

D.9.1.1 (Procedure) Progressive Discipline: Non-Tenured Employees

Responsible Department: Human Resources

Based on Board Policy: [D.9.1](#) - Progressive Discipline

Approved: 4-28-09

Last Amended: 7-25-17

This procedure applies to all full-time benefited non-tenured employees. Procedure [D.9.1.2](#) applies to all tenured faculty.

Guiding Principles

The Chancellor is authorized to develop and implement procedures for employee progressive discipline (see [D.9.1](#)).

The intent of progressive discipline is to communicate the need to modify unacceptable behavior which is inappropriate, unproductive, disruptive or otherwise problematic to the goals of the Alamo Colleges. The development and communication of this procedure serves the following purposes:

1. For the ORGANIZATION - To provide employees with the opportunity to improve performance and conduct, with knowledge that subsequent violations may necessitate more severe penalties and/or consequences.
2. For MANAGERS/SUPERVISORS - To create a framework to administer appropriate, fair and consistent corrective actions to employees.
3. For EMPLOYEES - To set standards for consequences of problematic behavior(s).
4. For HUMAN RESOURCES - To promote communication with Human Resources regarding actions to be taken, so that fair decisions and actions can be delivered.

Progressive discipline is normally applied in several stages of severity, culminating in termination, if necessary. Termination of employment, or elevation of the level of discipline, may be appropriate upon first offense, based upon the seriousness and impact of the behavior(s) or action(s) or for violation of multiple lesser offenses.

Non-contract employees of the College District serve ‘at-will,’ meaning that employment has no specified term and that the employment relationship may be terminated any time at the will of either party with or without notice to the other. This procedure does not change the employment relationship of at-will employees.

Managers/Supervisors (including chairs and deans) should follow this Procedure as closely as possible; however, in light of the fact that we work in a fast-paced environment, failure to perform technical steps that are not substantive shall not affect the stage or form of discipline and shall not, absent substantial harm to and shown by the employee, form grounds for a grievance.

Application

Progressive discipline pursuant to this procedure shall apply to full-time benefited non-tenured employees. Except where otherwise provided in policy; employees subject to disciplinary action may appeal an adverse employment action pursuant to Policy [D.3.3](#) and related procedures. This procedure does not apply to non-faculty employees who have not successfully completed the 90-day probationary period. Inappropriate behavior by employees classified as either temporary or non-benefited is addressed under “*Procedures for Termination of Non-Benefited Employees.*”

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Procedure and Provisions

Disciplinary action(s) are arranged in progressively severe “Steps.” The Steps will normally be followed progressively 1 – 4, depending on the severity of the offense. One or more steps may be bypassed, as appropriate, to include ultimately employment termination upon subsequent occurrences of an offense normally classified at a lower step. The following information is provided as a guide in the use of this process.

If reassignment or relocation of an employee is being recommended for reasons related to discipline, the Human Resources department must be consulted prior to any action.

The Chancellor or college President, in consultation with Human Resources, reserves the ability to place an employee on administrative leave pending investigation of the allegations related to this procedure.

Disciplinary Violations

Unacceptable behaviors include, but are not limited to, non-performance, inappropriate conduct, unacceptable attendance and/or violation of College District policy or procedures.

The examples listed herein are not inclusive, and shall not be limited to this list.

If a situation arises which the listing does not specify, the behavior will be compared with and aligned with similarly listed violations in consultation with the Human Resources Department.

The unacceptable behavior(s) identified will normally result in issue of the corresponding *Step*, although impact, severity, number of occurrences, and intent of the actions will be considered in determining the appropriate level (step) of discipline. Each offense may be treated as a separate offense. Any of the offenses or unacceptable behaviors identified in the steps below may be appropriate for any step or level of discipline.

