08.510 – SPA DISCIPLINARY ACTION, SUSPENSION, AND DISMISSAL

Authority: Chancellor

History: Effective January 1, 2004
Supersedes September 1, 1999

Source of Authority: OSP State Personnel Manual Section 7; N.C.G.S. §126-35.

Responsible Office(s): Human Resources

I. Purpose

It is the intent of this policy to provide state employees and managers a fair, clear, and useful tool for correcting and improving performance problems, as well as to provide a process to assist management in handling cases of gross inefficiency and unsatisfactory personal conduct.

II. Scope

This policy applies to SPA employees who have permanent or time-limited appointments and have attained career status.

Career Status is defined as a state employee who has a permanent position appointment and has been continuously employed by the state of North Carolina in a position subject to the State Personnel Act for the immediate preceding 24 months.

Advisory Note: While the state policy does not apply to non-career state employees, the UNC-Wilmington policy applies to any SPA employees (regardless of occupation, position, or profession). Non-career state employees whose job performance is unsatisfactory or whose personal conduct is detrimental to the University may be dismissed without the right of appeal or hearing. The probationary employee must be given written notice of dismissal including reasons thereof.

III. Policy

A. General Statement

To ensure that disciplinary action, suspension, and dismissal are administered as uniformly as possible throughout the university, every attempt should be made by the department head to contact Human Resources during the disciplinary process. Human Resources will provide advice and counseling to ensure disciplinary action is appropriate.

A brief description of the steps in the disciplinary process will be given in this procedure. Upon request, Human Resources will provide further information including, but not limited to, the following:
1. Items to be discussed in private conferences held with an employee in conjunction with disciplinary action.

2. Documentation requirements.

3. Items to be included in a written warning to an employee.

4. Items to be included in a dismissal letter to an employee.

5. Procedures regarding reinstatement of a suspended employee.

6. Action to be taken if no decision is made at the end of an investigatory suspension.

B. Intent of Policy

Supervisors should be aware that the principal objective of the policy is to assist and promote improved employee performance, rather than to punish, and that it is the supervisor’s responsibility to inform employees of personnel policies and expected work and conduct standards, and to give employees an opportunity to correct the basis for disciplinary action unless the circumstances or behavior is of a serious or injurious nature.

C. Employee Assistance Program

The Employee Assistance Program (EAP) provides the supervisor and the employee an additional tool to use in addressing and correcting performance inadequacies. (See Policy HR 4.20.) At any point in the disciplinary process, the supervisor or employee may use the EAP with the intent that such usage may help the employee in making necessary performance improvements. However, the fact that the employee is seeking the assistance of EAP does not suspend any disciplinary processes.

D. Dismissal and Demotion Proceedings Tests

Supervisory personnel should address as completely as possible the following tests before and during employee dismissal proceedings:

1. Show that work assignments and job requirements are reasonable and clearly conveyed to the employee.

2. Show that failure to perform work assignments or attain job requirements is directly attributed to the employee’s unwillingness or inability.

3. Show that alternative disciplinary actions (short of dismissal) were considered and why they are not deemed adequate.

E. Employee’s Right of Appeal

In cases of written warnings, suspension without pay, demotion, or dismissal, a permanent employee has 15 calendar days to appeal the decision through the University Grievance and Appeal Procedure. (See Policy HR 6.20 for further instructions.)
A permanent or probationary employee, regardless of whether or not they have attained career status, who alleges discrimination or harassment on the basis of race, religion, color, creed, national origin, sex, age, political affiliation, disability, sexual orientation, or marital status may file an appeal to Human Resources within 30 calendar days from the date of alleged discrimination or harassment. Appeals based on race, religion, color, creed, national origin, sex, age, political affiliation, and disability may appeal directly to the State Personnel Commission within 30 calendar days from the alleged discrimination.

IV. Just Cause for Disciplinary Actions

A. General Provisions

What is "Just Cause"?
There are two bases for establishing just cause for the discipline or dismissal of employees. These two reasons are:

1. unsatisfactory job performance, including grossly inefficient job performance, and
2. unacceptable personal conduct.

