

# Standards of Conduct

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Policy #2.50

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**OBJECTIVE** – Is to promote the well-being of its employees in the workplace and to maintain high standards of professional conduct and work performance. Franklin County requires that all employees will conduct themselves in a manner which reflects favorably upon them as a representative of local government. Accordingly, this policy sets forth (1) standards for professional conduct, (2) behavior that is unacceptable, and (3) corrective actions that agencies may impose to address behavior and employment problems.

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## I. EMPLOYEES TO WHOM POLICY APPLIES

This policy applies to all employment types including full-time and part-time classified and restricted employees.

## II. DEFINITIONS

### A. Corrective action

Any action taken by the County to address employment problems, such as unacceptable performance and/or behavior. Corrective action may range from an informal action such as counseling up to and including discharge.

### B. Counseling

#### 1. Informal documented discussion

Counseling typically consists of an informal documented discussion between an employee and his or her supervisor regarding problems with the employee work performance and/or behavior. The counseling discussion will be documented in a written memorandum maintained by supervisor.

### C. Disciplinary action

An action taken in response to an employee's behavior. Disciplinary actions may range from the issuance of an official Written Notice only to issuance of a Written Notice and termination.

*Disciplinary action also may include demotion or transfer in lieu of termination. In such cases, the County Administrator must initiate a disciplinary salary action. With a disciplinary salary action, employees may be retained in their current positions and have their duties reduced or be moved to positions in the same or lower pay band with less job responsibilities. In either case, the employee's salary may be reduced by at least 10%. In no case may an employee's salary exceed the maximum of the pay band following a disciplinary salary action.*

### D. Standards of conduct

Positive expectations for work performance and workplace behavior.

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## E. Suspension

An employee's absence from work, without pay, that a department imposes as a part of a disciplinary action and/or to remove the employee from the workplace pending (1) an investigation related to his or her conduct, or (2) a court action.

## F. Unacceptable standards of conduct

Unacceptable employee behavior for which specific disciplinary action is warranted.

## III. STANDARDS OF CONDUCT

The following standards are not all-inclusive, but are intended to be illustrative of the minimum expectations for acceptable work performance and workplace behavior.

### A. Attendance

1. Employees should report to work as scheduled.
2. If employees cannot report as scheduled
  - a. Employees should arrange planned absences, including reporting to work late or leaving work early, in advance with supervisors.
  - b. Employees should report unexpected absences, including reporting to work late or having to leave early, to supervisors as promptly as possible.
3. Overtime
  - a. Employees should work overtime hours as directed by their supervisors or management.
  - b. Non-exempt employees (as defined by the Fair Labor Standards Act) should not work overtime without advance authorization from their supervisors.

### B. Satisfactory work performance

1. Employees are expected to meet established performance standards.
2. As needed, supervisors should assist employees in understanding the expectations of these Standards of Conduct and those set forth in employees' Performance Plans.

### C. Compliance with policies

Employees are expected to abide by all policies distributed by Franklin County..

### D. Report circumstances that affect satisfactory work performance

1. Employees should report to their supervisors any conditions or circumstances that prevent satisfactory work performance.

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2. Employees should advise their supervisors of unclear instructions or procedures that may affect satisfactory work performance.

### E. Outside employment

1. Employees may not engage in any other employment in other agencies, outside of County service, in any private businesses, or in the conduct of professions, either:

- a. during the hours for which they are employed to work; or
- b. outside their work hours if such employment is deemed by department heads to affect employees' work performance or to be in violation of the Virginia Conflict of Interests Act.

Employees are required to notify departments of outside employment according to department policies.

3. No property belonging to or under contract to the County may be used for outside employment activities.

## IV. REMOVALS DUE TO CIRCUMSTANCES WHICH PREVENT EMPLOYEES FROM PERFORMING THEIR JOBS

### A. Inability to meet working conditions and job description.

An employee unable to meet the working conditions of his or her employment as specified in his/her job description due to circumstances such as those listed below may be removed under this section. Reasons include, but are not limited to:

1. loss of driver's license that is required for performance of the job;
2. incarceration for an extended period;
3. loss of license or certification required for the job; or
4. conviction of a misdemeanor crime of domestic violence for employees whose jobs require: (a) carrying a firearm; or (b) authorization to carry a firearm.

