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**Employee Misconduct  
Policy and Procedures**

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## **I. Philosophy and Scope**

Frederick Community College (“FCC” or the “College”) strives to create a safe work environment with clear expectations that uphold accountability for individual conduct and address behaviors that disrupt that environment. When appropriate, an employee will be given the opportunity to correct the conduct or behavior working with their direct supervisor through informal resolution.

If the misconduct continues, disciplinary action will be taken in a timely manner and in accordance with due process rights as defined in this Policy and Procedures.

Disciplinary action may be progressive depending on the severity of the misconduct. Disciplinary action may take the form of written warning, written warning placed in the employee’s personnel file, disciplinary suspension without pay, or separation from employment.

This Policy and Procedures applies to misconduct related to violation of College policies and procedures, local, state and federal laws, adherence to work schedules and attendance, appropriate standards of conduct, and ethical and professional behavior, with the exception of sexual misconduct (see [Title IX Sexual Misconduct Policy and Procedures](#)) and conduct related to discrimination (see [Non-Discrimination Policy and Procedures](#)).

This Policy and Procedures applies to all College employees.

## **II. Definitions for the Purpose of this Policy and Procedures**

- A. **“Disciplinary action”** refers to an action taken to address actions of misconduct that may take the form of a written warning, written warning placed in the employee’s personnel file, disciplinary suspension without pay, or separation from employment.
- B. **“Informal resolution”** refers to initial meetings between the supervisor and employee regarding an issue where there is good faith effort to resolve the issue so that initiation of a disciplinary action is not necessary.
- C. **“Severe misconduct”** refers to conduct of such magnitude that an immediate response is required to prevent harm to an individual or the College.
- D. **“Workdays”** refers to Monday through Friday and does not include weekends, holidays, scheduled breaks, or other days the College is closed.
- E. **“Senior Leader”** refers to a member of the President’s Senior Leadership Team, which includes the President; the Provost/Executive Vice President for Academic Affairs, Continuing Education, and Workforce Development; the Vice President (VP) for Finance; the VP for Human Resources; the VP for Learning Support; the Chief of Operations; the Chief Information Officer; and the Special Assistant to the President for Institutional Effectiveness.
- F. **“Performance Improvement Plan (PIP)”** refers to a written directive to an employee defining corrective measures and outcomes to address, in a specified time, performance or conduct issues.

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- G. “**Loudermill rights**” refers to basic due process protections an employee shall have whereby the supervisor shall provide the employee with (1) notice of the alleged offense, (2) an explanation of the available evidence, and (3) an opportunity to respond. These due process rights may be provided in a meeting or, when a meeting is not possible, in writing.

### **III. Supervisory Procedures Related to Misconduct**

- A. When a supervisor has identified an issue of alleged misconduct with an employee that may be related to a violation of the [Title IX Sexual Misconduct Policy and Procedures](#), the issue should be discussed with the Title IX Coordinator in the Human Resources Office, Suite 223 of Gambrill Hall, 301-846-2436. When a supervisor has identified an issue of alleged misconduct with an employee that may be related to a violation of the [Non-Discrimination Policy and Procedures](#), the supervisor should consult with the Associate Vice President (AVP) for Human Resources.
- B. When an issue of alleged misconduct that is **not** covered by the [Title IX Sexual Misconduct Policy and Procedures](#) or the [Non-Discrimination Policy and Procedures](#) has been identified, and it is **not** of a severe nature, the supervisor should engage in informal resolution. The supervisor must coach the employee regarding expectations and ways to correct the issue. The informal resolution may include verbal warnings related to areas of concern.
- C. Prior to the issuance of any disciplinary action, the employee shall first be provided with due process protections consisting of the following (Loudermill rights):
1. Notice of the alleged offense;
  2. An explanation of the evidence available at the time, and
  3. An opportunity to respond to the allegations.
- D. When informal resolution has not resolved the concern and/or the alleged misconduct is **not** of a severe nature, the supervisor must take any of the following disciplinary actions including due process from Section C above:
1. Issue a written warning to an employee which specifies the violations, what changes in behavior are necessary, and the consequences. The written warning will only be provided to the employee and placed in the supervisor’s file.
  2. Issue a written warning to be placed in the employee’s personnel file which specifies the violations, what changes in behavior are necessary, and the consequences. The employee will be asked to sign a document, indicating that the written warning has been received. The employee may write a rebuttal, which will be attached to the document. A copy of the document(s) will be provided to the employee and filed in the employee’s personnel file.
- E. When the alleged misconduct is of a severe nature or progressive discipline has not corrected the misconduct, the supervisor must immediately notify the appropriate Senior Leader and the AVP for Human Resources. The employee will be afforded due process rights in accordance with Section C above. An employee may be placed

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on paid administrative leave during an investigation of allegations. For severe misconduct or misconduct that progressive discipline has not corrected, the following disciplinary actions may be taken:

1. Disciplinary suspension without pay which has been approved by the Senior Leader. If the Senior Leader approves the suspension without pay, a letter notifying the employee of the suspension will be issued by Human Resources and will be filed in the employee's personnel file. If the Senior Leader does not approve the suspension without pay, alternative disciplinary action may be taken.
  2. Separation from employment may be recommended to the Senior Leader for approval. Separation from employment disciplinary action would follow the [Separation from Employment Policy and Appeal Procedure for Involuntary Separation from Employment](#).
- F. When warranted, throughout any steps of these procedures, the supervisor may place the employee on a Performance Improvement Plan (PIP).

### **IV. Employee Rights**

In addition to the pre-disciplinary due process provided in the Loudermill notice, the employee shall have the following post-disciplinary rights:

- A. The employee has the right to submit a written rebuttal to a written warning which will be placed in the employee's personnel file.
- B. The employee has the right to appeal disciplinary suspension without pay. Within five (5) workdays following the receipt of the letter notifying the employee of the suspension without pay, the employee may submit an appeal in writing to the President. The President's decision will be considered final.
- C. The employee has the right to appeal separation from employment using the [Separation from Employment Policy and Appeal Procedure for Involuntary Separation from Employment](#).

### **V. Employee Assistance Program**

The employee may voluntarily access Employee Assistance Program (EAP) services offered by the College for assistance in addressing issues related to misconduct. When appropriate, EAP referral may be formally recommended or mandated.