Just Cause exists when an employee displays performance or personal conduct which is determined to be unsatisfactory. With unacceptable personal conduct, for example, just cause exists when an employee displays conduct which a reasonable person would consider insubordination or conduct unbecoming a state employee (on the job or directly job-related). See section D.3. for other examples of unacceptable personal conduct and grossly inefficient job performance. With unacceptable job performance, just cause exists when the supervisor's coaching and reinforcing has not produced the desired improvements in the employee’s work product. See section D.2. for more examples of unacceptable job performance. Some actions by an employee fall under both reasons. No disciplinary action shall be invalid solely because the disciplinary action is labeled incorrectly.

When can disciplinary action be taken?
When just cause exists, any career state employee, regardless of occupation, position, or profession may be warned, demoted, suspended, or dismissed by the appointing authority.

What type of disciplinary action can be taken?
The degree and type of action taken shall be based upon the sound and considered judgment of the employing university according to this policy. When just cause exists, the disciplinary actions that can be taken are:

1. written warning
2. disciplinary suspension without pay
3. demotion, and
4. dismissal
B. Unsatisfactory Job Performance

What is just cause for unsatisfactory job performance?
Any work related performance problem may establish just cause to discipline an employee for unsatisfactory job performance. Just cause for a warning or other disciplinary action for unsatisfactory job performance occurs when an employee fails to satisfactorily meet job requirements.

Advisory Note: Factors Recommended for Consideration
The determination of unsatisfactory performance is generally made by the supervisor. The supervisor’s determination should be reasonable, rational, and factually supported. In determining whether an employee’s performance is unsatisfactory job performance, a manager should consider any one or a combination of the factors listed below:

1. the quality of work
2. the quantity of work
3. work habits
4. promptness
5. the timely performance of work
6. related analysis, decisions, or judgment

1. the accuracy of work
2. the performance or work plan and the appraisal
3. absenteeism
4. ability to follow instructions, directions, or procedures
5. the appropriateness of work performed
6. any other factors that, in the opinion of the supervisor, are appropriate to determine whether an employee’s performance constitutes unsatisfactory job performance

What is required before a disciplinary action for unsatisfactory job performance may be taken?
Before a disciplinary action for unsatisfactory job performance may be taken, the following must occur:

Written Warning
Before a written warning for unsatisfactory job performance, the employee must have:

1. a current unresolved incident of unsatisfactory job performance

Disciplinary Suspension Without Pay
Before a disciplinary suspension without pay for unsatisfactory job performance, the employee must have:

1. a current unresolved incident of unsatisfactory job performance
2. at least one prior active warning or other disciplinary action for unsatisfactory job performance, or gross inefficiency, or unacceptable personal conduct and
3. a pre-disciplinary conference
Demotion
Before a demotion for unsatisfactory job performance, the employee must have:

1. a current unresolved incident of unsatisfactory job performance and
2. at least two prior active warning or other disciplinary action for unsatisfactory job performance, or gross inefficiency, or unacceptable personal conduct and
3. a pre-disciplinary conference

<table>
<thead>
<tr>
<th>Disciplinary Actions Available for Unsatisfactory Job Performance</th>
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<tbody>
<tr>
<td>Type of Disciplinary Action</td>
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<td>----------------------------</td>
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<tr>
<td>Employee has:</td>
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<tr>
<td>1. a current unresolved</td>
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<tr>
<td>incident of unsatisfactory</td>
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<tr>
<td>job performance</td>
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<tr>
<td>Warning</td>
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<tr>
<td>Disciplinary Suspensions</td>
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<tr>
<td>Without Pay</td>
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<tr>
<td>Demotion</td>
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<tr>
<td>Dismissal</td>
</tr>
</tbody>
</table>

C. Grossly Inefficient Job Performance/Unacceptable Personal Conduct

What is just cause for grossly inefficient job performance?
Just cause to warn or take other disciplinary action for grossly inefficient job performance exists when job performance is so unsatisfactory that it causes or results in death or serious injury to employees, members of the public, or to persons for whom the employees have responsibility.

Just cause to warn or take other disciplinary action for grossly inefficient job performance is also created when job performance is so unsatisfactory that it causes or results in a serious loss of or damage to state property or funds adversely impacting the state, agency, and/or the work unit.

