

<b>CHAPTER:</b>	<b>7 – CONDUCT AND PERFORMANCE</b>	<b>ADOPTED: 3/7/06</b>
<b>SECTION:</b>	<b>3 – DISCIPLINE</b>	<b>REVISED: 2/5/20</b>

Corrective, disciplinary action, as appropriate, will be taken against any employee found to be in violation of established policies or for just cause.

All disciplinary action shall be based upon total concern for the employee, the employee's relationship with his/her fellow workers, the employee's relationship with his/her department head, and the best interests of the County. Such disciplinary action shall be of a positive, educative, and corrective nature, and shall not be used in an abusive or vindictive manner.

Discipline is considered to be major or minor. Minor discipline is a formal written reprimand or a suspension or fine of 5 or less days (see 4A:2-3.1). Major discipline shall include:

- (1) Removal
- (2) Disciplinary Demotion
- (3) Suspension or fine (see 4A:2-2.2 for more details)

An employee may be subject to discipline for:

1. Incompetency, inefficiency or failure to perform duties;
2. Insubordination;
3. Inability to perform duties;
4. Chronic or excessive absenteeism or lateness;
5. Conviction of a crime;
6. Conduct unbecoming a public employee;
7. Neglect of duty;
8. Misuse of public property, including motor vehicles;
9. Discrimination that affects equal employment opportunity (as defined in N.J.A.C. 4A:7-1.1), including sexual harassment;

10. Violation of Federal regulations concerning drug and alcohol use by and testing of employees who perform functions related to the operation of commercial motor vehicles, and State and local policies issued thereunder;
11. Violation of New Jersey residency requirements as set forth in P.L. 2011, c. 70; and
12. Other sufficient cause.

(4A:2-2.3)

Discipline shall be progressive in nature and includes the following actions:

- Informal, private discussion with the Supervisor and/or Department
- Written Warning by the Department Head/designee or the Human Resources Director
- Suspension without Pay
- Monetary Fine
- Termination of Employment

The Disciplinary Memorandum (HR 7.3 Exhibit U) should be used to document progressive discipline. In steps one through four shown above, the Department Head, or designee as applicable, and employee must develop a jointly written improvement plan for the employee. The plan shall include time frames for the completion of the plan and for progress reviews. The Employee Performance Evaluation (H.R. 7.1 Exhibit T) should be used for this purpose.

In instances where such action seems warranted, employees may be referred to the Employee Assistance Program (EAP). Please note that the employee remains responsible for making the required job improvement whether or not he/she agrees to participate in EAP.

In certain circumstances, discipline may be imposed outside of progressive discipline upon the seriousness and egregiousness nature of the offense. Termination of County employment will only take place for just cause or the expiration of a statutory term from an appointed position.

Please refer to the appropriate HR Chapter 7 sections for further guidance on disciplinary matters.

**Department Head/designee:**

Is responsible for taking appropriate action any time an employee's behavior or performance raises any question about the employee's ability or physical condition to do

his/her job safely and properly.

Should discuss the problem and the intended action first with the Human Resources Director understanding that disciplinary action shall only be implemented in instances where grounds for such action have been fully documented and are warranted.

Handles employees exhibiting behavior problems, like any other disciplinary problem, as discreetly as possible.

Gives the employee a chance to explain, selecting a private location out of the hearing range of other employees.

Offers the employee the opportunity for union representation and makes the necessary arrangements.

Confines questions and statements to specific performance and behavior, and does not ask about drug or alcohol use. However, the department head may ask the employee if he/she is taking any medication which might affect behavior.

Arranges for transportation home for the employee if necessary.

Should discuss the performance problem with the employee, and if appropriate, describe the available EAP services which are a supplement to, but not as a substitute for, disciplinary action (please see HR 5.10 titled “Employee Assistance Program”).

Makes any EAP referrals tactfully and privately. A public referral could expose the employer to claims of defamation, intentional infliction of emotional distress, invasion of privacy, or other legal action.

Makes the employee aware that participation in EAP is strictly voluntary and confidential.

Should point out to the employee that attendance in the EAP program is not a substitute for actual improvement in job performance.

Advises employees that the rules against drug, narcotic, or alcohol usage will be enforced even though the County maintains an EAP program to help abusers. In fact, documentation of poor performance and of disciplinary action can be a positive influence in helping a Department Head convince an employee to seek help and in responding to recalcitrant employees who resist their treatment in an EAP.

Sets an appropriate schedule and performance standards for improving the employee's behavior and inform the employee that he or she can be discharged if the performance does not improve. The department head should then make a record of the discussion.

Ensures copies of the jointly written improvement plan (H.R. 7.1 Exhibit T and 7.3 Exhibit U) are on file within the department and are given to the employee and the Human Resources Director for the employee's personnel file.

**Do's and Don'ts**

DON'T try to diagnose personal issues.

DON'T moralize. Limit criticism to job performance, interpersonal relationships with fellow employees, tardiness, or unusual bizarre behavior (problems within management's purview).

DON'T be misled by "con" stories or sympathy evoking tactics at which problem employees and emotionally disturbed persons excel.

DON'T "cover up" for a good acquaintance or a "friend." Remember behavioral and/or emotional disorders are progressive illnesses that may be fatal if left untreated.

DO emphasize that you, the Department Head/designee, are concerned only with job performance.

DO, if in doubt at any point, consult with the Employee Assistance Program at (877) 747-1200.