

MANUAL OF PROCEDURE

PROCEDURE NUMBER:	2410
PROCEDURE TITLE:	Performance and Disciplinary Standards, Disciplinary Appeal Process, and Complaint Process for Full-Time Employees
STATUTORY REFERENCE:	FLORIDA STATUTE 1001.64
BASED ON POLICY:	II-71: All Full-Time Non-Instructional Personnel: Performance Standards and Grievances/Appeals
EFFECTIVE DATE:	January 10, 1978
LAST REVISION DATE:	September 13, 2005; July 9, 2013; June 9, 2016; July 2023; May 13, 2024; October 4, 2024
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I. PURPOSE

To provide college-wide performance and disciplinary standards for full-time employees as well as an appeal process and complaint process to address employee concerns that inappropriate discipline was administered to the employee or College regulations/procedures have not been followed or that state/federal regulations have been violated. All references herein to the Vice Provost of Human Resources or other specific position shall mean that position or his/her designee.

II. PERFORMANCE STANDARDS

The administration of the performance standards is the responsibility of the Vice Provost of Human Resources. Performance standards are based upon the validated job descriptions established by Human Resources.

Performance standards stated below are enforced by the department/business unit. Work rules apply to all personnel.

The College administration is committed to pursuing fair and objective means to correct and improve employee performance. The College has a formal employee performance review process. The performance review process is designed to provide an accurate assessment of an employee's work performance as well as adherence to College rules, policies and procedures.

When corrective measures are necessary to improve performance, disciplinary standards may be initiated at the department level and escalated through established chain of command to campus leadership as appropriate.

The performance standards are published on the Miami Dade College Employee Portal at

www.mdc.edu/procedures. Each employee shall sign a statement acknowledging receipt of this notice and the statement shall be placed in the employee's official Human Resources employee file. In addition, College procedures and the Employee Handbook are to be reviewed with employees at the time of hire or transfer/promotion into a business unit ([New Employee Supervisor Checklist](#)).

III. DISCIPLINARY STANDARDS

1. When a situation occurs which requires corrective measures, the immediate supervisor will promptly review the facts of the case, conduct initial conversations with employees involved, and determine what action will be taken in accordance with the Levels of Progressive Discipline to address performance or behavioral violations of College [policies](#) and [procedures](#). Depending on the severity of the infraction involved, the initial action may involve disciplinary action, up to and including termination. Beyond verbal counseling, supervisors shall discuss/request formal disciplinary action documentation with the Division of Human Resources as appropriate.
 - a. **Counseling:** Counseling should be used to correct a minor rule infraction or when the rule violation is the first occurrence. Counseling, as administered by the supervisor at the observance or reported incident, should be constructive and may be delivered verbally or in a written format. Verbal counseling may be memorialized informally. A written format may be more appropriate to reinforce previous verbal counseling, coaching and other efforts to encourage corrective action when the employee's performance and/or behavior fails to meet specified expectations.
 - b. **Written Reprimand:** This action, formally documented in collaboration with the Division of Human Resources, may be applied to situations where counseling has been ineffective, and/or warrants a written reprimand due to the nature of the action/behavior or procedural violation. A copy of the reprimand will be provided to the employee and placed in the Human Resources employee file.
 - c. **Probation:** Department leadership, upon review of the situation and in consultation with leadership as may be appropriate, may determine corrective measures are warranted. These may include a period of probation or warrant a formal performance improvement plan (PIP), not to exceed 90 workdays. Probation and/or a PIP must be formally documented in collaboration with the Division of Human Resources and with the approval of the Vice Provost of Human Resources. If the employee's performance during the designated probationary period does not improve, appropriate disciplinary action may be taken. If warranted, the disciplinary action may be taken before the conclusion of the designated probationary period.
 - d. **Suspension Without Pay:** This action, formally documented in collaboration with the Division of Human Resources, and with the prior approval of the Vice Provost for Human Resources, is utilized based on the severity or frequency of the unsatisfactory performance, behavior and/or procedural violation(s). The suspension without pay may range from one (1) to five (5) workdays. A copy of such action shall be provided to the employee and a copy shall be placed in the Human Resources employee file.
 - e. **Administrative Leave with (or without) Pay:** Depending on the circumstances and/or severity of the violation, department leadership may determine that an employee shall be

placed on administrative leave with (or without) pay while an investigation is being conducted. During administrative leave with (or without) pay the employee must be available at all times during his/her regular working hours. Final disciplinary action, if any, will be determined in collaboration with the Division of Human Resources and will be based on the findings of the investigation.

Only full-time employees may be placed on administrative leave with pay. Employees may also be reassigned to different responsibilities and/or work locations during an investigation in lieu of administrative leave at the discretion of the Campus President/Vice Provost in consultation with the Vice Provost of Human Resources.

- f. **Termination:** This action will typically be taken as a result of persistent and/or severe infractions, or failure to successfully complete a probationary period. Termination requires the approval of the Vice Provost of Human Resources.

IV. STANDARDS OF CONDUCT

Standards have been established so that employees are aware of the College's expectations with respect to their conduct. The College has established in writing, rules and guidelines, and policies and procedures for employees which serve as standards of conduct.

