

Employee Conduct and Discipline Procedure	Procedure Number	6.10P
	Effective Date	April 2, 2014

1.0 PURPOSE

In accordance with Board Policy 6.10 Employee Conduct and Discipline, the purpose of this procedure is to set forth the guidelines and procedures regarding employee conduct and discipline.

2.0 REVISION HISTORY

Adopted on: 4/2/14

Policy 4131 was subsumed hereunder on the effective date of this policy.

3.0 PERSONS AFFECTED

- A. All employees are subject to the employee conduct provisions.
- B. The employee discipline provisions apply to all instances of discipline of contracted employees *(as defined in HR Procedure 6.1.1P, employees holding "Legacy" status are considered contracted employees)*.
- C. Although not subject to the employee discipline policy or procedure, if the supervisor of an employee who is categorized as an at-will employee disciplines the at-will employee, such action does not change the employee's at-will employment status.

4.0 DEFINITIONS

- A. *Misconduct* – Conduct or behavior including, but not limited to: conduct which violates federal, state, or local law; conduct that violates LCCC policy, procedure, rules, directions or guidelines; the use of, or demonstrating the effects of the use of alcohol or illegal drugs/narcotics in the course of performing assigned duties; participation in activities which interfere with the normal operation of LCCC; activities or conduct which may endanger the health or safety of self, employees, or students; unauthorized access, use or release of confidential information; misrepresentation; unauthorized use of LCCC property; misappropriation of LCCC property; breach of the employment contract; conviction of a violent misdemeanor; conviction of a felony or a crime of moral turpitude; dishonesty; fraud; falsifying records; theft of LCCC property; embezzlement; violence, threatened violence, harassment, threats or threatening behavior; improper use of computer and/or internet at work (e.g., watching pornography online); actions or behavior which result in injury to LCCC or its reputation; and/or any conduct or behavior which reflects poorly on LCCC.
- B. *Incompetency* – When an employee is unable to or lacks the fitness to discharge one or more of his/her required duties.
- C. *Insubordination* – An employee's refusal to obey a reasonable, proper direct order, including under certain circumstances even a single instance thereof.

- D. *Neglect of Duty* – An employee’s failure to satisfactorily perform one or more duties properly assigned to him or her.
- E. *For Cause* – Reasons for which an employee may be terminated including, but not limited to misconduct, incompetency, insubordination, and/or neglect of duty.

5.0 PROCEDURES

A. Employee Conduct

Employees are responsible and accountable for adhering to LCCC policy, procedure, rules, directions, and guidelines. Employees shall not engage in or demonstrate misconduct, incompetency, insubordination, or neglect of duty. Employees are to carry out their duties honestly, in good faith and with diligent care. Contracted employees are also required to comply with all terms of their contract. For employees subject to the general discipline procedures, failure to conduct oneself accordingly will result in disciplinary action.

B. General Discipline Procedures

For contracted employees, the discipline procedure is outlined below. Discipline may begin at any stage including termination depending on the nature of the infraction. The level of discipline may also vary. Some of the factors that will be considered are whether the offense has been repeated despite coaching and/or training, the employee’s work performance record, and the impact of the conduct.

1) Verbal Warning

A verbal warning 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.

- a. As soon as reasonably possible, the supervisor should discuss with the employee the nature of the problem or violation of LCCC policy or procedure, communicate expectations for remedying the situation, and outline the consequences to the employee of his or her continued failure to meet performance and/or conduct expectations.
- b. Within five (5) business days, the supervisor will prepare written documentation of the meeting to be delivered to the Human Resources department to be placed in the employee’s personnel file. Written documentation of the verbal warning will be provided to the employee on the same day the documentation is provided to the Human Resources department.

2) Written Warning

A written warning involves a more formal documentation of performance, conduct issues, and consequences.

- a. As soon as reasonably possible, the immediate supervisor and administrator over the employee’s work will meet with the employee and discuss the nature of the performance or conduct issue or violation of LCCC policy or procedure, communicate expectations for remedying the situation and outline consequences to the employee of

his or her continued failure to meet performance or conduct expectations. The immediate supervisor and administrator will also review any prior relevant corrective action plans with the employee.

- b. A written disciplinary action requiring the employee's immediate and sustained corrective action will be issued within five (5) business days of the meeting. The written disciplinary action may include notification to the employee that the employee may be subject to additional discipline up to and including termination if immediate and sustained corrective action is not taken.
- c. Written documentation of the written warning will be delivered to the employee who will be asked to sign copies of the documentation acknowledging the receipt and understanding of the corrective action outlined in the documents.
- d. The employee may provide a written response to the written disciplinary action.
- e. Copies of the documents, including the written disciplinary action and any employee response, will be forwarded to the Human Resources office to be placed in the employee's personnel file.

3) Performance Improvement Plan (PIP)

A performance improvement plan may accompany any verbal or written warning or it may stand alone. Whereas a written or verbal disciplinary action covers a very specific incident (or incidents), behavior (or behaviors), a PIP covers broader behavioral objectives including, but not limited to, items discussed in disciplinary actions.

- a. A PIP clearly defines performance objectives that need to be met. Objectives should be specific, measurable, achievable, relevant and time-oriented. Each objective should include 1) The action to be taken, 2) desired results, 3) a deadline for each objective, and 4) a performance standard for each objective.
- b. Written documentation of the PIP will be delivered to the employee who will be asked to sign copies of the documentation acknowledging the receipt and understanding of the corrective action outlined in the document.
- c. The employee may provide a written response to the PIP.
- d. Copies of the documents, including written disciplinary action, PIP and any employee response, will be forwarded to the Human Resources office to be placed in the employee's personnel file.

