

**Employee Misconduct
Policy and Procedures**

BOT Approved: 10/21/2015
 Revised: 8/4/2016
 Revised: 7/1/2017
 Revised: 7/2/2018
 Revised: 7/1/2019
 Revised: 7/1/2020
 Revised: 7/1/2021

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Employee Misconduct Policy and Procedures

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 by 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, and may take the form of a written warning, disciplinary suspension with or 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 harassment ([Title IX Sexual Harassment Policy and Procedures](#)) and conduct related to discrimination ([Non-Discrimination Policy and Procedures](#)).

II. Definitions for the Purpose of this Policy and Procedures

- A. **“Disciplinary action”** refers to action(s) taken to address acts of misconduct that may take the form of a written warning, a suspension with or without pay, or separation from employment.
- B. **“Informal resolution”** refers to discussions between the supervisor and employee regarding an issue where there is good faith effort to resolve the issue so that initiation of disciplinary action is not necessary.
- C. **“Pre-Disciplinary Conference (PDC)”** refers to basic due process protections (Loudermill rights) an employee shall have whereby the supervisor shall provide the employee with (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. These due process rights will be provided in a meeting or, when a meeting is not possible, in writing.
- D. **“Performance Improvement Plan (PIP)”** refers to a written directive to an employee defining corrective measures and outcomes to address performance and/or conduct-related issues within a specified timeframe.
- E. **“Progressive discipline”** refers to the process of using escalating measures when appropriate when an employee fails to correct a problem after being given a reasonable opportunity to do so.
- F. **“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.

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- G. “**Severe misconduct**” refers to conduct of such magnitude that an immediate response is required to prevent harm to an individual(s) or the College.
- H. “**Supervisor**” refers to the individual an employee directly reports to. For the purposes of this policy, adjunct faculty are supervised by the appropriate Department Chair, administrator, or their designee.
- I. “**Workdays**” refers to Monday through Friday and does not include weekends, holidays, scheduled breaks, or other days the College is closed.

III. Responsible Senior Leader and Responsible Office

Vice President for Human Resources

The Office of Human Resources

IV. Entities Affected by this Policy and Procedures

All Employees

V. Procedures

A. Supervisory Procedures Related to Misconduct

1. 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 Harassment Policy and Procedures](#), the issue should be discussed with the Title IX Coordinator. 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 Vice President (VP) for Human Resources.
2. When an issue of alleged misconduct that is **not** covered by the [Title IX Sexual Harassment Policy and Procedures](#) or the [Non-Discrimination Policy and Procedures](#) has been identified, and it is **not** of a severe nature, the supervisor will engage in informal resolution. The supervisor shall meet with the employee regarding expectations and ways to correct the issue(s). Informal resolution may include, but is not limited to, coaching, training, verbal warnings, and coaching memos related to the area(s) of concern.
3. When warranted, throughout any step in these procedures, the supervisor may place the employee on a PIP.

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4. Disciplinary Action

When informal resolution has not resolved the concern(s) and/or the alleged misconduct is **not** of a severe nature, the supervisor shall initiate progressive discipline in consultation with the VP for Human Resources and Senior Leader, as appropriate.

- a. Prior to the issuance of any disciplinary action, the employee shall first be provided with due process protections via a PDC.
- b. **Written Warning:** A written warning specifying the performance deficiencies or violations, the expected behavior changes, and the consequences for continued noncompliance will be issued to the employee. The employee will be asked to sign the document, indicating that the written warning has been received. The employee may also 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 in the Office of Human Resources.
- c. **Suspension:** Disciplinary suspension with or without pay. Upon approval of the Senior Leader, 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, alternative disciplinary action may be taken.
- d. **Separation from Employment:** Upon approval of the Senior Leader, separation from employment disciplinary action will follow the [Separation from Employment Policy and Appeal Procedure for Involuntary Separation from Employment](#).

5. Disciplinary Action for Severe Misconduct

When the alleged misconduct is of a severe nature, the supervisor must promptly notify the Senior Leader and the VP for Human Resources. An employee may be placed on paid administrative leave during an investigation of allegations.

- a. Prior to the issuance of any disciplinary action, the employee shall first be provided with due process protections via a PDC.
- b. **Suspension:** Disciplinary suspension with or without pay. Upon approval of the Senior Leader, 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, alternative disciplinary action may be taken.
- c. **Separation from Employment:** Upon approval of the Senior Leader, separation from employment disciplinary action will follow the [Separation from Employment Policy and Appeal Procedure for Involuntary Separation from Employment](#).

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6. Misconduct of a Senior Leader or President
 - a. When there is an issue of alleged misconduct by a Senior Leader, the President and VP for Human Resources must be notified. When there is an issue of alleged misconduct by the VP for Human Resources, the President and VP for Finance must be notified.
 - b. When there is an issue of alleged misconduct by the President, the Chair of the Board of Trustees and VP for Human Resources must be notified.

B. Employee Rights

In addition to the PDC due process, employees shall have the following post-disciplinary rights:

1. The employee has the right to submit a written rebuttal to a written warning which will be placed in the employee's personnel file.
2. The employee has the right to appeal disciplinary suspension. Within five (5) workdays following the receipt of the letter notifying the employee of the suspension with or without pay, the employee may submit an appeal in writing to the President. The President will communicate a decision in writing to the employee within ten (10) workdays from the date the letter is received. The President's decision will be considered final.
3. The employee has the right to appeal separation from employment using the [Separation from Employment Policy and Appeal Procedure for Involuntary Separation from Employment](#).

C. 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.

VI. Related Policies and Procedures

[Non-Discrimination](#)

[Separation from Employment Policy and Appeal Procedure for Involuntary Separation from Employment](#)

[Title IX Sexual Harassment](#)