

# Jefferson County

## Employee Administrative Rules & Regulations

### Employee Conduct and Progressive Discipline



**Rule Number:** **5.1.14**

Date Established: Administrative Order #02-2, X/X/2002

Date of Last Revision: 4/27/18

#### **1.0 PURPOSE**

Jefferson County Commission is committed to providing the highest quality of services in all aspects of its operations. Conflicts and disagreements between employees and their supervisors are inevitable. It is the Rule of the County to resolve these disputes fairly and at the lowest possible level. When these conflicts or disagreements occur, employees should first attempt to resolve them through discussion with their supervisor. This Rule reinforces the County's commitment to provide a safe and amicable workplace for all employees.

#### **2.0 RULE**

As part of its talent management services, the County provides its employees with onboarding, training and professional development to help employees become effective contributors. Violation of Jefferson County Rules and Regulations, failure to perform up to required work standards, and other inappropriate behaviors or actions will result in counseling and disciplinary action taken by departmental management. Jefferson County's counseling and progressive discipline processes consist of the following actions: **verbal counseling/verbal warning, written warning, written reprimand, suspension or termination of employment**. Outlined below are the steps of Jefferson County's Progressive Discipline Rules and Regulations. Jefferson County reserves the right to combine or skip steps depending on the facts of each situation and the nature of the offense. The level of disciplinary intervention may also vary. Some of the factors that will be considered are whether the offense is repeated despite coaching, counseling or training, the employee's work record, prior disciplinary actions, and the impact the conduct and performance issues have on the organization. Depending on the severity of the offense management may move ahead in the disciplinary progression. Departmental management should consult with Human Resources before skipping steps in the progression.

It is not possible to list all the forms of behavior that are considered unacceptable in the workplace. However, the following are examples of conduct or work performance that are considered "For Cause" and may result in disciplinary actions, up to and including termination of employment consistent with provisions of Personnel Board Rule 12.2:

- a) Absent without Leave;
- b) Commission of a criminal offense;
- c) Conduct unbecoming a Classified Employee;
- d) Conviction of any criminal offense involving moral turpitude;
- e) Disorderly or immoral conduct;
- f) Abuse of leave policies;
- g) Incompetence or inefficiency;
- h) Insubordination
- i) Reporting to or engaging in work while under the influence of alcohol or a controlled substance;
- j) Neglect of duty
- k) Negligence of willful damage to public property or waste of public supplies or equipment;
- l) Violation of any rule or regulation of the Appointing Authority, or failure to comply with instructions made and given by a superior officer or supervisor;

- m) Violation of any of the provisions of the Enabling Act or Rules & Regulations of the Personnel Board of Jefferson County;
- n) Refusal to cooperate fully and truthfully in any internal investigation conducted by the Personnel Board, the Equity & Inclusion Division, or an Appointing Authority, including failure or refusal to answer truthfully any question put to the employee relating to the affairs of government or the conduct of any officer or employee thereof;
- o) Inability to perform the essential functions of the job with or without reasonable accommodation; or;
- p) Any other legitimate and nondiscriminatory reason that constitutes good cause for disciplinary action, is reasonably specific, is consistent with the Enabling Act and the Rules and Regulations of the Personnel Board of Jefferson County, and is not motivated by any non-work-related preference or animus for or against any person.

#### **Step 1: Counseling and verbal warning**

Step 1 creates an opportunity for the immediate supervisor to schedule a meeting with an employee to bring attention to the existing performance, conduct or attendance issue. The supervisor should discuss with the employee the nature of the problem or the violation of company policies and procedures. The supervisor is expected to clearly describe expectations and steps the employee must take to improve performance or resolve the problem. Within five business days of this meeting, the supervisor will prepare written documentation of a Step 1 meeting. The employee will be asked to sign this document to demonstrate his or her understanding of the issues and the corrective action.

#### **Step 2: Written warning**

Although Jefferson County hopes that the employee will promptly correct any performance, conduct or attendance issues that were identified in Step 1, the County recognizes that this may not always occur. The Step 2 written warning involves more formal documentation of the performance, conduct or attendance issues and consequences.

During Step 2, the immediate supervisor and a senior manager will meet with the employee to review the additional incidents or information about the performance, conduct or attendance issues as well as any prior relevant corrective action plans. Management will outline the consequences for the employee of his or her continued failure to meet performance or conduct expectations.

A written warning will be issued outlining the immediate and sustained corrective action required by the employee. In addition, it will state that the employee may be subject to additional discipline up to and including termination if immediate and sustained corrective action is not taken by the employee.

#### **Step 3: Written reprimand or suspension**

The next step could be recommending a written reprimand. A written reprimand will be issued outlining the immediate and sustained corrective action required by the employee. In addition, it will state that the employee may be subject to additional discipline up to and including termination if immediate and sustained corrective action is not taken by the employee.

There may be performance, conduct or safety incidents so problematic and harmful that the most effective action may be the immediate removal of the employee from the workplace. When immediate action is necessary to ensure the safety of the employee or others, the immediate supervisor may recommend placing the employee on *Administrative Leave with Pay* pending the results of an investigation.

Suspensions that are recommended as part of the progression of this progressive discipline Rule are subject to approval from the Department Head, the Equity & Inclusion Division of Human Resources, the County Attorney's Office and the County Manager as the Appointing Authority. Depending on the seriousness of the infraction, the employee may be suspended without pay in full-day increments consistent with federal, state and local wage-and-hour employment laws. Nonexempt/hourly employees may not substitute or use an accrued paid vacation or sick day in lieu of the unpaid suspension. Due to Fair Labor Standards Act (FLSA) compliance issues, unpaid suspension of salaried/exempt employees is reserved for serious workplace safety or conduct issues. HR will provide guidance so that the discipline is administered without jeopardizing the FLSA exemption status.

Pay may be restored to the employee if an investigation of the incident or infraction absolves the employee.

**Recommendation for termination of employment**

The last and most serious step in the progressive discipline procedure is a recommendation to terminate employment. Generally, Jefferson County will attempt to exercise the progressive nature of this Rule by first providing verbal and written warnings, a written reprimand and/or suspension from the workplace before proceeding to a recommendation to terminate employment. However, the County reserves the right to combine and skip steps depending on the circumstances of each situation and the nature of the offense. Management's recommendation to terminate employment must be approved by the appropriate Department Head or his or her designee, the Equity & Inclusion Division of Human Resources, the County Attorney's Office and the County Manager.

**3.0 APPEAL PROCESSES**

**3.1 Internal Hearing**

In the event of a departmental recommendation to serve an employee with a contemplated disciplinary action for a written reprimand, suspension or termination, employees will have two business days to present written information or request a hearing before the County Manager that may challenge information management has used to issue disciplinary action. The purpose of this process is to provide insight into extenuating circumstances that may have contributed to the employee's performance or conduct issues while allowing for an equitable solution.

**3.2 External Hearing**

In addition to participating in an internal hearing before the County Manager, the employee may file an appeal with the Personnel Board of Jefferson County within ten calendar days. The appeal and hearing procedure by the Personnel Board of Jefferson County is described in Sections 12.4 and 12.5 of the Rules and Regulations of the Personnel Board of Jefferson County.

**4.0 PERFORMANCE AND CONDUCT ISSUES NOT SUBJECT TO PROGRESSIVE DISCIPLINE**

Behavior that is illegal is not subject to progressive discipline, and such behavior may be reported to local law enforcement authorities. Similarly, theft, substance abuse, intoxication, fighting and other acts of violence at work are also not subject to progressive discipline and may be grounds for immediate termination.