*NOTE: A "misdemeanor crime of domestic violence" means an offense that: (1) is a misdemeanor under federal or state law; and (2) has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim. (See Title 18, U.S. Code, section 922(g)(9)).*

### B. Due process

Prior to such removal, the appointing authority and/or Human Resources shall gather full documentation supporting such action and shall notify the employee, verbally or in writing, of the reasons for such a

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removal, giving the employee a reasonable opportunity to respond to the charges. Final notification of removal should be via memorandum or letter, not by a Written Notice form.

## V. UNACCEPTABLE STANDARDS OF CONDUCT (OFFENSES)

### A. Not all-inclusive

The offenses set forth below are not all-inclusive, but are intended as examples of unacceptable behavior for which specific disciplinary actions may be warranted. Accordingly, any offense that, in the judgment of department heads, undermines the effectiveness of the County's business may be considered unacceptable and treated in a manner consistent with the provisions of this section.

The offenses listed below are organized into three groups according to the severity of the behavior, with Group I being the least severe.

#### 1. Group I

A first offense in this group could result in a Written Notice. A reoccurrence of an active Group I violation shall normally result in a Group 2 Violation. A third active Standards of Conduct violation shall normally result in discharge. Examples of Group I offenses may include, but are not limited to:

- a. Unsatisfactory attendance or excessive tardiness
- b. Abuse of County time, including, for example, unauthorized time away from the work area, use of County time for personal business, and abuse of sick leave
- c. Use of obscene or abusive language
- d. Inadequate or unsatisfactory work performance
- e. Disruptive behavior
- f. Conviction of a moving traffic violation while using a County-owned or other public-use vehicle

#### 2. Group II

These offenses include acts and behavior that are more severe in nature and as such will warrant more severe discipline than those referred to in Group I and could result in immediate removal. Two Group 2 violations, or a single Group 2 violation coupled with two active Group 1 violations, shall normally result in discharge. Examples of Group II offenses may include, but are not limited to:

- a. Insubordination or failure to follow a supervisor's instructions, perform assigned work, or otherwise comply with established written policy
- b. Violating a safety rule where there is no threat of bodily harm
- c. Leaving the work site during work hours without permission
- d. Failure to report to work as scheduled without proper notice to supervisor(s)
- e. Unauthorized use or misuse of County property or records

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f. Refusal to work overtime hours as required

### 3. Group III

These offenses include acts and behavior of such a serious nature that a first occurrence normally should warrant removal. If the employee is not terminated as a result of the Group III offense, any other violation of the Standards of Conduct, regardless of Group, will justify removal of the employee. Examples of Group III offenses may include, but are not limited to:

- a. Absence in excess of three days without proper authorization or a satisfactory reason
- b. Falsifying any records, including, but not limited to, vouchers, reports, insurance claims, time records, leave records, or other official County documents
- c. Willfully or negligently damaging or defacing County records, County property or property of other persons (including, but not limited to, employees, supervisors, inmates, visitors and residents)
- d. Theft or unauthorized removal of County records, County property, or the property of other persons (including, but not limited to, employees, patients, supervisors, inmates, visitors and students)
- e. Gambling on County property or during work hours
- f. Fighting and/or other acts of physical violence
- g. Violating safety rules where there is a threat of physical harm
- h. Sleeping during work hours
- i. Participating in any kind of work slowdown or similar concerted interference with County operations
- j. Unauthorized possession or use of firearms, dangerous weapons, or explosives
- k. Threatening or coercing persons associated with any County department (including, but not limited to, employees, supervisors, patients, inmates, visitors, and students)
- l. Criminal convictions for illegal conduct occurring on or off the job that clearly are related to job performance or are of such a nature that to continue employees in their positions could constitute negligence in regard to agencies' duties to the public or to other County employees
- m. Violation of the Alcohol and Drug Policy
- n. Violation of the Workplace Harassment Policy
- o. Violation of the Equal Employment Opportunity Policy

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p. Failure of an employee whose job requires carrying a firearm or authorization to carry a firearm to report conviction for a "misdemeanor crime of domestic violence".

