

SECTION 406: DISCIPLINE POLICY

406.1: POLICY: It is the policy of Black Hawk County to support the efficient delivery of services through an orderly and disciplined work force and to protect the interests of the citizens of Black Hawk County, all County employees, and the good will and property of Black Hawk County. The purpose of the County's Discipline Policy is to provide a framework for the uniform and objective treatment of an employee who has completed his/her probationary period when disciplinary action is deemed necessary. The objective of disciplinary action is to correct behavior and to produce efficient County operations rather than merely to punish wrongdoers; however, failure of the employee to modify behavior and to conform to standards of job performance or conduct may result in disciplinary action up to and including discharge from employment.

406.2 SCOPE: This policy applies to all Black Hawk County employees except for those covered by the Civil Service process. This policy is not intended to abrogate the appointing authority's discretion to discipline and/or terminate an "at will" employee. Whenever the provisions of this policy are in conflict with federal codes, with the Code of Iowa, or with a collective bargaining agreement between the County and a certified bargaining unit, the provisions of the collective bargaining agreement and/or the codes will prevail.

406.3 CAUSES FOR DISCIPLINARY ACTION: The following is an illustrative but not comprehensive list of types of behavior for which disciplinary action such as oral or written warning, disciplinary suspension, demotion, or discharge may be taken:

- A. Disobedience or insubordination. Insubordination occurs when employees unreasonably refuse to obey the orders or follow the instructions of their supervisors. It also occurs when employees, through their actions or words, show disrespect toward their supervisors.
- B. Incompetence, inefficiency, or negligence in the performance of duties.
- C. Dishonesty or theft of County property or the property of other employees or non-employees.
- D. Receiving two (2) consecutive overall performance evaluation ratings of either "unsatisfactory" or "below average";
- E. Conviction of a crime involving moral turpitude or that is closely or directly related to the ability of the employee to perform his/her job effectively;
- F. Failure to maintain a satisfactory attendance record as a result of unauthorized or excessive absences (including late arrival and/or early departure) from work or improper or excessive use of sick leave or other types of leave;

- G. Violation of Section 401, "Work Rules," of this handbook;
- H. Violation of Section 402, "Computer, Internet, and Email Usage Policy," of this handbook;
- I. Violation of Section 403, "Discrimination, Harassment and Retaliation Policy," of this handbook;
- J. Violation of Section 404, "Workplace Violence Policy," of this handbook;
- K. Violation of Section 405, "Drug and Alcohol-Free Workplace Policy," of this handbook;
- L. Violation of Section 412, "Social Media Policy," of this handbook;
- M. Operating County equipment or vehicles without proper license or permit, failure to maintain any required license or permit, or failure to notify the County of loss of any such license or permit;
- N. Falsification, alteration, deletion of required information or failure to include material information on any application for employment or County record; or
- O. Any other act that is not in the best interest of the employer.

406.4 LEVELS OF DISCIPLINE: Discipline of employees shall be accompanied by written notice of the specific acts or omissions upon which the discipline is based. The 'Notice of Disciplinary / Investigatory Action' Form is sufficient. When appropriate, a system of progressive, corrective action will be followed to provide an employee the opportunity to correct an inappropriate behavior and to provide more serious consequences in those situations where an employee chooses not to correct the behavior. Progressive discipline generally shall consist of a counseling session, written warning, suspension and termination.

Nothing in this policy shall imply that the steps of progressively more serious discipline must be followed in order. The seriousness of each offense shall be judged on its own merits and will determine the level of discipline administered. The progressive disciplinary procedure may be applied whether or not the series of job performance or behavior problems are related.

A. **COUNSELING:** The supervisor shall meet with the employee to discuss the unacceptable behavior or performance standards not being met. The purpose of this meeting is to educate the employee on acceptable behavior or performance standards. Reviewing County policies or departmental policies and procedures should be a part of this meeting. A written record of the discussion, noting the date, event and remedial action should be placed in the employee's personnel

file.

B. **WRITTEN WARNING:** In the case of a more serious offense or in the case where an employee's performance or conduct has not improved as a result of a counseling session, the supervisor shall issue a written warning.

C. **DISCIPLINARY SUSPENSION:** In the case of serious or intentional offenses, or in the case where an employee's performance or conduct has not improved as a result of prior discipline, an employee may be suspended without pay by the Department Head. The employee shall receive a written notice of the suspension that documents the specific acts or omissions upon which the discipline is based.