Failure to obtain or maintain legally required certificates, licenses, bonds, or other credentials is treated like grossly inefficient job performance. Thus, an employee may receive a warning or any other disciplinary action up to and including dismissal.
What is just cause for unacceptable personal conduct?
Just cause to warn or take other disciplinary action for unacceptable personal conduct may be created by intentional or unintentional acts. The conduct may be job related or off duty so long as there is a sufficient connection between the conduct and the employee’s job. Insubordination is a type of unacceptable personal conduct.

What is required before a disciplinary action for gross inefficiency or unacceptable personal conduct may be taken?
Before a disciplinary action for gross inefficiency or unacceptable personal conduct may be taken:

Warning
Before a warning for grossly inefficient job performance or unacceptable personal conduct, the employee must have:

1. a current unresolved incident of grossly inefficient job performance or unacceptable personal conduct.

Disciplinary Suspension Without Pay
Before a disciplinary suspension without pay for grossly inefficient job performance or unacceptable personal conduct, the employee must have:

1. a current unresolved incident of grossly inefficient job performance or unacceptable personal conduct and
2. a pre-disciplinary conference.

Demotion
Before a demotion for grossly inefficient job performance or unacceptable personal conduct, the employee must have:

1. a current unresolved incident of grossly inefficient job performance or unacceptable personal conduct and
2. a pre-disciplinary conference

Dismissal
Before a dismissal for grossly inefficient job performance or unacceptable personal conduct, the employee must have:

1. a current unresolved incident of grossly inefficient job performance or unacceptable personal conduct and
2. a pre-disciplinary conference.
## Disciplinary Actions Available for Unacceptable Personal Conduct or Grossly Inefficient Job Performances

<table>
<thead>
<tr>
<th>Type of Disciplinary Action</th>
<th>Prior Incidents</th>
<th>Pre-Disciplinary Conference</th>
</tr>
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<tbody>
<tr>
<td>Employee has:</td>
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<tr>
<td>1. a current unresolved incident of unacceptable personal conduct or gross inefficiency</td>
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<tr>
<td>Employee has:</td>
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<tr>
<td>1. at least one prior active warning (any type), or 2. other active disciplinary action (any type)</td>
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<tr>
<td>Employee has:</td>
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<tr>
<td>1. at least two active warnings (any type), or 2. two other active disciplinary actions (any type), or 3. one active warning and one disciplinary action (any type)</td>
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</tbody>
</table>

### Advisory Note: Factors Recommended for Consideration

When a pre-disciplinary conference is conducted for a recommended type of disciplinary action, but after the conference, the manager decides to take disciplinary action of a lesser degree of seriousness than the one for which the conference was held, it is not required that the agency conduct an additional pre-disciplinary conference as long as the employee was notified and had the opportunity to be heard with respect to the less serious disciplinary action. However, it is permissible for the manager to conduct such an additional pre-disciplinary conference if the university determines that it would be appropriate under the circumstances, or if the employee requests the additional opportunity to be heard. For example, if a pre-dismissal conference is conducted and management decides to demote rather than dismiss, it would not be necessary to conduct a pre-demotion conference, unless management or the employee believes that there are relevant issues that could not have been addressed or were not addressed in the previous pre-dismissal conference or the employee was not notified of the possibility of a lesser degree of disciplinary action.

### V. Disciplinary Procedures

#### A. General Provisions

**Supervisor’s Role in Discipline**
The supervisor has the duty to review and encourage satisfactory job performance by employees...
of their work unit. A supervisor also has the duty to address cases of unacceptable personal conduct.

