

2.1.8 DISCIPLINE AND CORRECTIVE ACTION

POLICY STATEMENT

It is the policy of the University of St. Thomas to follow a process of progressive discipline beginning with the least severe measure necessary to correct employee performance or behavioral deficiencies when counseling or other informal discussions have not achieved satisfactory results. The University administers its discipline and corrective action process in an equitable and uniform manner with due regard for the rights of employees and those of the institution.

APPLICABILITY

Covered by this policy are regular full-time and part-time employees with an appointment term of twelve months or more. Excluded from coverage are faculty, adjunct faculty, archdiocesan priests, and employees covered by a collective bargaining agreement.

SECTION I GENERAL PROVISIONS

As part of the normal supervisor-employee interaction, one of the roles of the supervisor is to provide the employee adequate and timely information about job expectations and regular feedback on job performance. The objective of this policy is to improve employee performance and encourage modification of specific workplace behavior. The objective is not to punish the employee but to alert him or her to the need for improvement. Unless the performance or behavioral deficiencies are severe, employees are given an opportunity to improve. Most deficiencies can be corrected quickly and informally.

In those instances where improvement does not occur, the supervisor may initiate formal corrective action. The process for doing so is called progressive discipline, which generally uses increasingly severe steps or measures when an employee's performance or workplace behavior fails to improve after being given a reasonable opportunity to do so. There are four formal levels of discipline—verbal warning, written warning, termination warning, and involuntary termination of employment. These actions may be taken sequentially depending upon a number of factors including, but not limited to, the severity or persistence of the deficiency and/or any prior corrective action(s) taken against the employee. Moreover, a supervisor may wish to repeat a step in the process when he or she believes doing so will correct the problem. Employees may appeal corrective action taken against them according to the University's Grievance and Appeals Policy.

A. *Causes for Corrective Action*

Corrective action may be warranted in, but is not limited to, the following situations: unsatisfactory performance; insubordination, mishandling or unauthorized removal or destruction of confidential or sensitive information; theft, dishonesty, or other unethical behavior, such as falsification of records or knowingly and willfully misrepresenting data requested by the University or its agent; possession or consumption of alcohol on university premises or while performing university duties unless during a university-sponsored event; use or possession of illegal drugs on University premises; impairment of faculties from the consumption or use of alcohol or illegal drugs while on University premises or while performing University duties; blatant disregard for safety regulations; abuse, neglect, mishandling, destruction, or unauthorized removal or use of University property; possession or use of a weapon on University premises; verbal abuse, including bullying; threats or acts of physical abuse; sexual or racial harassment or violence; arrest or conviction of an illegal act, on or off the job, which adversely affects job performance or the University's reputation; or general failure to observe University policies and procedures.

SECTION II INFORMAL CORRECTIVE ACTION

A supervisor oftentimes can help the employee improve his or her performance or conduct through informal discussions without initiating formal corrective action. In this capacity, the supervisor counsels the employee. The purpose of these informal discussions is to establish an understanding of the issues, exchange information, and establish job expectations. If the employee's performance or workplace conduct does not improve, the supervisor may choose to take the following action.

- Counsel the employee in private about the matter. The objective of the discussion is to communicate the issues and establish clear job expectations, performance standards, and/or standards of conduct.
- Seek to better understand the cause for the employee's substandard job performance.
- Discuss with the employee possible solutions and establish an appropriate timeframe for achieving them.
- Provide the employee guidance while preserving his or her self-esteem.

If the problem persists, the supervisor documents all subsequent counseling sessions with the employee and includes in the documentation the specific performance and/or conduct issues. A copy of this documentation is maintained in the supervisor's file only in the event formal corrective action becomes necessary.

SECTION III FORMAL CORRECTIVE ACTION

In those instances where the informal process fails to yield the needed improvement in an employee's job performance or behavior, the supervisor may initiate formal, corrective action using the University's progressive disciplinary process. The goal of progressive discipline is to help the employee understand that a performance problem or opportunity for improvement exists while at the same time documenting the supervisor's efforts in the event more severe action is warranted. There are several forms and levels of formal corrective action: verbal warning, written warning, termination warning, and involuntary termination. Disciplinary action generally begins at the lowest level in the progressive discipline process but may be accelerated depending upon the seriousness of the performance issue or infraction.

A. PROGRESSIVE DISCIPLINE

1 Verbal Warning

The first step in the process is the verbal warning, which an employee may receive for substandard performance, poor attendance, or other types of minor offenses that occur for the first time. The supervisor discusses with the employee the nature of the performance or behavioral deficiency and the improvement required. A written record of the date and content of the discussion normally is maintained by the supervisor and a copy provided the employee. Records associated with a verbal warning are official University documents and may become part of the employee's official personnel record should the need arise.

