Administrative Policies and Procedures
Manual - 3215: Performance Improvement

Authorized by RPM 6.3 ("Privileges and Benefits")
Process Owner: Vice President of Human Resources

1. General

All employees have a valuable and critical role in helping the University fulfill its mission. To that end, employees should work together collaboratively and treat each other with mutual respect. Employees who are supervisors have added responsibilities to train and support their staff in fulfilling job requirements, to act fairly, to provide feedback on performance, and to assist their staff in improving performance and addressing issues that negatively affect the workplace.

To promote employee success, the University encourages the use of informal resolution (Section 4) and progressive discipline (Section 5), when applicable. Certain situations may be too serious to address with progressive discipline and may warrant immediate actions. In accordance with applicable laws and University policies, the University retains the right to determine the methods, means, and personnel required to maintain efficient operations. This includes the right to hire, promote, transfer, assign, and retain employees in positions within the University.

2. Applicability

For purposes of this policy, "employees" includes regular staff, term, and contract employees. This policy does not apply to temporary, on-call, or probationary employees. Please see UAP 3210 ("Recruitment and Hiring"), UAP 3200 ("Employee Classification"), and UAP 3225 ("Separation of Employment") for more information relating to the different employee classification types. This policy also does not apply to individuals specifically appointed as faculty; undergraduate and graduate student employees, including School of Medicine house officers; and independent contractors.

2.1. Post-Probationary Employees

When appropriate, supervisors are encouraged to informally resolve employee performance issues before commencing the disciplinary process. Post-probationary employees may be disciplined only for proper/just cause (see Section 7).

2.2. Employees Hired on a Term Appointment
Post-probationary employees hired on a term appointment may be discharged only for proper/just cause (see Section 7) during the term appointment. An individual's employment will end as of the specified date, unless the supervisor notifies the employee that the appointment will be extended. Separation at the end of the original or extended term appointment shall not constitute discharge and does not require proper/just cause.

2.3. Contract Employees

Contract employees may be suspended or discharged only for proper/just cause (see Section 7) prior to the expiration of the contract period, unless the plain language of their employment contract allows for suspension or discharge on other grounds. The University reserves the right to not renew these contracts when they expire. Terms, conditions, and notification requirements for employees hired under contract are described in UAP 3240 ("Contract Employees"). Additional language in individual contracts may apply. Unless otherwise provided for in the contract, supervisors may use progressive discipline when resolving disciplinary problems involving contract employees during the term of the contract, but may use higher levels of discipline depending on the seriousness of the issues. Progressive discipline is discussed in Section 5. Separation at the end of the original or extended contract period shall not constitute discharge as defined in this policy.

3. Responsibilities and Rights

3.1. Supervisors

Supervisors are responsible for promoting a productive and effective work environment, including ensuring that each employee's job performance meets or surpasses expectations. Supervisors should make concerted efforts to ensure that employees understand job requirements and expectations, and have the skills necessary to fulfill those requirements and expectations; they should address problems that may impact performance in a timely, constructive, and corrective manner. See Section 4 for guidance on performance coaching and informal resolution of performance issues, and Section 5 for information on progressive discipline. It is highly recommended that supervisors complete training on performance improvement prior to initiating progressive discipline.

3.2. Employees

Employees are responsible for following established University policies and procedures, and other applicable standards that pertain to their work. They should work in an efficient, competent, and cooperative manner to fulfill their job requirements and should reach out to supervisors when assistance or guidance is needed. Bargaining unit members may have additional responsibilities under their collective bargaining unit agreement and should refer to the applicable agreement.

3.3. Resources for Supervisors and Employees

The University provides resources to address job performance and to help build communication and collaboration for successful employees. The Human Resources website provides extensive information for both supervisors and employees on training, performance coaching, and the disciplinary process. HR Consultants are available as a resource in their assigned areas for both supervisors and employees. An employee may request to confer with a different HR Consultant if desired. Following is a list of additional resources for supervisors and employees:

- Ombuds Services for Staff; refer to UAP 3220 ("Ombuds Services for Staff");
- University Counseling, Assistance, and Referral Service (CARS); and
- Employee and Organizational Development (EOD)
4. Performance Coaching and Informal Resolution

The University recognizes that good "coaching" and informal resolution can correct many performance deficiencies and lead to successful employees. Good performance coaching requires continuous feedback to employees. Supervisors should evaluate performance, identify issues, and when appropriate require employee training to address weaknesses. Supervisors should use a problem-solving approach to resolve performance problems and other issues negatively affecting the workplace.