Advisory Note: When a supervisor determines that an employee has violated this policy, the supervisor should examine a number of factors to decide the appropriate type of disciplinary action. Among the factors are:

1. Whether the supervisor should recommend disciplinary action based on the facts
2. Whether more investigation is needed to make a recommendation
3. The type and degree of disciplinary action to be taken
4. The employee’s work history
5. The disciplinary actions received by other employees within the agency/work unit for comparable performance or behaviors
6. Other relevant factors

<table>
<thead>
<tr>
<th>Appropriate Time Limits for Periods of Disciplinary Suspension</th>
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<tbody>
<tr>
<td>Type of Employee</td>
</tr>
<tr>
<td>Subject to the Overtime Compensation Provisions of the Fair Labor Standards Act</td>
</tr>
<tr>
<td>Exempt from the Overtime Compensation Provisions of the Fair Labor Standards Act</td>
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</tbody>
</table>

Supervisor’s Role in Warnings
In cases of unsatisfactory job performance, a written warning is the first type of disciplinary action that an employee may receive. After the first unsatisfactory job performance warning, a supervisory may give additional warnings or a higher level of disciplinary action.

The supervisor may give a written warning for grossly inefficient job performance or unacceptable personal conduct. However, this policy does not require a written warning before management takes other disciplinary action in these types of cases.

B. Written Warning

Contents of a Written Warning
A warning shall:

1. Be in writing and state that it is a warning.
2. Tell the specific conduct or performance that is the reason for the warning.

3. Tell the specific performance or conduct improvements that must be made.

4. Tell the time within which the employee must show improved performance or conduct. If the Warning does not include an improvement or correction time frame, the time frame is 60 days for unacceptable job performance or immediately for grossly inefficient job performance or unacceptable personal conduct.

5. Tell the consequences of failing to make the required improvements or corrections.

6. Tell the employee of any appeal rights provided by university policy or state law.

Advisory Note: Generally, employees cannot appeal warnings to the State Personnel Commission. However, they are grievable under university policy, if the employee delivers a written notice of appeal to Human Resources within 15 calendar days of receipt of a Warning. The employee’s notice of appeal must state the grounds on which the appeal is based.

C. Disciplinary Suspension Without Pay

When can an employee be placed upon disciplinary suspension without pay?
A disciplinary suspension without pay for an employee who is subject to the overtime compensation provisions of the Fair Labor Standards Act (FLSA) must be for at least one full work day, but may not be for more than ten days at UNC-Wilmington. The length of a disciplinary suspension without pay for an employee who is exempt from the overtime compensation provisions of the FLSA must be for at least one full work week, but may not be for more than two full work weeks.

Procedure for a Disciplinary Suspension Without Pay
Before an employee is placed on disciplinary suspension without pay, a supervisor must:

1. Schedule and conduct a pre-disciplinary conference. The supervisor must give advance oral or written notice of the conference to the employee. The notice must tell the employee the type of disciplinary action (disciplinary suspension) being considered, the conference time and location, and the facts that warrant consideration of a disciplinary action. Advance notice should be as much as practical under the circumstances.

2. Give the employee a statement in writing telling the acts or failure to act that are the reason for the suspension and telling the employee of their appeal rights.

Advisory Note: Career Status employees who are suspended, demoted, or dismissed have appeal rights to The State Personnel Commission.

D. Demotion

1. When can an employee receive a demotion?
   An employee may be demoted as a disciplinary measure. Demotion may be made on the basis
of either unsatisfactory or grossly inefficient job performance or unacceptable personal conduct. Before the decision to demote an employee for disciplinary reasons, a conference must be scheduled with the employee in accordance with the procedural requirements of this policy.

a) Unsatisfactory Job Performance
   An employee may be demoted for a current incident of unsatisfactory job performance after the employee has received at least two prior warning or disciplinary action.

b) Grossly Inefficient Job Performance
   An employee may be demoted for grossly inefficient job performance without any prior warning or disciplinary action.

c) Personal Conduct
   An employee may be demoted for unacceptable personal conduct without any prior warning or disciplinary action.

2. Disciplinary demotions may be accomplished by any of the three methods below:

<table>
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<tr>
<th>Methods for Implementing A Demotion</th>
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<tbody>
<tr>
<td>Grade Change</td>
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<tr>
<td>------------------------</td>
</tr>
<tr>
<td>Lowering the grade</td>
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<tr>
<td>Lowering the grade</td>
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<tr>
<td>Retaining the grade</td>
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</table>

3. Procedure for a Demotion
   Before demotion of an employee, a supervisor must:

   a) Schedule and conduct a pre-disciplinary conference. They must give advance oral or written notice of the conference to the employee. The notice must tell the employee the type of disciplinary action (demotion) being considered, the conference time and location, and the facts that led to the consideration. Advance notice should be as much as practical under the circumstances;

   b) Tell the employee if the demotion will change the employee’s salary rate and/or pay grade and if so what change will occur in the salary rate and/or pay grade;

   c) Give the employee a statement in writing telling the acts or failures to act that are the reason for the demotion and telling the employee of their appeal rights.