2 Written Warning

The supervisor warns the employee in writing for recurring or serious performance or behavioral deficiencies. The written warning is prepared by the supervisor and reviewed by the designated Human Resources Partner. It specifies the nature of the deficiency, the date(s) of the occurrence, and, where appropriate, the means by which the deficiency can be corrected. The written warning is addressed to the employee in memorandum format and also references any previous warnings given to the employee. The supervisor should ask the employee to sign the written warning as proof of having received it. A signed copy of all written warnings is sent to the designated Human Resources Partner to be placed in the employee's official personnel file. If the employee refuses to sign the written

warning, that refusal should be noted and the unsigned copy of the written warning is sent to the designated Human Resources Partner.

3 Termination Warning

If the verbal and written warnings fail to bring about the required improvement in performance or behavior, the supervisor works closely with the designated Human Resources Partner and the appropriate academic and administrative leader to initiate a termination warning. The termination warning is a written notice to the employee, which specifies the reason(s) for the action, the improvements required, and a fixed timeframe within which the employee must correct the deficiencies. This warning also includes an explicit statement that failure to correct the performance deficiencies or behavior may result in termination of employment. The employee should sign the termination warning as proof of having received it. A signed copy is sent to the designated Human Resources Partner to be placed in the employee's official personnel file, which resides in the Human Resources Department. If the employee refuses to sign the termination warning, that refusal is noted and the unsigned copy is sent to the designated Human Resources Partner.

During the termination warning period, the supervisor monitors the employee's performance to determine what progress has been made and whether the period specified for improvement remains appropriate. An employee who has an active termination warning is ineligible to apply for or be considered for internal transfers or promotions, does not receive a performance assessment, and is not considered for or receive an annual pay increase until at least 30 days after fulfilling the conditions and terms of the termination warning.

At the end of the termination warning period or at an earlier date, if warranted, the supervisor reviews with the designated Human Resources Partner the employee's progress towards meeting the terms and conditions of the termination warning. If satisfied the deficiencies have been corrected, the supervisor notifies, in writing, the employee and the designated Human Resources Partner. If dissatisfied, and after consultation with the designated Human Resources Partner, the supervisor may initiate termination action. Involuntary terminations must be reviewed and approved in advance by the appropriate academic and administrative leader, the Associate Vice President for Human Resources, and the appropriate Executive Vice President.

4 Involuntary Termination

Involuntary termination is a management-initiated action resulting in the University severing its employment relationship with the employee. This action is the last step in the progressive discipline process and is used when earlier steps have not produced the needed results. Involuntary terminations must be approved in advance by the appropriate academic and administrative leader, the Associate Vice President for Human Resources, and the appropriate Executive Vice President. If an involuntary termination is warranted, the provisions of University's Separation of Employment Policy must be followed.

SECTION IV Investigative Suspension

An employee may be suspended temporarily when there is an immediate need to remove him or her from the workplace to conduct an investigation. Examples of situations where factual investigations usually are best conducted without the employee on the premises include, but not limited to, threats of violence or threats to the safety of other employees or to University property or allegations of gross misconduct, including sexual or racial harassment or violence. The suspended employee must surrender all University property and is advised that he or she is suspended pending the outcome of the internal investigation. The length of the suspension and whether it is with or without pay depends upon the severity of the alleged infraction.

The benefits of a suspended employee may be affected and in the following ways:

A. Suspension with Pay

The status of the employee's benefits is unchanged.

B. *Suspension without Pay*

The employee's benefits do not change except that all medical insurance premiums not paid by the employee are paid by the University and deducted from his or her first paycheck after reinstatement or final paycheck. University contributions to the employee's retirement plan during the period of suspension cease. Contributions to flexible spending accounts can be made by the employee on a post-tax basis or deferred and deducted from the employee's first paycheck after reinstatement or final paycheck.

Suspension proceedings involve the following steps.

- 1 The supervisor, in consultation with the appropriate academic and administrative leader and Associate Vice President for Human Resources, determines if suspension is warranted.
- 2 In cases where the employee is suspended without pay while an investigation is conducted, the employee receives back pay and benefits from the first day of suspension if the results of the investigation warrant reinstatement.
- 3 If a decision is made to terminate a suspended employee, the provisions of the University's Separation of Employment Policy are followed.

SECTION V Rights of Appeal

The University affords employees the opportunity to redress disciplinary action taken against them. Employees choosing to appeal a disciplinary action must do so using the University's Grievance and Appeals Process.

SECTION VI ACCOUNTABILITY

- 1 The appropriate Executive Vice President or his or her designee approves in advance involuntary termination actions.
- 2 Academic and administrative leaders approve corrective action related to termination warnings, paid or unpaid suspensions, and recommendations for involuntary termination of employees that become necessary in their respective units.
- 3 Supervisors are responsible for establishing and communicating to employees clear job expectations, counseling employees when the need arises, and adhering to the corrective action process set forth in this policy.
- 4 The Associate Vice President for Human Resources is responsible for assuring that corrective actions are commensurate with the seriousness of performance or behavioral deficiencies; that those deficiencies are documented adequately; and that appropriate corrective action procedures are followed.
- 5 The designated Human Resources Partner works closely with supervisors to assure adherence to the corrective action process; that employees are accorded due process; that corrective actions are commensurate with the seriousness of performance or behavioral deficiencies; that those deficiencies are documented adequately, and that appropriate corrective action procedures are followed.