Employees who are classified as exempt under the Fair Labor Standards Act (FLSA) shall not be subject to suspension without pay for periods of less than one (1) work week unless the disciplinary reason meets one of the exceptions provided for by the FLSA.

D. **DISCHARGE/TERMINATION:** When other forms of disciplinary action have proven ineffective, or the seriousness of the offense or condition warrants it, a Department Head may discharge a regular employee. If the situation requires an investigation, the employee may be placed on investigatory leave.

E. **INVESTIGATORY LEAVE:** Department Heads may choose to place an employee on leave while an investigation concerning the employee is taking place that may include investigations involving dishonesty, discrimination, harassment or retaliation, theft or misappropriation of County funds or property, violence on the job, gross safety negligence or acts of endangering others. This list is not meant to be exhaustive. The leave will be confirmed in writing utilizing the 'Notice of Disciplinary / Investigatory Action' Form.

1. The employee is formally placed on investigatory leave, typically without pay, pending discharge. To place an employee on investigatory leave, there must appear to be cause for discharge based upon information available prior to the completion of the Human Resources Department's investigation.

2. Upon notification of an employee being placed on investigatory leave, the Human Resources Department shall conduct an investigation of the allegations and submit a confidential written investigation report and recommendation to the affected Department Head and the Board of Supervisors. If the investigation exceeds fourteen (14) calendar days from when the employee was placed on unpaid investigatory leave, the employee shall be placed in pay status beginning on the employee's next regularly scheduled workday thereafter. An employee shall be reimbursed for all lost base pay if the employee is not placed on disciplinary

suspension or discharged as a result of the investigation. If the results of the investigation result with no fault to the employee, the 'Notice of Disciplinary / Investigatory Action' form shall be removed from the employee's personnel file.

3. If the investigation finds that discipline or discharge is warranted, the Department Head shall meet with the employee to review the reasons for discipline or discharge. The employee may have a witness present; however, such person may not serve as an advocate for or speak for the employee. The Department Head shall submit a written notice of the discipline or discharge to the employee and the Human Resources Department, which will be maintained in the employee's personnel file.

The County reserves the right to alter the order of discipline described above, to skip disciplinary steps, to eliminate disciplinary steps, or to create new and/or additional disciplinary steps. Although the progressive system of discipline may be used in appropriate circumstances, there may be other circumstances in which termination is appropriate, regardless of whether any other possible types of discipline have been used.

406.5 ADMINISTRATIVE PROCEDURES:

A. NOTICE OF DISCIPLINARY ACTION: When a supervisor or Department Head determines that a formal disciplinary action is warranted, the form "Notice of Disciplinary/ Investigatory Action" shall be completed. The form shall be signed by the supervisor or Department Head and the affected employee. Copies of the "Notice of Disciplinary/ Investigatory Action" shall be given to the employee and forwarded to the Human Resources Department and union representative, when applicable.

B. ADMINISTRATION OF DISCIPLINARY ACTION: Excluding discharge, disciplinary action taken against an employee will be issued by his/her immediate supervisor or by a higher-level supervisor in the department to which the employee is assigned. Discharge will be issued by the employee's Department Head.

C. DISCIPLINARY ACTION RECORDS: Documents pertaining to counseling sessions, written warnings, disciplinary suspensions, and discharges shall permanently remain in the employee's personnel file.

In choosing the appropriate level of disciplinary action, the supervisor or Department Head may consider any number of the following points, and depending upon the circumstances, give some considerations more weight than other considerations—or no weight at all:

- the nature and seriousness of the offense;
- the employee's employment record, including length of service, work record, and history of misconduct;
- the length of time since any previous disciplinary action(s);
- the strength of the evidence against the employee;
- the employee's attitude about the conduct;
- the employee's ability and willingness to correct the conduct;
- how the employee's conduct affects coworkers, department operations, the public, etc.; and
- any other circumstances deemed relevant by the supervisor or Department Head.

D. **CONFIDENTIALITY:** Disciplinary actions, investigations, and their determinations are considered confidential and disclosed only to those individuals who have a legitimate reason to know. Inappropriate disclosure of information related to pending or past disciplinary actions shall be subject to disciplinary action. The Human Resources Department will disclose information as necessary to complete an investigation and only in accordance with this policy.

E. **OPEN RECORD NOTICE:** Pursuant to Iowa Code section 22.15, an employee who is demoted, discharged, or resigns in lieu of being discharged, is hereby notified that the facts of the demotion, discharge or resignation will be public record. In addition, any documentation showing the reasons or rationale for the disciplinary action will be public records and disclosed should any member of the public request the records.