Advisory Note: While this policy authorizes advance oral or written notification of a demotion or a suspension without pay, the better practice is to give the notice in writing so that if there is a
dispute about the notice, both the employee and the supervisor will have documentation of the fact that the notice was given and that the other policy requirements were met.

Advisory Note: Career Status employees who are suspended, demoted, or dismissed have appeal rights to The State Personnel Commission.

E. Dismissal

1. When can an employee be dismissed?
   Any employee may be dismissed as a result of unsatisfactory job performance, grossly inefficient job performance, or unacceptable personal conduct. Before the decision to dismiss for disciplinary reasons is made, a management representative must conduct a pre-disciplinary (dismissal) conference with the employee according to procedural requirements of this policy.

   a) Unsatisfactory Job Performance
      An employee must have at least two prior warnings or other disciplinary actions, or one of each, before dismissal for a current incident of unsatisfactory job performance.

   b) Grossly Inefficient Job Performance
      An employee may be dismissed for a current incident of grossly inefficient job performance without any prior disciplinary actions.

   c) Unacceptable Personal Conduct
      An employee may be dismissed for a current incident of unacceptable personal conduct without any prior disciplinary actions.

2. Required Consultation
   The supervisor recommending dismissal must discuss the recommendation with the employee’s PMP Reviewer (not less than Department Director). Decisions made as a result of Pre-Disciplinary Conference must be approved by Human Resources.

3. Person Conducting the Pre-disciplinary Conference
   The person conducting the pre-disciplinary conference must be either the First Supervisor or PMP Reviewer who has the authority to recommend or decide what, if any, disciplinary action should be imposed on the employee.

   a) Procedure for Pre-Disciplinary Conferences

      (1) Procedure for Dismissal

         Before dismissal of an employee, a supervisor must:

         1) Schedule and conduct a pre-disciplinary conference. They must give advance written notice of the conference to the employee. The notice must tell the employee the type of being considered (dismissal), the conference time and location, and facts that led to the consideration for disciplinary action. Advance notice should be as much as practical under the circumstances;

         2) The people that are part of the conference are:
a. The supervisor or other person in the chain-of-command or Human Resources;

b. The employee;

c. if the person conducting the conference chooses, security may be present;

d. No attorney shall represent either side at the conference.

(2) During the Conference

During the conference, the person conducting the conference must:

1) Give to the employee oral or written notice of the consideration for dismissal including the specific reasons for the proposed dismissal and a summary of the facts supporting the dismissal considered.

2) Give the employee an opportunity to respond with information against the considered dismissal, offer facts that are different from those offered by management and offer facts in support of the employee’s case. This policy does not give an employee the right to have witnesses at the conference.

(3) Following the Conference

After the conference, management shall:

1) Review and consider the response of the employee and make a decision on the considered dismissal.

2) Not communicate the decision before the start of the next business day after the conference.

3) If management decides to dismiss, the employee shall receive a written letter of dismissal either in person or by certified mail with return receipt requested. The letter must include:

a. The reason for the dismissal

b. The effective date of the dismissal
   The effective date of the dismissal shall be no sooner than the date of the written notice and no later than 14 calendar days after the written notice. When dismissal is for unsatisfactory job performance, management may give an employee pay in lieu of the 14 day notice or any part of that notice.

c. The employee’s right to appeal
(4) Failure to Follow Procedure

Failure to give written reasons for the dismissal, written notice of appeal rights, or to conduct a pre-dismissal conference is a procedural violation. If a manager fails to follow procedure, the agency shall be subject to the rules of the Commission dealing with procedural violations.

The time for filing a grievance as a result of a dismissal does not start until the employee receives a written notice of any applicable appeal rights.