Step 1:

- Tardiness or absenteeism
- Abuse of or excessive number of personal telephone calls
- Uncooperative behavior
- Loitering or loafing during work hours
- Failure to follow departmental procedures or directions
- Reckless or careless behavior, i.e. horseplay
- Failure to meet performance expectations
- Failure to perform the terms of employment for reasons other than documented illness or injury (including, for example, failure to attend mandatory departmental/College or District-wide meetings or failure to hold required office hours or otherwise fail to be reasonably available for students, if the terms of employment require it); and
- Unauthorized operation and/or misuse of College District property

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Step 2:

- Making false, vicious or malicious statements concerning any employee, student, the College District, its services or others associated with the College District;
- Leaving College District property during work hours without appropriate approval;
- Failure to follow specified job instructions
- Participation or promotion of games of chance or lotteries on College District property, using College District resources, or on College District time.
- Neglect of duty or responsibilities, including unauthorized absence, which impairs teaching, research or other normal and expected services to the College District; and
- Use of profane, obscene, vile, abusive or degrading language, gestures or image(s). (Note: this does not apply to violations related to sexual harassment under [H.1.2](#))
- Display of handgun by a concealed handgun license holder
- Violation of area prohibition against carrying of handgun by a concealed handgun license holder

Step 3:

- Removal of College District records or property without appropriate approval
- Violation of computer use policy
- Sabotage (destruction of property, obstruction of normal operations or a treacherous action to defeat or hinder a cause or an endeavor);
- Insubordination (such as refusal to obey a supervisor's lawful orders; pattern of disrespectful attitude towards a supervisor);
- Absence from work without notification
- Refusal to meet with supervisor or other agent of College District management
- Sleeping while at work

Step 4:

College District non-tenured employees, including term contract employees, are subject to termination for a first offense of the following list of violations, which includes but is not limited to:

- Two days absence from work without notification ([D.5.3.1](#))
- REPEATED Distribution of printed matter, selling property, soliciting, collecting or accepting contributions on College District property, using College District resources, or on College District time, without specific authorization from college or College District administration
- Abuse of, or damage to, College District property or to the property of other employees.
- Unauthorized release of confidential records or information or violation of the Family Educational Rights and Privacy Act (FERPA);

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- Substantial unauthorized use of College District equipment, time or resources (employees may make minimal, incidental use of College District resources with certain limitations: see [C.2.7.1](#), [C.1.9](#), [C.1.9.1](#) and Chancellor's Clarification 07-01 for limitations and examples of minimal incidental use);
- Action(s) that result(s) in preventing other members of the College District community from fulfilling their responsibilities or that create a clear and present danger to members of the College District community;
- Open carrying of a firearm by a person other than a licensed peace officer in the course of duty; Violation of the College District workplace violence policy or procedure ([D.4.6](#) and [D.4.6.1](#))
- While on property owned or controlled by the College District, or while attending a College District-related or sponsored activity on or off College District property, the employee:
 - ◇ Assaults another employee, student, or other individual as defined by the Texas Penal Code;.
 - ◇ Except as provided in [D.4.7.1](#), sells, gives, or delivers to another person, or possesses, uses or is under the influence of:
 - Illegal or controlled substances as defined by Texas or federal law,
 - An inhalant as defined by Texas law;
 - ◇ Except as provided in [D.4.7.1](#), sells, possesses, uses or is under the influence of intoxicants while in the scope of employment;
 - ◇ Refusal or failure to follow a policy or official directive;
 - ◇ Behavior that materially endangers the life, health, or safety of a student, employee, or another individual;
 - ◇ Theft as defined by the Texas Penal Code;
 - ◇ Forging or falsifying an official College District record or form;
 - ◇ Possession of a firearm, illegal knife, club, or prohibited weapon in violation of the Texas Penal Code;
 - ◇ Carrying of handgun by a person other than a concealed handgun license holder or a licensed peace officer in the course of duty
 - ◇ Providing false or misleading information in College District employment applications, even if determined after employment has commenced;
 - ◇ Violation of the College District Code of Conduct;
 - ◇ Engaging in conduct incorporating the elements of an offense under Texas Penal Code Title 8, Offenses Against Public Administration;
 - ◇ Conviction (to include probated sentences and deferred adjudication) of any felony or of a misdemeanor involving moral turpitude, as defined by College District policy or Texas statutory or common law. It is the employee's

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responsibility to report all convictions to the Human Resources department within 3 business days of being convicted (see [D.4.11](#)).

