



# Discipline Policy

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### 1. Purpose

This policy is intended to establish the reasons, types, and determining factors for disciplinary actions within the County’s disciplinary model. Additionally, the policy is intended to provide guidance to facilitate efficiency while ensuring employee conduct and performance issues are addressed in a transparent, consistent, solution-focused, and effective manner.

### 2. Applicability

This policy applies to Buncombe County employees who have achieved covered status employment and are subject to the authority of the County Manager. Where there is conflict with any department-specific policy, this document will supersede.

### 3. Policy

3.1. Buncombe County Government adheres to a disciplinary model with structured, transparent, and fair practices to efficiently address undesirable employee performance and conduct.

#### 3.2. Considerations, Content, and Approval Requirements for Disciplinary Actions

The determination of the appropriate type of disciplinary action and the just cause reason is made by the supervisor and departmental management, in consultation with Human Resources. All disciplinary actions must be approved by Human Resources prior to issuance and use an approved written format.

- All written notices of disciplinary action will include:
  - The type of disciplinary action (written warning, suspension without pay, disciplinary demotion, or dismissal).
  - The just cause reason (unsatisfactory job performance, grossly inefficient job performance, or unacceptable personal conduct).
  - The date of issuance.
  - The active period of the disciplinary action and if the disciplinary action extends the active period for other active disciplinary actions.
  - Notice of any right to appeal in accordance with the disciplinary appeal procedure.
  - Notice if the action and/or written notice is a matter of public record pursuant to N.C. Gen. Stat. §153A-98(b) or as amended.

**3.3. Types Disciplinary Action:**

There are four types of disciplinary action within the County's disciplinary model:

- written warning
- suspension without pay
- disciplinary demotion
- dismissal

<b>Types of Disciplinary Action</b>	<b>Details (including appropriate use, disciplinary procedural requirements, and applicable FLSA/pay implications)</b>
<b>Written Warning</b>	<ul style="list-style-type: none"> <li>• A written warning may be a result of unsatisfactory job performance or unacceptable personal conduct. A written warning may not be a result of grossly inefficient job performance.</li> </ul>
<b>Suspension without Pay</b>	<ul style="list-style-type: none"> <li>• A suspension without pay may be a result of unsatisfactory job performance, grossly inefficient job performance, or unacceptable personal conduct.</li> <li>• A pre-disciplinary conference must be held prior to a suspension without pay.</li> <li>• A 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 not more than two work weeks. The length of a 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 not more than two full work weeks. The length of a suspension for an employee on a non-forty-hour week/schedule shall be calculated in shifts, but no more than the equivalent of two work weeks.</li> </ul>
<b>Disciplinary Demotion</b>	<ul style="list-style-type: none"> <li>• A disciplinary demotion may be a result of unsatisfactory job performance, grossly inefficient job performance or unacceptable personal conduct.</li> <li>• A pre-disciplinary conference must be held prior to a disciplinary demotion.</li> <li>• A disciplinary demotion is an involuntary job change intended to assign the employee to a suitable position as a result of the employee's performance deficiencies or conduct violations. Disciplinary demotions may involve reclassifying the employee's existing position or transferring the employee to another position and may be at the same pay grade or to a lower pay grade.</li> <li>• A disciplinary demotion to a position with a lower pay grade will result in a decrease in the employee's pay rate in accordance to the Employee Pay Policy.</li> </ul>
<b>Dismissal</b>	<ul style="list-style-type: none"> <li>• A dismissal may be a result of unsatisfactory job performance, grossly inefficient job performance or unacceptable personal conduct.</li> <li>• A pre-disciplinary conference must be held prior to dismissal.</li> </ul>

**3.4. Just Cause Reasons for Disciplinary Actions:**

There are three just cause reasons to issue disciplinary action within the County’s disciplinary model. An employee who has achieved covered status employment with the County may only be disciplined for the following just cause reasons:

- unsatisfactory job performance
- grossly inefficient job performance
- unacceptable personal conduct.