F. Special Provisions

A. Sunset Rules

The following Sunset Rules establish the force and effect of disciplinary actions in existence upon the effective date of this policy:

1. Oral Warnings
   Any oral warning existing January 1, 1999 is deemed void and has no further force or effect upon the disciplinary status of any UNCW SPA employee.

2. All Other Disciplinary Actions
   Any other warning or disciplinary action existing as of January 1, 1999, shall remain in full force and effect as if the warnings or other disciplinary actions had been imposed under this policy. No written warning or other disciplinary action imposed prior to January 1, 1999 shall be deemed inactive by operation of the provisions of this policy until more than 18 months after January 1, 1999, or until the disciplinary action is otherwise deemed inactive in accordance with definition.

3. Extension of Disciplinary Actions
   Any written warning or disciplinary action imposed prior to the adoption of this policy may be extended in accordance with the provisions of this policy as if the warning or disciplinary action had been imposed after the effective date of the policy. No unresolved written warning or disciplinary action issued under the prior policy shall become inactive if, within 18 months of the effective date of this policy, another disciplinary action or warning is imposed on the employee or management acts to extend the active status of a disciplinary action. Notice of the extension of the active status of a disciplinary action can be given at any time within the 18 months of the effective date of the disciplinary action.

4. Resolution of Disciplinary Actions
   Under Prior University Procedure
   Any warnings or disciplinary actions existing at the time that this policy is adopted shall be deemed inactive if it would have been resolved under the university procedure existing at the time of the adoption of this policy.
Advisory Note: Extension of Disciplinary Actions
Notice of extension of active status of a disciplinary action can be given at any time within 18 months of the effective date of the disciplinary action. A disciplinary action may be made inactive at any time deemed appropriate by management.

B. Investigatory Placement With Pay

How do you place an employee on investigatory status?
Management must notify an employee in writing of the reasons for investigatory placement not later than the second scheduled workday after the beginning of the placement. An investigatory placement with pay may last no more than 30 calendar days without written approval of extension by the Chancellor and the State Personnel Director. When an extension beyond the 30 day period is required, the university must advise the employee in writing of the extension, the length of the extension, and the specific reasons for the extension. If no action has been taken by the university by the end of the 30 day period and no further extension has been granted, the university must either take appropriate disciplinary action on the basis of the findings upon investigation or return the employee to active work status. Under no circumstances is it permissible to use placement on investigation status for the purpose of delaying an administrative decision on an employee’s work status pending the resolution of a civil or criminal court matter involving the employee.

What are the reasons to place an employee on investigatory status with pay?
An employee may be placed on investigatory status with pay only:

1. To investigate allegations of performance or conduct deficiencies that would constitute just cause for disciplinary action; or

2. To provide time within which to schedule and conduct a pre-disciplinary conference; or

3. To avoid disruption of the work place and/or to protect the safety of persons or property.

C. Credentials

By statute, regulation, and administrative rule, some duties assigned to positions in the State service may be performed only by persons who are duly licensed, registered, or certified as required by the relevant law or policy. All such requirements and restrictions are specified in the statement of essential qualifications or recruitment standards for classifications established by the State Personnel Commission.

1. Obtaining and Maintaining Credentials

Employees in such classifications are responsible for obtaining and maintaining current, valid credentials as required by law, rule, or regulation. Failure to obtain or maintain the legally required credentials constitutes a basis for immediate dismissal without prior warning, consistent with dismissal for unacceptable personal conduct or grossly inefficient job performance. An employee who is dismissed for failure to obtain or maintain credentials shall be dismissed under the procedural requirements applicable to dismissals for unacceptable personal conduct or grossly inefficient job performance.
2. Falsification of Credentials

Falsification of employment credentials or other documentation in connection with securing employment constitutes just cause for disciplinary action. When credential or work history falsification is discovered after employment with a State agency or university, action shall be administered as follows:

a. If an employee was determined to be qualified and was selected for a position based on falsified work experience, education, registration, licensure, or certification information that was a requirement of the position, the employee must be dismissed in accordance with Grossly Inefficient Job Performance/Unacceptable Personal Conduct provisions.

b. In all other cases of post-hiring discovery of false or misleading information, disciplinary action will be taken, but the severity of the disciplinary action shall be at the discretion of the Chancellor.

c. When credential or work history falsification is discovered before employment with the university, the applicant shall be disqualified from consideration for the position in question.