Some useful tools for performance improvement are available on the HR website for Performance Improvement and Discipline, and include the Performance Review process (see UAP 3230 (“Performance Review and Recognition”)), coaching and communication guides and training.

4.1. Lateral Transfers and Demotions

When an employee is not suited to a specific position, a manager may wish to consider a transfer to a lateral or lower level position (demotion) that appears to be better suited to the employee in lieu of performance management. A transfer in either of these cases may be appropriate when there is a position open within the department and such a transfer is reasonably predicted to result in improved performance.

Any change in position resulting in a demotion can be done only with the employee’s agreement and approved, in advance, by the Vice President (VP) for Human Resources (HR).

5. Progressive Discipline

The University uses progressive discipline for employees, when appropriate. Progressive discipline is designed to allow an employee a reasonable opportunity to meet the requirements of the job, comply with applicable standards, and improve performance. “Performance” for purposes of this policy is used broadly and includes all aspects of being successful in a job.

Progressive discipline may not be appropriate in all instances, such as when health or safety is at risk or a crime has been committed. It does not bar a supervisor from imposing more severe discipline depending on the individual circumstances. Some violations are of such a serious nature that it warrants severe disciplinary action, including but not limited to suspension or discharge without affording prior progressive discipline.

Progressive discipline may include the use of letters for improvement, written warnings, suspension, and discharge. Discipline should be administered equitably and consistently. See the HR website for tools to assist in ensuring appropriateness of actions. Depending on the nature of the matter, a supervisor may start progressive discipline at any appropriate point in the process. The following sections describe in detail the actions associated with the progressive discipline process.

Supervisors should advise employees:

- of the nature of the problem; policies or procedures violated; and expectations (including those job expectations that the employee did not meet, required actions to correct the problem and timelines for completion);
- that further disciplinary action up to and including discharge may occur should the problem persist; and
- that disciplinary action may be disputed through the applicable appeal process noted in Section 10.

The employee may provide an explanation for the problem. The supervisor should consider the employee’s explanation for the problem prior to deciding on whether to take formal disciplinary action.
Since the purpose of discipline is to provide employees with an opportunity to correct problems, when an employee has sufficiently corrected a problem and the supervisor is satisfied that it will not reoccur, subsequent performance evaluations should reflect the improved performance.

5.1. Letter for Improvement

The letter for improvement is the lowest level of disciplinary action. It informs employees of the issues of concern and their supervisors’ expectations for improvement. It is expected that such discussions will result in improved performance. A letter for improvement is not documented in an employee's official personnel file maintained by the Division of HR. However, the supervisor shall maintain a record of any letter for improvement in the departmental file. This document may be referred to in any further disciplinary action.

5.2. Written Warning

The written warning is the next level of disciplinary action and is used for more severe issues or for situations where issues have continued despite being given an opportunity to improve. A written warning is documented in the employee's official personnel file maintained by the Division of HR. After an employee has received at least two (2) positive performance evaluations, an employee may petition the applicable dean or director to have the written warning removed from the employee's official personnel file.

5.3. Suspension

A suspension is the third level of possible disciplinary action. It may be issued to an employee due to performance problems that have not been satisfactorily corrected through the use of prior discipline or for serious violations of policy, procedure, or other applicable standards. An employee whose suspension is being considered will be allowed an opportunity to know why the supervisor is considering the action and to respond to the contemplated action before the final decision is made. See Section 6.2 below. Suspensions are normally 1-5 days in length but may be longer depending on the severity of the issue. Proposed suspensions (notices of contemplated action for suspension) and final suspensions (notices of final action for a suspension) require approval, in advance, by the appropriate dean or director and the VP for HR. The manager must comply with the notice requirements listed in Section 6 of this policy.

5.4. Discharge

A discharge is a permanent involuntary separation of employment from the University for disciplinary reasons and is reserved for the most serious infractions or for continued issues that previously have been addressed but have not been corrected. An employee whose discharge is being considered will also be allowed an opportunity to know why the supervisor is considering the action and to respond to the contemplated action before the final decision is made. See Section 6.2 below. Proposed discharges (notices of contemplated action) and final discharges (notices of final action) require approval, in advance, by the appropriate dean or director and the VP for HR. The manager must comply with the notice requirements listed in Section 6 of this Policy.