Steps

Step 1 – Counseling (Verbal or Written)

This level of discipline is in response to behavior which causes a minor disruption to the image, morale, production or operations of the organization (see above "*Disciplinary Violations*" for examples). In response, the immediate supervisor shall do the following:

1. Identify the problematic behavior(s).
2. Allow the employee the opportunity to explain the behavior(s), and investigate if necessary.
3. Meet with the employee and advise the employee of the unsatisfactory job performance, conduct or behavior.
4. Inform the employee that this is a Step 1, "Counseling" step.
5. Inform the employee that the behavior(s) has/have violated disciplinary procedure and must be corrected.
6. Advise the employee of the consequences of continued behavior(s), or other disciplinary violations.
7. Provide the employee with advice, guidance and clarification to assist in avoiding escalation of the discipline to a more severe Step, with copy to Human Resources.
8. Ask the employee if there are any questions; document any questions and answers given;
9. Document the conversation and file it with the departmental employee file, with copy to Human Resources.

Step 2 – Written Reprimand

This level of discipline typically is in response to behavior which the employee has not corrected or has repeated the behavior giving rise to Step 1, or if the employee's behavior otherwise is a moderate disruption to the image, morale, production or operations of the organization (see above "*Disciplinary Violations*" for examples). In response, the immediate supervisor shall do the following:

1. Identify the problematic behavior(s);
2. Allow the employee the opportunity to explain the behavior(s) (document statements made), and investigate if necessary;
3. Seek guidance from the Human Resources department prior to taking disciplinary action, so that the action can be reviewed for consistency, fairness and applicability;
4. Meet with and request that the employee acknowledge a written notice of the unsatisfactory job performance, conduct or behavior. If the employee refuses to sign, document the refusal and note any comments made by the employee.
5. Inform the employee that the behavior(s) has/have violated disciplinary procedure and must be corrected;

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6. Inform the employee that this is a Step 2, "Written Reprimand" step;
7. Advise the employee of the consequences of continued behavior(s), or other disciplinary violations;
8. Advise the employee that, although an undesired consequence, the College District may accelerate the discipline process, as appropriate;
9. Ask the employee if there are any questions; document any questions and answers given;
10. Provide the employee with advice, guidance and clarification to assist in avoiding escalation of the discipline to a more severe Step, with copy to Human Resources;
11. File all documents in the employee's departmental employment file;
12. Within two days of notice, provide the Human Resources department with a copy of the discipline record (documents described in this step and any previous discipline administered) for the employee personnel file maintained by the College District.

Step 3 – Final Written Warning

This level of discipline typically is in response to behavior which the employee has not corrected or has repeated the behavior giving rise to the previously issued Step, or if the employee's behavior otherwise is a serious disruption to the image, morale, production or operations of the organization (see above "*Disciplinary Violations*" for examples). In response, the immediate supervisor shall do the following:

1. Identify the problematic behavior(s);
2. Allow the employee the opportunity to explain the behavior(s) (document statements made), and investigate if necessary;
3. Consult with the Human Resources Department and provide the Human Resources department with written information to support the disciplinary action **before** disciplinary action is taken;
4. Meet with and request that the employee acknowledge a written notice of the unsatisfactory job performance, conduct or behavior. If the employee refuses to sign, document the refusal and note any comments made by the employee;
5. Inform the employee that the behavior(s) has (have) violated disciplinary procedure and must be corrected;
6. Inform the employee that this is a Step 3, "Final Warning" step;
7. Advise the employee of the consequences of continued behavior(s), or other disciplinary violations;
8. Ask the employee if there are any questions; document any questions and answers given;
9. Provide the employee with advice, guidance and clarification to assist in avoiding escalation of the discipline to a more severe Step, with copy to Human Resources;
10. File all documents in the employee's departmental employment file;

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11. Within two days of notice, provide the Human Resources department with a copy of the discipline record (documents described in this step and any previous discipline administered) for the employee personnel file maintained by the College District.