D. Right of Appeal

Every disciplinary action shall include notification to the employee in writing of any applicable appeal right.

1. Grievances

Warnings are grievable under university policy. However, warnings, extensions of disciplinary actions, and periods of placement on investigation, and placement on investigation with pay are not appealable to the State Personnel Commission --absent a violation of G.S. 126-25.

The university shall furnish to the employee, as an attachment to the written documentation of any grievable disciplinary action, a copy of the university’s grievance procedure.

2. Waiver of Appeal Rights

If a warning or disciplinary action is grievable within the university or to the State Personnel Commission, and the employee fails to timely grieve the warning or disciplinary action, the employee is deemed to have waived the right to contest the validity of a warning or disciplinary action.

E. Transfer of Disciplinary Action

When an employee transfers to another department or unit within the university, any active written warnings or disciplinary actions will transfer with the personnel file of the employee and will
remain in full force at the new work unit until removed by the new supervisor or made inactive by operation of this policy.

VI.   Policy Responsibilities

A.    UNC-Wilmington

1.    Assure the satisfactory performance of work assigned by an employee of the work unit. The supervisor’s determination is presumed to be reasonable and factually supported.

2.    Maintain acceptable personal conduct for each employee.

3.    Impose a disciplinary action when in the judgment of the supervisor the employee has engaged in conduct or performance prohibited by this policy.

4.    This policy is consistent with the policy of the STATE PERSONNEL COMMISSION.

5.    Human Resources will inform university supervisors and employees of the changes in Disciplinary Action, Suspension, and Dismissal relevant to this policy by:

   a) disseminating copies of this policy to each department for inclusion in departmental policy manuals

   b) including this policy on Human Resources departmental web page (www.uncwil.edu/hr)

   c) regularly providing training sessions for both supervisors and employees in conjunction with Human Resources Staff Training and Development’s Spring and Fall Training Catalog.

   d) As requested, Human Resources will provide one-on-one advice and counsel to supervisors and employees related to specific incidents of discipline, suspension, and dismissal.

6.    Human Resources is responsible for insuring the administration of disciplinary actions in a manner that is equitable and free of unlawful discrimination throughout the university.

7.    Time periods associated with this policy:

   a) Disciplinary Suspensions without pay shall be 1 to 10 days for SUBJECT employees and 1 to 2 weeks for EXEMPT employees.

   b) All disciplinary actions shall be maintained in the employee’s personnel file for a period of 18 months. At such time, the supervisor has the prerogative to either maintain or remove the disciplinary action from the employee’s file.
c) Any UNC-Wilmington employee may access his or her personnel file upon request during regularly scheduled office hours.

8. Human Resources maintains records related to discipline, suspension, and dismissal in the employee’s Performance Management file. The Director of Employment & Compensation is responsible for annually providing the Office of State Personnel information and statistics on the discipline and dismissal processes of UNC-Wilmington in a form prescribed by the Office of State Personnel.

9. The following Human Resources personnel are trained in administration of this policy:
   a) Director Employment & Compensation
   b) Employment Services Coordinator
   c) Director of Human Resources Administration
   d) Director of Human Resources

B. Office of State Personnel

The Office of State Personnel shall:

1. Review the internal grievance/discipline/dismissal policies of agencies and universities.

2. Provide for training in administration of State Personnel Commission grievance/discipline/dismissal policy.

3. Provide technical assistance and advice to agencies and universities.

4. Review agency and university compliance.

5. Establish reasonable benchmarks for program performance.

6. Report and make recommendations to the State Personnel Commission on the discipline and dismissal process.

C. State Personnel Commission

The State Personnel Commission shall:

1. Review the report and recommendation of OSP on the status of discipline and dismissal process.

2. Prescribe corrective measures or impose sanctions on any agency or university that:
   a) Fails to comply with this policy
b) Fails to report in a format prescribed by the Office of State Personnel

c) Fails to administer the discipline and dismissal process in a manner that is fair to all parties, equitable, free of unlawful discrimination, and maintains discipline.