6. Notice of Contemplated Action and Notice of Final Action

The notice of contemplated action is a written notice that outlines the reasons for considering an employee’s suspension or discharge. The notice of final action is the final written decision from the employee’s supervisor or manager after having taken the employee’s response to the notice of contemplated action into account.
Any time period noted under this policy does not include the day of the action from which this time period begins to run. If the last day of the time period falls on a Saturday, Sunday, or holiday, the last day of the time period shall be the next working day.

6.1. Notice of Contemplated Action

The Notice of Contemplated Action must include all of the following points:

- The acts that the supervisor believes constitute proper/just cause (see Section 7). These may include one (1) or more of the acts listed in this policy, but are not specifically limited as such.
- A summary of the evidence against the employee.
- An identification of the University policy(ies) - if any - the employee is alleged to have violated.
- Required timeframes in accordance with Section 6.2.

Notices shall be in writing and should be served in person, if possible. At the time of service, the employee should be asked to sign an acknowledgement of receipt. If the employee declines, the supervisor shall so note for the record. If the notice cannot be served in person, the notice may be sent by certified mail with a return receipt requested. The notice must be properly stamped and addressed to the last address provided by the employee. Service is complete when the notice is hand delivered or deposited with the United States Postal Service by certified mail with a return receipt requested. A copy of the notice will be sent to the Division of HR for placement in the employee's official personnel file.

6.2. Response to Notice of Contemplated Action

An employee may respond to the notice of contemplated action orally and/or in writing. The response is provided to the manager that signed the notice. An employee’s written response must be received within ten (10) calendar days from receipt of that notice. If the employee wants to respond orally, he/she must submit a written request for the meeting to respond orally within seven (7) calendar days from receipt of the notice. Any extension of time to the employee’s response must be in writing and agreed upon by both the employee and the manager.

If responding orally, the employee may have a support person in the meeting but that individual must not verbally advocate on behalf of the employee. When an employee advises the manager of an intent to respond orally, the employee also must advise the manager if the employee is bringing a support person and if that person is an attorney. Refer to the appropriate collective bargaining agreement regarding representation for employees in positions covered under labor agreements.

A copy of the response will be sent to the Division of HR for placement in the employee's official personnel file.

6.3. Notice of Final Action

After considering the employee's oral and/or written response, the manager shall decide on the action to be taken. If it is determined that the employee is to be discharged, the supervisor must obtain approval by the VP for HR, and serve the employee with the written notice of final action. The notice of final action should be delivered within thirty (30) calendar days after receipt of the employee's response. Cases occasionally may require additional time. If so, a letter will be sent to the employee noting the need for additional time (bargaining unit members may refer to their Union contract, if applicable). The notice of final action should include all of the following points:

- The final action to be taken.
• The acts constituting proper/just cause, which shall only include allegations specified in the notice of contemplated action.
• A summary of the evidence.
• A reply to the employee's response, if any.
• The effective date of the action.
• A statement of the appeal processes available to the employee.

A copy of the notice will be sent to the Division of HR for placement in the employee's official personnel file.

Discharges or suspensions may be appealed according to Section 8.

7. Proper/Just Cause for Disciplinary Action

Proper/just cause is generally significant or substantial misconduct relating to the employee's work that is inconsistent with the employee's obligation to the University and that violates policy, procedure, or other standards. A list of examples that could constitute proper/just cause for disciplinary action is shown below, but is not an all-inclusive list.