4) Suspension

There may be performance, conduct, safety incidents or a punitive measure, where the most effective action may be the temporary removal of the employee from the work place. When immediate action is necessary, the immediate supervisor may place an employee on suspension.

- a. As soon as reasonably possible the immediate supervisor will consult with the Human Resources Department. The College will then give written notice either by electronic means or via United States Mail to the employee of the reasons for the suspension and the duration of the suspension.
- b. An employee may be placed on suspension with or without pay consistent with federal, state and local wage-and-hour employment law.
- c. The Human Resources department will provide guidance so that the discipline is administered without jeopardizing the Fair Labor Standards Act (FLSA) exemption status.

C. Termination of Employment

- 1) If corrective and/or discipline actions are unsuccessful, or the problem or violation is so severe that corrective action is inappropriate or impractical, a supervisor may recommend termination of the employee from employment.
- 2) The supervisor must inform the Human Resources department and his or her immediate supervisor of the termination recommendation. The supervisor shall also provide written documentation outlining the basis for the termination.
- 3) The College will give written notice either by electronic means or via United States Mail to the employee of the recommended termination, reasons for the recommended termination and the projected termination date. However, in no event shall the projected termination date be earlier than forty-eight hours from the date of the notice.
- 4) Notice is effective on the date the written documentation is sent. From the effective date of the notice of recommended termination until a written termination decision is sent, the employee shall be suspended in accordance with subsection B. 4. herein.
- 5) Within forty-eight hours of the notice of recommended termination, the College shall hold a pre-termination hearing. The employee must appear at the pre-termination hearing. Failure to do so shall constitute insubordination. Additionally, an employee's failure to attend the pre-termination hearing shall constitute a default and the College may proceed with the termination. An employee's lack of appearance at a pre-termination hearing does not affect in any way the employee's right to an administrative hearing post-termination.
- 6) The employee may have one representative present at the pre-termination hearing. If the employee's desired representative is unavailable to attend the pre-termination hearing, this shall not be cause to postpone the hearing.
- 7) The employee's supervisor and a representative from the Human Resources office shall be present at the pre-termination hearing, at which time the employee will be given an opportunity to set forth why the termination shall not occur.
- 8) Following the pre-termination hearing, the College will give written notice either by electronic means or via United States Mail to the employee of the College's decision to either:
 - a. continue the employee's employment, or
 - b. terminate the employee.
- 9) Notice is effective on the date the written documentation is sent. If the College's determination is to terminate the employee, the employee's termination is effective on the date the written documentation is sent to the employee.

D. Appeal

Employees who are subject to this policy and desire to appeal a disciplinary action of a written warning or greater must submit a request for appeal within seven (7) business days from the date the written disciplinary action is sent as set forth on the written documentation to the Human Resources department. The request for appeal must include with it a written document outlining each objection the employee has with regard to the discipline imposed.

1) Level 1 – Reviewing Supervisor

The employee and the supervisor's written documentation will be provided to the supervisor over the individual imposing the discipline. Within seven (7) business days, that supervisor, referred to as the reviewing supervisor, will review all materials and will issue a

written document as to whether or not the discipline was appropriate. If appropriate, the recommended discipline remains. If not appropriate, the reviewing supervisor will issue a letter outlining the appropriate discipline, if any.

2) Level 2 – Final Supervisor

If the employee is dissatisfied with the reviewing supervisor's decision, the employee must request an appeal within seven (7) business days to the Human Resources department. The request for appeal must include with it a written document outlining each objection the employee has with regard to the discipline set forth or upheld by the reviewing supervisor. The Human Resources department will provide all written documentation to the supervisor over the reviewing supervisor, referred to as the final supervisor. Within seven (7) business days, the final supervisor will review all materials and will issue a written document as to whether or not the discipline was appropriate. In all circumstances of discipline (except for termination as described below), the final supervisor's decision is final and not appealable.

3) Level 3 – President

In cases where the final supervisor's decision is termination, if the employee is dissatisfied with the final supervisor's decision the employee must request an appeal within seven (7) business days to the Human Resources department. The request for appeal must include with it a written document outlining each objection the employee has with regard to the termination. The Human Resources department will provide all written documentation to the President. Within seven (7) business days the President will review all written materials and at his discretion may discuss the matter with any individuals involved. The President will issue a final decision. If an employee is dissatisfied with the President's decision, he or she must then utilize the contested case procedure outlined in the College's Rule of Practice for a Contested Case.

Some employees based upon their position within the hierarchy of LCCC will not have the ability to appeal to a reviewing supervisor and/or a final supervisor, as such individuals may not exist (for example, a direct report to the President who is disciplined by the President does not have the ability to appeal to the supervisor of the President). In such circumstances, the employee will only have the ability to appeal to the extent such reviewing and/or final supervisor exists. These employee appeal rights may be truncated. However, employees must exhaust any internal appeal rights they do have. If there are no internal appeal rights and termination is recommended, the employee must utilize the contested case procedure to appeal.

REQUIRED APPROVALS	NAME/SIGNATURE	DATE
Originator(s) Name(s)	Peggie Kresl-Hotz, Human Resources Executive Director Debb Roden, Legal Counsel	1/14/14
Approval by President's Cabinet		1/21/14
Ratified by College Council	Kari Brown-Herbst, College Council Co-chair	3/17/14
Approval by President (Signature)		4/2/14