VII. Definitions

For the purposes of this policy, the terms below mean the following:

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
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<tbody>
<tr>
<td>Current Unresolved Incident</td>
<td>An act of unacceptable personal conduct, unsatisfactory job performance or grossly inefficient job performance for which no disciplinary action has previously been taken by the university.</td>
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<tr>
<td>Disciplinary Demotion</td>
<td>A personnel action that:</td>
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<td>1. lowers the salary grade of an employee within their current pay grade, or</td>
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<td>2. places the employee in a position at a lower pay grade with or without lowering the employee’s salary, and</td>
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<td></td>
<td>3. the action was involuntary and the action was taken to discipline the employee.</td>
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<tr>
<td>Disciplinary Suspension Without Pay</td>
<td>The removal of an employee from work for disciplinary reasons without paying the employee.</td>
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<tr>
<td>Dismissal</td>
<td>The involuntary termination of the employment of an employee for disciplinary reasons or for failure to obtain or maintain necessary job related credentials.</td>
</tr>
<tr>
<td>Gross Inefficiency (Grossly Inefficient Job Performance)</td>
<td>Failure to satisfactorily perform job requirements as set out in the job description, work plan, or as directed by the management of the work unit or university, and, the act or failure to act causes or results in:</td>
</tr>
<tr>
<td></td>
<td>1. death or serious bodily injury or creates conditions that increase the chance for death or serious bodily injury to an employee(s) or to members of the public or to a person(s) for whom the employee has responsibility for; or,</td>
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<td></td>
<td>2. the loss or damage to state property or funds that results in a serious adverse impact on the State and/or work unit.</td>
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<tr>
<td>Inactive Disciplinary</td>
<td>A disciplinary action taken after October 1, 1995 becomes inactive;</td>
</tr>
<tr>
<td>Action</td>
<td>i.e., cannot be counted towards the number of prior disciplinary actions that must be received before further disciplinary action can be taken for unsatisfactory job performance when:</td>
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<td>--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
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<td></td>
<td>1. the manager or supervisor notes in the employee’s personnel file that the reasons for the disciplinary action has been resolved or corrected; or,</td>
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<td></td>
<td>2. for performance-related disciplinary actions, the performance evaluation process documents a summary rating that reflects an acceptable level of performance overall and satisfactory performance in area cited in the warning or other disciplinary action, or</td>
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<td></td>
<td>3. eighteen (18) months have passed since the issuance of the warning or disciplinary action, the employee does not have another active warning or disciplinary action which occurred within the last 18 months; and the university has not, prior to the expiration of the 18-month period, issued to the employee notice of the extension of the period.</td>
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<td></td>
<td><strong>Insubordination</strong></td>
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<tr>
<td></td>
<td><strong>Unacceptable Personal Conduct</strong></td>
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<td></td>
<td>1. conduct for which no reasonable person should expect to receive prior warning; or</td>
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<td></td>
<td>2. job-related conduct which constitutes a violation of State or federal law; or</td>
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<td></td>
<td>3. conviction of a felony or an offense involving moral turpitude that is detrimental or impacts the employee’s service to the State; or</td>
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<td>4. the willful violation of known or written work rules; or</td>
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<td></td>
<td>5. conduct unbecoming a State employee that is detrimental to State service; or</td>
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<td></td>
<td>6. the abuse of client(s), patient(s), student(s), or person(s) over whom the employee has charge or to whom the employee has responsibility or of an animal owned by the State; or</td>
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<td></td>
<td>7. absence from work after all authorized leave credits and benefits have been exhausted; or</td>
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<td></td>
<td>8. falsification of a State application or in other employment documentation.</td>
</tr>
</tbody>
</table>

Advisory Note: Disciplinary actions issued for unsatisfactory job performance, including gross inefficiency, or for unsatisfactory personal conduct are all subject to becoming inactive for the purposes of counting towards the number of prior disciplinary actions needed for further...
disciplinary action after the expiration of an eighteen month period without additional disciplinary action or extension, or if removed by the agency because of the determination that the issue addressed by the warning or other disciplinary action has been resolved.