• Attendance issues (unsatisfactory attendance including tardiness).
• Abuse of sick leave. See UAP 3410 (“Sick Leave”)
• Violation of departmental or University policy on confidentiality, or the release of confidential information in violation of law.
• Conviction of a felony or misdemeanor, depending on the nature of the offense and applicability to the type of position the employee holds, consistent with the Criminal Offender Employment Act.
• Discrimination against an individual or creation of a hostile work environment based on race, ethnicity, national origin, medical condition, gender, and other protected classes under state or federal law as determined by the Office of Equal Opportunity. See UAP 2720 (“Prohibited Discrimination”) and UAP 2740 (“Sexual Misconduct”).
• All allegations of discrimination, including sexual harassment, must be referred to the Office of Equal Opportunity. Failure or refusal to appropriately refer allegations of discrimination, including sexual harassment, to the Office of Equal Opportunity.
• Deliberate falsification or misrepresentation of information on employment applications or resumes, timesheets, or other University records.
• Impairment in the workplace, in violation of UAP 3270 (“Suspected Impairment at Work”).
• Illegal use or possession of drugs, alcohol, or related paraphernalia. See RPM 2.6 (“Drug-Free Environment”)
• Possession of or distribution of obscene or pornographic material unrelated to business needs or University research.
• Unacceptable computer use. See UAP 2500 (“Acceptable Computer Use”)
• Inability to perform the job according to expectations, after documented performance coaching.
• Safety issues (violation of safety protocol).
• Sleeping during work hours.
• Theft, embezzlement, or fraud. Misappropriation or personal use of University funds, property, possessions, or resources. Failure to follow purchasing protocols. See UAP 7205 (“Dishonest or Fraudulent Activities”).
• Insubordination — intentional or willful failure to obey a lawful and reasonable request of a supervisor.
• Inappropriate/unprofessional behavior or violation of Employee Code of Conduct. See UAP 3720 (“Employee Code of Conduct and Conflicts of Interest”)
• Vehicle use policy violation. See UAP 7780 (“Use of University Vehicles”)


• Violence or threat of violence, such as assault, battery, or stalking of individuals on the
University campus. See UAP 2210 (“Campus Violence”).
• Violation of University policies or procedures.

Concerns about progressive discipline being misused or non-compliant with this policy may be reported
to the VP for HR or according to UAP 2200 (“Reporting Suspected Misconduct and Whistleblower
Protection from Retaliation”). See Section 10 for formal appeal processes.

8. Pay Status

Post-probationary and contract employees will remain on paid status at all times pending delivery of
discipline. Post-probationary and contract employees may continue working or may be placed on
administrative leave with pay pending completion of the investigative or disciplinary process. Requests
for administrative leave must be sent to the HR Consultant. The VP of HR will coordinate with the
respective executive vice president, who will approve or disapprove the leave. For more information,
refer to Section 3.7 of UAP 3415 ("Leave With Pay").

9. Required Approval by the Division of HR

It is recommended that supervisors speak with their HR Consultant and obtain guidance prior to issuing a
Letter for Improvement. Supervisors contemplating a written warning, demotion, or discharge of any
employee, including forced termination of probationary and temporary employees, must consult with their
HR Consultant before taking such action. Suspensions and discharges must also be approved in writing
by the department’s dean, director, or above and by the VP for HR.

10. Appeal Process for Suspension and Discharge

If a post-probationary employee who is in a non-bargaining unit position has been suspended or
discharged, the employee may appeal by requesting a peer hearing as provided below. Appeals may be
requested by contacting the Main Campus Compliance Office within ten business days of receiving the
notice of final action for suspension or discharge. The timeline is determined to begin the next working
day after the action is issued. Employees who wish to appeal a suspension or discharge and whose
position titles are covered under a collective bargaining agreement should review the relevant agreement
for grievance procedures.

10.1. Peer Hearing

Peer hearings are coordinated by the Main Campus Compliance Office and consist of a Peer Review
Panel of three (3) uninvolved University employees who have no connection with the dispute, nor any
interest in the outcome of the hearing. Members of the Peer Review Panel will be randomly selected from
a pool consisting of all University employees.

The employee who was suspended or discharged and the management representative who suspended or
discharged the employee will select the panel members from the randomly chosen names.

10.2. Discretionary Review by President and Board of Regents

The results of a peer hearing may be appealed to the University President and the Board of Regents.
Normally, they accept review only in extraordinary cases, such as those where proper procedures have not
been followed, where the decision appears to be unsupported by the facts, or where the decision appears
to violate University policy. If an appeal is accepted, it will first go to the University President. The Board
of Regents has the discretion to review the University President's decision. The appeals are handled pursuant to RPM 1.5 (“Appeals to the Board of Regents”).

11. References

Exhibit A: Dispute Resolution Process Flowchart
Exhibit B: Peer Hearing Procedure
Human Resources website - Performance Improvement and Disciplinary Action
RPM 1.5 (“Appeals to the Board of Regents”)
RPM 2.18 (“Guiding Principles”)
UAP 2200 (“Reporting Suspected Misconduct and Whistleblower Protection from Retaliation”)
UAP 2240 (“Respectful Campus”)
UAP 3220 (“Ombuds Services for Staff”)
UAP 3230 (“Performance Review and Recognition”)
UAP 3415 (“Leave with Pay”)
UAP 3750 (“Counseling, Assistance, and Referral Service”)