<b>Unsatisfactory Job Performance</b>								
<b>Description</b>	When an employee fails to satisfactorily meet work-related performance expectations or job requirements							
<b>Intent of action</b>	To prompt permanent improvement in job performance by providing the employee with formal written notice that clearly documents current performance deficiencies, recent efforts to address deficiencies, and forthcoming corrective action intended to support the employee in performing at a satisfactory level							
<b>Typical application, including but not limited to:</b>	<ul style="list-style-type: none"> <li>• Failure to produce work of acceptable quality, quantity, accuracy, promptness, or by established deadlines</li> <li>• Deficiencies in demonstrating job knowledge, competence, engagement, autonomy, sound judgement, analysis, or decision-making</li> <li>• Insufficient or inappropriate teamwork, customer service, service delivery, or communication to ensure efficient operations</li> <li>• Failure to follow established work processes, documented instructions, or standard procedures</li> <li>• Absenteeism, tardiness, or other abuses of work time</li> </ul>							
<b>Requirements for disciplinary actions</b>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%;">Performance Improvement Plan</td> <td>An employee will be issued Performance Improvement Plan to address Unsatisfactory Job Performance prior to receiving disciplinary action due to Unsatisfactory Job Performance</td> </tr> <tr> <td>Written Warning</td> <td>An employee who has been issued a Performance Improvement Plan to address Unsatisfactory Job Performance within the prior 12 months may be issued a Written Warning due to Unsatisfactory Job Performance</td> </tr> <tr> <td rowspan="2">Serious Disciplinary Actions (including suspension without pay, disciplinary demotion, or dismissal)</td> <td>An employee who has one active Written Warning may receive a Written Warning from their Department Director or pre-disciplinary conference recommendation for serious disciplinary action due to Unsatisfactory Job Performance</td> </tr> <tr> <td>An employee who has two active Written Warnings or who has been demoted or suspended without pay in the prior 12 months will receive a pre-disciplinary conference recommendation for serious disciplinary action due to Unsatisfactory Job Performance</td> </tr> </table>	Performance Improvement Plan	An employee will be issued Performance Improvement Plan to address Unsatisfactory Job Performance prior to receiving disciplinary action due to Unsatisfactory Job Performance	Written Warning	An employee who has been issued a Performance Improvement Plan to address Unsatisfactory Job Performance within the prior 12 months may be issued a Written Warning due to Unsatisfactory Job Performance	Serious Disciplinary Actions (including suspension without pay, disciplinary demotion, or dismissal)	An employee who has one active Written Warning may receive a Written Warning from their Department Director or pre-disciplinary conference recommendation for serious disciplinary action due to Unsatisfactory Job Performance	An employee who has two active Written Warnings or who has been demoted or suspended without pay in the prior 12 months will receive a pre-disciplinary conference recommendation for serious disciplinary action due to Unsatisfactory Job Performance
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<b>Grossly Inefficient Job Performance</b>			
<b>Description</b>	When an employee engages in unsatisfactory job performance that is so egregious or creates such serious adverse impact to County operations or services that immediate measures are warranted to prevent further disruption, damage, or liability		
<b>Intent of action</b>	To ensure that County operations and services are not further subjected to adverse outcomes related to the employee’s performance and to implement appropriate actions in response to the matter		
<b>Typical application, including but not limited to:</b>	<ul style="list-style-type: none"> <li>• Degree of harm, or chance of harm or injury to an employee, member of the public, or person for whom the employee has responsibility</li> <li>• Amount of loss or damage to County property or resources</li> <li>• Significance of adverse implications to the County’s finances, operations, staffing, or service delivery</li> <li>• Extent or seriousness of liability created for the County</li> <li>• Impact to the County’s reputation as an entity vs. the reputation of an individual</li> <li>• Expected duration of adverse impact and/or reasonable length of time or effort necessary to recover</li> </ul>		
<b>Requirements for disciplinary actions</b>	Performance Improvement Plan	An employee will not receive a Performance Improvement Plan due to Grossly Inefficient Job Performance	
	Written Warning	An employee will not receive a Written Warning due to Grossly Inefficient Job Performance	
	Serious Disciplinary Actions (including suspension without pay, disciplinary demotion, or dismissal)	An employee will receive a pre-disciplinary conference recommendation for serious disciplinary action due to Grossly Inefficient Job Performance	
		<i>*If the decision following the pre-disciplinary conference is to issue a written warning, then the reason for the action should be either unacceptable personal conduct or unsatisfactory job performance (no prerequisite performance improvement plan is required)</i>	