### VI. CORRECTIVE ACTION

The County shall support the practice whereby all employees shall be disciplined by the same process. The discipline of an employee shall be a progressive process, where practical. In the attempt to correct unsatisfactory work performance or misconduct, the County shall follow a progressive disciplinary policy except where the County Administrator deems the offense serious enough to warrant immediate dismissal. Disciplinary actions may take any of the following forms and may not necessarily follow the order set forth below:

As soon as a supervisor becomes aware of an employee's unsatisfactory behavior or performance, or commission of an offense, the supervisor and/or management should use corrective action to address such behavior within a reasonable time.

#### B. Which corrective action is appropriate:

The following are possible corrective actions:

1. referral to the employee assistance program or other professional assistance;
2. counseling; and/or
3. disciplinary action.

#### C. Choice of corrective action

Whether a supervisor uses informal counseling or formal disciplinary action depends upon the nature of the behavior and surrounding circumstances. Management should apply corrective actions consistently, while taking into consideration the specifics of each individual case.

##### 1. Employee Assistance Program

*Before the need for, or in addition to, corrective action, supervisors may refer employees to the employee assistance program, as appropriate. Referral to the employee assistance program shall not be considered a substitute for any disciplinary action imposed for the commission of an offense.*

##### 2. Counseling

a. While it is hoped that most performance and behavior problems can be resolved through informal counseling, counseling is not a prerequisite to formal disciplinary action.

b. Counseling should consist of private discussion between employees and their supervisors regarding:

- (1) the desired course of action to improve the employees' performance and/or behavior; and
- (2) supervisors' expectations for employees.

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## c. Documentation of counseling

### (1) Documentation permissible

Counseling may be documented by a letter or memorandum, but not on the Written Notice form.

### (2) Retention of counseling documentation

Documentation regarding counseling should be retained in the supervisors' files, not in employees' personnel files, except as necessary to support subsequent formal disciplinary action.

## II. PROCEDURES FOR IMPLEMENTING DISCIPLINARY ACTIONS

A. Disciplinary action should be used in response to the commission of offenses, and may consist of a Written Notice and:

1. suspension;
2. transfer or demotion along with a disciplinary salary action;
3. and/or termination.

B. Procedures regarding issuance of Written Notices

### 1. Timeliness

Management should issue a Written Notice as soon as possible after an employee's commission of an offense.

### 2. The active life of a Written Notice

The severity of a Written Notice depends upon the type of offense for which it is issued, and is measured by the period for which it is "active", as set forth below.

- a. A Written Notice for a Group I offense is active for two years from its date of issuance to the employee.
- b. A Written Notice for a Group II offense is active for three years from its date of issuance to the employee.
- c. Written Notice for a Group III offense is active for four years from its date of issuance to the employee.
- d. Written Notices that are no longer active shall not be considered in an employee's accumulation of Written Notices, or in determining the appropriate disciplinary action for a new offense.

### 3. Retention of Written Notices

Except as provided below, Written Notices shall be kept in employees' personnel files.

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### 4. Exception to retention of Written Notices in personnel files

- a. A Written Notice may be removed from an employee's personnel file if the County Administrator modifies or vacates its disciplinary action. If, through the grievance procedure, it is determined that the Written Notice issued was not justified, the County Administrator may direct its removal from the employee's personnel file.
- b. A Written Notice removed from an employee's personnel file as mentioned above, shall not be destroyed but shall be retained in a separate section in the personnel file and not be considered in relation to any future disciplinary or other personnel action.

### C. Mitigating circumstances

1. While the disciplinary actions imposed shall not exceed those set forth in this policy for specific offenses, departments may reduce the disciplinary action if there are mitigating circumstances, such as:
  - a. conditions that would compel a reduction in the disciplinary action to promote the interests of fairness and objectivity; or
  - b. an employee's long service or otherwise satisfactory work performance.

