions of suspension without pay.
- 4.1.3.f. Suspension without pay for three days (or other length of time as approved by the President or his/her designee) will be imposed on three consecutive workdays to be determined by the supervisor (subject to modification as necessary to catch the next available pay cycle).
- 4.1.3.g. If after a reasonable period of time being no less than 6 months and no more than 1 calendar year, following the employee's return to work from suspension without pay the supervisor is satisfied with the improvement made by the employee, he/she may recommend that the

progressive counseling process end at the conclusion of the suspension without pay phase of performance counseling.

4.1.4. Termination of Employment:

- 4.1.4.a. If suspension without pay does not result in an acceptable level of improvement or remedy of the problem cited, the supervisor shall write to the employee indicating that he/she is recommending to the President that the individual's employment be terminated.
- 4.1.4.b. A copy of this written communication should be sent to the Chief Human Resources Officer in order to obtain from the President or his/her designee approval or disapproval for the termination of employment.
- 4.1.4.c. A copy of the communication imposing suspension without pay as well as written materials from any earlier stage of performance counseling should be in the subject employee's personnel file maintained in the Human Resources Office. If this was not done for whatever reason a copy of the communication imposing suspension without pay as well as written materials from any earlier stage of performance counseling should be forwarded immediately to the Chief Human Resources Officer.
- 4.1.4.d. Termination of employment for anything other than the infractions listed in the Code of Conduct cannot be imposed without a complete record of the preceding steps in performance counseling being present in the subject employee's personnel file.
- 4.1.4.e. The recommendation for termination of employment should identify the employee, the problem, the reasons that led to the decision to recommend termination, the date of the written recommendation for termination of employment and should be signed by the supervisor. The original should be submitted to the Chief Human Resources Officer, and the responsible supervisor should keep one copy.
- 4.1.4.f. Termination of employment as a component of performance counseling can occur only with the written approval of the President or his/her designee as communicated by the human resources representative. Termination of employment, if approved by the President or his/her designee, becomes effective at close of business on the working day that the signed approval is received by the responsible supervisor.

4.2. Termination of employment must be supported by documentation and submitted to the Chief Human Resources Officer.

- 4.3. All written warnings and/or notices of suspension will remain in effect for no less than 6 months and no longer than 12 months from the date the notice was given.
- 4.4. This policy does not affect the College's right to terminate a non-classified employee at any time, or the right to not renew a faculty member's contract for any reason.
- 4.5. All subsequent external inquiries about a terminated employee should be referred to the human resources representative. A representative from the Human Resources Office is the only individual authorized to characterize the former employee or his/her work performance to any external entity.
- 4.6. All written communications from the immediate supervisor announcing written warning, suspension without pay, and/or termination of employment must contain a clear paragraph advising the subject employee of his/her right to file a statutory grievance, the source of information about or a copy of the portion of the West Virginia State Code governing the statutory grievance process, and the source of a form on which to file a statutory grievance. Language for this paragraph may be obtained from the Human Resources Office.