<b>Unacceptable Personal Conduct</b>		
<b>Description</b>	When an employee engages in conduct that undermines their creditability as a representative of the County and the County’s Core Values	
<b>Intent of action</b>	To require the employee to immediately bring their conduct in line with expectations and County policy	
<b>Typical application, including but not limited to:</b>	<ul style="list-style-type: none"> <li>• Conduct for which no reasonable person should expect to receive a prior warning</li> <li>• Conduct unbecoming an employee that is detrimental to the County’s service, regardless of the conduct occurring on-duty or off-duty</li> <li>• Conduct which undermines the employee’s credibility or ability to perform their job provided there is sufficient connection between the conduct and the employee’s employment</li> <li>• Job-related conduct which constitutes a violation of federal, state, or local law</li> <li>• Conviction of an offense that negatively impacts the employee’s service to the County or negatively affects the public’s trust and confidence in the County</li> <li>• Willful violation of known or written workplace policies or procedures</li> <li>• Insubordination, which includes the refusal or willful failure to carry out a reasonable directive from an authorized supervisor and refusal to cooperate in an internal investigation</li> <li>• Falsification of an employment application or other documentation related to position requirements</li> <li>• Misuse or abuse of resources, equipment, or access to systems and information</li> <li>• Failure to obtain or maintain any required job qualification, license, registration, or certification</li> <li>• Disrespectful behaviors, including but not limited to:                             <ul style="list-style-type: none"> <li>– Offensive and inappropriate remarks, gestures, material, and behavior</li> <li>– Comments or actions that groups people or isolates individuals along personal characteristics that result in negative or inappropriate stereotyping</li> <li>– Aggressive or patronizing behavior, yelling, or belittling</li> <li>– Embarrassing or humiliating behavior, damaging gossip or rumors</li> <li>– Covert behavior, i.e., inappropriately withholding information, undermining, underhandedness</li> <li>– Behaviors that impede organizational priorities, such as excessive resistance to change, or fixation on nonnegotiable or historical issues</li> <li>– Reporting frivolous or vindictive allegations</li> <li>– Using intimidation tactics or making implied or explicit threats</li> <li>– Bullying of any form, including physical, verbal, social, cyber bullying</li> </ul> </li> </ul>	
<b>Requirements for disciplinary actions</b>	Performance Improvement Plan	An employee may receive a Performance Improvement Plan due to Unacceptable Personal Conduct
	Written Warning	An employee with no active disciplinary actions may receive a Written Warning due to Unacceptable Personal Conduct
	Serious Disciplinary	<b>3.5</b> An employee with no active disciplinary actions or one active Written Warning may receive a pre- <b>disciplinary</b>

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	Actions (including suspension without pay, disciplinary demotion, or dismissal)	conference recommendation for serious disciplinary action due to Unacceptable Personal Conduct
		An employee who has two active Written Warnings or who has been demoted or suspended without pay in the prior 12 months will receive a pre-disciplinary conference recommendation for serious disciplinary action due to Unacceptable Personal Conduct

**3.5 Requirements for Pre-disciplinary Conferences:**

- A pre-disciplinary conference will be held when a recommendation is made for serious disciplinary action.
- The conference will include the employee, the Department Director (or designee) responsible for the recommendation, an Assistant County Manager or the County Manager for Department Directors and other executive level positions as determined by the County Manager,) and the Human Resources Director (or designee).
- An employee will be provided written notice of the pre-disciplinary conference in advance, given as much time as is practical under the circumstances, but no less than one business day, and allowed appropriate time and resources, if requested, to prepare for the conference.
- No legal representation on the employee’s behalf will be allowed to attend the pre-disciplinary conference.
- No recording devices are allowed to be used during the pre-disciplinary conference.
- Written notice of the pre-disciplinary conference provided to the employee must:
  - State the conference is a pre-disciplinary conference and the time, date, and location of the conference;
  - Provide clear, concise, and objective documentation of the specific issues that are the bases for the pre-disciplinary conference;
  - Indicate if the employee has other active disciplinary actions, including the reason, type, and date of issuance of each action;
  - State that disciplinary action is being recommended, but no decision has been made; and
  - Inform the employee that the purpose of the conference is to allow the employee the opportunity to respond to the specific issues addressed in the letter and provide any other relevant information to the County Manager (or designee).
- Following the conference, the Assistant County Manager/County Manager will be allowed sufficient time to consider all relevant information prior to reaching a decision.
- The employee will be informed of the outcome of the pre-disciplinary conference as soon as practical under the circumstances. If disciplinary action is issued as a result of the pre-disciplinary conference, the employee will be provided written notice as soon as practical under the circumstances.

**3.6 Active Period for Disciplinary Actions:**

- Disciplinary actions are designated as active for one year following the date of issuance. However, if an employee uses more than the sum of 31 workdays (or equivalent work shifts) or more of leave for any reason (except holidays and inclement weather) during

the one year active period, then the active period of the disciplinary action will be extended accordingly.

- If an employee receives a new disciplinary action while the employee has an active disciplinary action, the active period of the oldest disciplinary action will be adjusted accordingly to remain active for the duration of the active period of the new disciplinary action. The disciplinary actions do not have to be related in content, reason, or type.
- Inactive disciplinary actions are not counted toward progressive disciplinary processes but remain documented in an employee’s personnel file. Inactive disciplinary actions are subject to reasonable and proportional consideration regarding employment decisions related to an employee’s overall performance record. In general, disciplinary actions for unsatisfactory job performance issued more than five years ago should be regarded as historical information.

**3.7 Right to Appeal:**

Every disciplinary action must include written notice to include of any right to appeal in accordance with the Disciplinary Policy Procedures.

**4. Policy Non-Compliance**

Employees willfully violating the terms and conditions of this policy may be subject to appropriate disciplinary action, up to and including dismissal.

**5. Audit**

All policies for Buncombe County may be subject to audit or review as outlined in the [Internal Auditor’s Statement](#).

**6. Definitions**

6.1 Covered Status – Please refer to the Personnel Ordinance covered status definition.

**7. Approval and Revision History**

Policy Origination Date:	November 7, 2023
Requires Board Approval:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Board Approval Date:	November 7, 2023
Revision History:	