### 2. Alternatives to discharge

- a. Mitigating circumstances may result in an employee's demotion or transfer and a disciplinary salary action, and/or suspension, as an alternative to discharge.
- b. When suspension is determined to be the appropriate alternative to discharge by a department, it shall not exceed 30 workdays.

### D. Disciplinary actions for specific offenses should be documented in writing using the most current Progressive Disciplinary Plan Form and Instructions as issued by Human Resources.

## III. ROLE OF THE COUNTY ADMINISTRATOR, OR DESIGNEE

Prior to any action being taken, the County Administrator, or designee, is responsible for:

- a. reviewing all disciplinary actions involving demotion or transfer and disciplinary salary action, suspension or discharge to determine whether mitigating circumstances exist that warrant a modified disciplinary action and/or referral to the employee assistance program; and
- b. making recommendations to the department head regarding the appropriate disciplinary action.

### 1. Advance notice to employees

Prior to any (1) disciplinary suspension, demotion, and/or transfer with disciplinary salary action, or (2) disciplinary removal action, employees must be given oral or written notification of the offense, an explanation of the department's evidence in support of the charge, and a reasonable opportunity to respond.

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### 2. Employee response

Employees must be given a reasonable opportunity to respond after receiving notification.

### 3. Exception to advance notification requirement

a. Management may immediately remove an employee (with pay) from the work area, without providing advance notification, when the employee's continued presence:

- (1) may be harmful to the employee, other employees, or residents;
- (2) makes it impossible for the department to conduct business; or
- (3) may constitute negligence in regard to the department's duties to the public and/or other employees.

b. As soon as possible after an employee's removal from the work area for reasons stated above, management must provide the employee with notification of the intended disciplinary action and evidence of the offense for which the disciplinary action is being contemplated, and provide the employee with a reasonable opportunity to respond before taking any disciplinary action.

### 4. Written notice

A Written Notice form confirming the cause and nature of the disciplinary action, and stating the employee's right to grieve the disciplinary action, shall be provided to any employee who subsequently is disciplined. A copy of the Written Notice shall be placed in the employee's personnel file.

## VIII. PROCEDURES RELATED TO SUSPENSION

### A. Suspended employees' access to premises

Employees on suspension normally shall not be allowed onto any County premises, nor shall they be allowed to work except to fulfill previously scheduled court obligations or to file and process a grievance.

### B. Suspensions pending investigation or court action

#### 1. A suspension may be imposed pending:

- a. an investigation of an employee's conduct by his or her department; or
- b. an investigation involving the employee's conduct by the State Police and/or other federal, state, or local law enforcement agencies, or a court action.

#### 2. Written notice of suspension

Written notification of a suspension pending an investigation or other action should be by memorandum, not by the Written Notice form.

#### 3. Application of accrued annual leave

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- a. At an employee's request, and at the department's option, the employee's accrued annual leave may be charged to the period of suspension pending an investigation or court action so that he or she does not experience a loss of earnings, provided that the employee has sufficient accrued annual leave.
- b. If, following the conclusion of the investigation, the department determines that a disciplinary action, such as disciplinary suspension or discharge, is not appropriate, any accrued annual leave that was applied to the period of suspension pending investigation or court action shall be reinstated.

4. The department determines that a disciplinary suspension is warranted

If during, or upon the conclusion of, the period of an employee's suspension pending an investigation or court action, the department determines that a disciplinary suspension is warranted, the disciplinary suspension shall begin immediately, and the period of suspension that the employee has served pending the investigation or court action shall count towards the period of disciplinary suspension.

5. Provisions specific to suspension pending department investigation

- a. Length of suspension

- (1) The period of suspension pending a department investigation shall be limited to ten workdays.
  - (2) If the department does not make a decision regarding disciplinary action within ten workdays, the employee shall be permitted to return to work pending completion of the department investigation.

- b. The investigation concludes no employee misconduct

If the department investigation clears the employee of any misconduct, the department shall reinstate the employee with back pay for the period of suspension.

