

COLLEGE OF MICRONESIA-FSM
ADMINISTRATIVE PROCEDURE NO. 6019

Employee Discipline and Protection

Date Adopted: 1 April 1993
 Date Revised: 30 April 2015, 24 May 2012
 Date Reviewed: 11 August 2017
 References: Chapter 15, Human Resources Manual, August 30, 2017

Key Terms You Need to Know for Chapter 15.

- **Disciplinary Action** – an administrative decision made to correct or punish breaches of policies and procedures.
- **2nd Level Administrator**- refers to the manager to whom your immediate supervisor reports, such as a campus dean or office director/dean.
- **Criminal Activity on College Property** –a harmful act forbidden and punishable by law carried out on college property or campus that is harmful not only to some individual or individuals, but also to the college community, society or the state ("a public wrong").

Frequently Asked Questions	
✓ Who will initiate a disciplinary action procedure?	✓ A supervisor will when receiving reports of misconduct or evidence of actions that warrant a disciplinary action for employees under his/her supervision.
✓ Who approves disciplinary actions?	✓ The president
✓ Who will issue me a notice of disciplinary action?	✓ Your immediate supervisor and an administrator in your department or campus (campus dean/director or vice president).
✓ Can I grieve a disciplinary action against me?	✓ Yes, follow Board Policy No. 6021 and its procedures.
✓ Can I access my office and come to my work station while I am being disciplined?	✓ Normally no, refer to your notice of discipline for specific limitations.

The Process for Discipline

An employee may be disciplined by a way of leave without pay, demotion, dismissal or reassignment or other appropriate disciplinary actions resulting from the non-exhaustive list below:

1. *Fraud in securing appointment*
2. *Incompetence*
3. *Inefficiency*
4. *Inexcusable neglect of duty*

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| <ul style="list-style-type: none"> 5. <i>Insubordination</i> 6. <i>Dishonesty</i> 7. <i>Use of or being under the influence of alcohol or other banned or illegal substances on duty</i> 8. <i>Use and Trafficking of Illegal substances/ drugs</i> 9. <i>Unexcused absence without leave</i> 10. <i>Conviction of a felony or misdemeanor involving moral turpitude</i> 11. <i>Discourteous treatment of the public or other employees</i> 12. <i>Misuse of College property</i> 13. <i>Acts of assaultive behavior, whether or not</i> | <ul style="list-style-type: none"> <i>such acts occur on campus property, and whether or not criminal charges are filed or conviction obtained.</i> 14. <i>Racial, religious, or otherwise discriminatory remarks, defamations, or inferences.</i> 15. <i>Theft</i> 16. <i>Failure to properly account for College property in your possession, including money</i> 17. <i>Untruthful statements before any College board or committee</i> 18. <i>Failure to comply with College policies</i> 19. <i>Unsatisfactory performance</i> 20. <i>Unsatisfactory attendance or tardiness</i> |
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The Process to Initiate Discipline

When the supervisor receives reports of misconduct, inappropriate behavior or noncompliance with policy or procedures, he/she will review the reports, gather necessary additional information, verify the all information and determine the level of discipline that fits the conduct and make the written report following the table below.

Table 14.1. Roles, Responsibilities and Disciplinary Options

Individual Roles and Responsibilities
<p>Supervisor</p> <ul style="list-style-type: none"> ✓ Review reports and evidence against relevant current policies and procedures. ✓ If relevant, the supervisor will meet with the concerned employee to get the other side of the story. ✓ Verify all information and make a recommendation in a written memorandum to the second level administrator (director or dean) or vice president. Documents used in the recommendation of proposed discipline will be attached to the memorandum. ✓ When an employee has responded to the discipline carried out against them, the supervisor will give careful and serious consideration to the employee's reply.
<p>Administrator</p> <ul style="list-style-type: none"> ✓ Review memorandum and its supporting documents carefully. ✓ Contact the supervisor who sent the recommendation for any meeting necessary to discuss the proposed action and reports. If the recommendation is endorsed, the administrator will sign off on the proposed discipline memorandum and forward the documents to the relevant vice president(s). It is okay to add a cover memorandum at this level to indicate a careful review and to note additional information added or used at this level.
<p>Vice President</p> <ul style="list-style-type: none"> ✓ Review memoranda and all attachments. ✓ Contact the administrator or supervisor if discussion and additional information is needed. ✓ If endorsing the recommendation, the vice president will sign off on the proposed discipline memorandum and forward all documents to the president for approval.
<p>President</p> <ul style="list-style-type: none"> ✓ Review all documents received. ✓ Consult with legal counsel and/or the director of human resources. ✓ Approve the recommended discipline or amend it as may be relevant. ✓ Note clearly in writing the final approved discipline and return to the vice president to implement with the supervisor.

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Disciplinary Options

- ✓ If the acts reported and if such initial acts indicate on-the-job or personal problem affecting the employee's performance, **informal counseling** may be considered as the first remedy.
- ✓ If the acts reported indicate lack of skills or knowledge of the job or unacceptable habits or practice, **training and/or improvement plans must be developed with the employee to address the issue**. Plan must have specific realistic timelines to allow learning to happen and job performance to improve.
- ✓ **If the acts reported do not fit under the two items above**, then other specific relevant discipline may be recommended including reprimand, oral admonitions, leave without pay, dismissal, reassignment, etc.

When Approved Discipline Is Carried Out

When a disciplinary action has been approved, the supervisor and the 2nd level administrator or vice president will schedule a meeting with the employee and issue the notice.

- The notice shall be in a sealed envelope containing necessary attachments.
- Such attachments will include the reports used in the review and relevant policies and procedures.
- If the disciplined employee is not on island or at work station, the notice may be mailed (certified mail), emailed, or hand delivered. When the notice is hand delivered, an extra copy shall be given to the employee to sign and date to indicate receipt. When appropriate, the security office will be asked to deliver such notices.

Limitation on Disciplinary Actions

No employee of the college shall be subjected to disciplinary action that affects continued employment except for such cause as will promote efficiency of service to the college and for reasons given in writing. Except for extenuating circumstances, the disciplinary action shall not take effect until three days after the date of notification.

What Should Be Included in the Notice of Disciplinary Action

The president may approve the legal counsel to review the actual notice to employee. The notice must advise the employee of their individual rights in matters that lead to disciplinary proceedings per Board Policy No. 6019.

- ✓ *The charges preferred against employee;*
- ✓ *A description of the action to be taken;*
- ✓ *Documentation supporting the action contemplated;*
- ✓ *A written statement of all previous steps taken by the supervisor to resolve the problem, if applicable;*
- ✓ *Notification of the employee's right to respond within three days notification of receipt of the charges;*
- ✓ *The right of the supervisor to respond within three days and make a final decision unless the supervisor informs the employee that she/he needs additional time to make a final decision; and*
- ✓ *Failure of the employee to respond to the charge within three days will immediately initiate the action described in 2.b.3 of Board Policy No. 6019.*

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Documents HRO will Receive for File and Exit Process

When a disciplinary action is carried out against an employee, the supervisor will provide to HRO copies of the notice and all its attachments. When an employee is terminated or placed on leave with or without pay, HRO staff will prepare the relevant Personnel Actions and carry out the normal exit process described in last chapter in this manual.

The Process for Reporting Criminal Activity

When the college finds evidence of—or receives report of—criminal activity on college property or concerning its property, such information will be provided to the president. The president or his designee will make the formal report to the appropriate law enforcement officials at each respective campus. The president may designate the security supervisor or other personnel to maintain contact with law enforcement agencies on matters reported and to lead in the assistance to such agencies.

See Board Policy 6019.