Step 4 – Termination

This level of discipline is in response to (1) behavior which the employee has not corrected or has repeated the behavior giving rise to the previously issued Step, (2) a first offense of a violation listed above under “*Step 4 - Termination*”, (3) an employee’s behavior which is a severe disruption to the image, morale, production or operations of the organization, or (4) a violation of the law or College District policy or Code of Conduct (see above “*Disciplinary Violations*” for examples). In response, the immediate supervisor shall do the following:

1. Identify the problematic behavior(s);
2. Allow the employee the opportunity to explain the behavior(s) (document statements made), and investigate if necessary;
3. Consult with the Human Resources Department and provide the Human Resources department with written information to support the violation **before** disciplinary action is taken;
4. Meet with and request that the employee acknowledge a written notice of the unsatisfactory job performance, conduct or behavior. If the employee refuses to sign, document the refusal and note any comments made by the employee;
5. Inform the employee that the behavior(s) has/have violated disciplinary procedure, resulting in the termination of employment;
6. Inform the employee of no longer being eligible for rehire with the College District in any capacity;
7. Ask the employee if there are any questions; document any questions and answers given;
8. File all documents in the employee's departmental employment file;
9. Within two days of notice, provide the Human Resources department with a copy of the discipline record (documents described in this step and any previous discipline administered) for the employee personnel file maintained by the College District.

NOTE: Terminations are subject to the requirements of Policy [D.10.2](#) and related procedures.

The following procedures apply to the “*Steps*”:

General Procedure

NOTE: Employees may contact Human Resources for assistance and guidance at any step in this procedure.

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1. In the event that an employee violates separate provision(s) of this procedure, the employee is subject to escalation to the next level Step, as appropriate. It is not required that any subsequent Step pertains to the same or similar offense for which any prior Step was issued.
2. The disciplined employee shall be asked to acknowledge receipt for all notices of discipline; if the employee refuses to sign the acknowledgement, the document shall be noted as "Refused to Sign."
3. This procedure does not limit management's ability to coach or otherwise communicate with any employee without regressing "backwards" in the Steps.
4. Management is required to question the employee regarding the problematic behavior prior to any disciplinary action being taken. The employee is not entitled to have a legal or other representative present. If assistance is needed, the Human Resources department can assist to gather related facts.

Escalation of Discipline to Next Step

1. The employee will be subject to escalation to the next Step during the 12 months following an issued corrective discipline.
2. After 12 months without escalation to the next Step, the previously issued discipline will not be used as a basis for escalation to the following Step, except in disciplinary action(s) related to behavior(s) such as discrimination, sexual harassment, violence and/or safety, which may continued to be considered for the duration of the employee's employment with the College District.

Procedure for Progression to Steps 3 and 4

1. A representative of the Human Resources department shall be consulted prior to the discipline being issued.
2. The Human Resources department shall review the disciplinary document prior to being issued to the employee.
3. Within two days of the discipline being issued, a copy of the discipline record shall be forwarded by the immediate supervisor to the Human Resources department to be included in the employee personnel file.

Procedures for Termination of Non-Benefited Employees

The following is the procedure for termination of non-benefited, temporary employees. This information does not create any property rights to assignments or to employment for any individual working in a non-benefited, temporary capacity.

1. Identify the problematic behavior(s).

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2. Unless the employee's behavior(s) warrants immediate termination, the immediate supervisor will notify the employee of the need to correct the problematic behavior(s).
3. The disciplined employee shall be asked to acknowledge receipt for all notices of discipline; if the employee refuses to sign the acknowledgement, the document shall be noted as "Refused to Sign."
4. Upon re-occurrence of the problematic behavior(s), or upon any other disciplinary violation(s), the job assignment may be terminated.
5. A representative from the Human Resources department shall be consulted prior to the termination of the assignment.
6. A representative from the Human Resources department may also be present at the termination meeting.
7. Within two days of the termination, a copy of the discipline record shall be forwarded by the immediate supervisor to the Human Resources department to be included in the employee personnel file.