6. Provisions specific to suspension pending investigation by law enforcement agencies or pending a court action

- a. Length of suspension

The ten day limit on the period of suspension that applies to suspensions pending department investigations shall not apply if:

- (1) the court action or investigation by law enforcement agencies involves alleged criminal misconduct that occurred either on or off the job; or
  - (2) the misconduct under investigation is of such a nature that to retain the employee in his or her position could constitute negligence in regard to the department's duties to the public and other County employees.

- b. Treatment of suspended employee upon conclusion of investigation or court action.

Upon the conclusion of the investigation by law enforcement agencies or of the court action, the department has the discretion to:

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- (1) impose disciplinary action, including discharge; or
- (2) not to impose discipline, in which case the employee must be reinstated with full back pay.

### C. Suspension of FLSA exempt-employees.

*Exempt employees' salaries may not be reduced as the result of a suspension except as described in this section. Employees should be reimbursed promptly for any disciplinary salary reductions that are non-compliant.*

1. Disciplinary suspension of an exempt employee for an infraction of a safety rule of major significance may be applied for less than a full workday or workweek.
2. If an exempt employee is suspended pending an investigation by the department or by law enforcement, or pending a court action, the employee must be paid for any partial workweek suspensions. Full workweeks of suspension pending investigation are unpaid.
3. If an exempt employee is suspended for disciplinary reasons (Written Notice issued) related to the employee's attendance or performance problems unrelated to workplace conduct, the suspension shall be not less than a full workweek and will coincide with the regular workweek. Suspensions of more than one workweek will be in multiples of full workweeks, e.g., a two-week (75-hour) suspension. An employee may not be permitted to serve a suspension related to attendance or performance other than in whole workweek segments. Less serious violations in these areas should be addressed by other means of discipline reserving suspension for the most serious or repeated violations.

### D. Department heads are considered "At-Will" and serve at the pleasure of the County Administrator or designee.

### E. Pay and benefits during suspension

The provisions regarding compensation and benefits set forth below apply to suspensions, whether initiated pending an investigation or court action, or imposed for disciplinary reasons.

1. Compensation
  - a. All suspensions are without pay, except that employees suspended pending an investigation or court action may be allowed to use accrued annual leave to receive pay.
  - b. Department heads should notify Human Resources immediately upon suspending employees, and upon subsequent demotions or transfers with disciplinary salary actions, discharges, or reinstatements so that payroll and personnel management information system records reflect accurate data.
2. Performance increases and annual leave accrual
  - a. Performance Increases

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Employees' eligibility for performance increases may be affected by the time on suspension in accordance with Performance Review and Evaluation.

- b. Projected date of increase in annual leave accrual rate

Suspensions exceeding 14 calendar days shall affect an employee's length of service for purposes of annual leave accrual.

### 3. Annual and "traditional" sick leave accrual

An employee on suspension will not accrue annual or "traditional" sick leave.

### 4. Traditional Sick Leave

- a. Employees who are suspended for disciplinary reasons may not access their Sick Leave benefits.

- b. Employees who are terminated for disciplinary reasons are not eligible to receive accrued Sick Leave benefits.**

### 5. Insurance

#### a. Health insurance

(1) A suspended employee's health insurance coverage continues until the end of the month in which the suspension began, except that there shall be no break in coverage if the employee is reinstated in time to work half of the workdays in the following month.

(2) If the length of the period of suspension results in a break in health insurance coverage, the suspended employee may retain his or her group insurance coverage during the time of suspension by paying the monthly insurance premiums (both the employee's and County's contribution) in advance.

(3) Upon reinstatement

(a) If a department reinstates a suspended employee with back pay for any period of the suspension, the department shall make appropriate refund(s) to the employee for the County portion of any health insurance premiums that he or she paid to continue coverage during the suspension.

(b) If a department reinstates a suspended employee without back pay, there shall be no reimbursement for any portion of health insurance premiums that he or she paid to continue coverage.

#### b. Life insurance

Life insurance coverage may continue for the time of the suspension, with the department making the full contribution.

## X. DISTRIBUTION OF THIS POLICY AND SUPPLEMENTAL DEPARTMENT POLICIES

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Departments shall make available to employees copies of this policy.

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