1. Summarized below are representative offenses that may lead to counseling, written reprimand, probation, suspension and/or possible termination:
 - a. Willful violations or disregard for safety, fire, traffic, or parking regulations.
 - b. Smoking, in any form, at any time or place on College property.
 - c. Acts that disrupt or interfere with the administration or functions of the College.
 - d. Repeated tardiness or recurring unplanned/unexpected absenteeism; absences without reasonable cause and/or failure to notify the supervisor of absence within one (1) hour of the start of the scheduled work period.
 - e. Failure to inform the supervisor when leaving a work area.
 - f. Negligence: failure to exercise due care and reasonable diligence in the performance of job duties; unsatisfactory production or incompetence or careless use of College property..
 - g. Refusal to maintain standards of dress, personal grooming or cleanliness which are deemed reasonable and safe for the position held.
 - h. Failure to report an on-the-job personal injury or damage to College property.
 - i. Willful violation or disregard of State Statutes, State Board of Education Rules, College policies and procedures and federal laws.
 - j. Conduct unbecoming a College employee, which includes behavior that reflects adversely

on the College.

Terminable Offenses: The following are representative causes which may result in immediate termination of employment. They are not listed in order of severity.

- a. Theft and pilferage: Unauthorized removal or possession of property belonging to or in the care of the College.
- b. Committing acts of violence: Fighting or improper conduct on College premises.
- c. Threats, pressure or physical language and/or action against another employee or group of employees.
- d. Insubordination: Refusal to perform work as directed.
- e. Sleeping during assigned work hours.
- f. Gambling or conducting other games of chance on College premises.
- g. Possession or use of intoxicants or illegal drugs or other illegal substances on College premises.
- h. Loaning or permitting the duplication of College keys (metal, electronic or otherwise) or any means of access to College facilities provided to employees by the College.
- i. Possession of firearms, weapons of any kind or explosive materials in violation of Florida law and/or College Policy.
- j. Inappropriate manipulation of computer(s) including providing false input causing additions, deletions, changes, omissions, or removal of computer data; inappropriate or unauthorized use of College computing resources.
- k. Unauthorized duplication and/or sharing (electronic or otherwise) of employee and/or College data.
- l. Inappropriate manipulation of systems used to track time and attendance.
- m. Falsification of personnel, medical or other records.
- n. Improper or unauthorized use of College property or equipment.
- o. Use of official position for personal gain or personal advantage. This is considered a conflict of interest by the College.

These standards may not address all types of misconduct which may result in disciplinary action, up to and including termination.

V. DISCIPLINARY APPEAL PROCESS

This Disciplinary Appeal Process may be used by full-time employees to appeal disciplinary actions which involve a written reprimand or more serious discipline. All references to days in this section shall be workdays. Employees hired into full-time positions may not use this Disciplinary Appeal Process until after they have completed their initial 90-day probationary period. The College, at its sole discretion, may elect to proceed or may elect to suspend disciplinary action while other proceedings, either civil or criminal in nature, are pending. College disciplinary action will not be subject to challenge on the grounds that criminal charges involving the same incident have been dismissed or reduced. Employees covered by the Collective Bargaining Agreement should refer to the Agreement between the UFMDC and the District Board of Trustees of MDC.

A. Time Limits and Contents of Appeal

The time limits set forth in this Procedure are of the essence and must be strictly complied with but may be extended by mutual written agreement of the parties. An Appellant's failure to process an appeal within the time limits set forth in this Procedure shall mean that the appeal shall be treated as withdrawn. Upon the failure of the College to provide a response within the time limits provided in this Procedure, the Appellant may proceed to the next level of appeal. In order to be eligible for processing, an appeal must be timely filed and contain the following:

1. The name of the Appellant.
2. The identification of the event that gave rise to the appeal and the time it occurred and a short, plain statement of the facts surrounding the appeal.
3. A statement of the precise relief sought.

B. Appeal Process

Appeals properly and timely filed shall be processed as follows:

Level I. Within twenty (20) days of the discipline, an eligible Appellant shall file the appeal document simultaneously with the Vice Provost of Human Resources and the immediate supervisor. Within ten (10) days of the receipt of the appeal, the immediate supervisor shall meet with the Appellant in an effort to resolve the problem. The immediate supervisor will be allowed ten (10) days following the meeting to respond to the appeal in writing. This written answer may consist of a notation on the appeal document.

Level II. If no written response is received by the Appellant at Level I, or if the response is not acceptable to the Appellant, the Appellant may appeal to Level II. The appeal must be filed within ten (10) days of the receipt of the answer from the immediate supervisor or, if no written answer is received, within ten (10) days

after the expiration of the ten (10) day period specified in Level I. Such appeal shall be in writing and shall include a copy of the appeal filed at Level I and the Level I response, if any. The Level II filing shall be simultaneously filed with the administrator designated by the Vice Provost of Human Resources and the Vice Provost of Human Resources. Once the appeal document has been properly filed at Level II, there shall be fifteen (15) days in which to provide a written response to the Appellant. The written response may consist of a notation on the appeal document. A meeting to discuss the appeal at Level II may be conducted at the discretion of the administrator designated by the Vice Provost of Human Resources.

Level III. If no written response is received at Level II or if the disposition of the appeal is unacceptable to the Appellant, the Appellant may file an appeal simultaneously with the administrator designated by the Vice Provost of Human Resources and the Vice Provost of Human Resources. The response (or lack of response at Level II) document must be appealed within ten (10) days after the receipt of the answer at Level II, or if no answer is received, within ten (10) days after expiration of the fifteen (15) day period applicable to Level II. Once the appeal document has been properly filed at Level III, there shall be fifteen (15) days in which to provide a written response to the Appellant. The written response may consist of a notation on the appeal document. A meeting to discuss the appeal at Level III will be conducted by the administrator designated by the Vice Provost of Human Resources.

Any time an employee is directed to meet with a supervisor/administrator regarding an appeal of disciplinary action, either their own or as part of a related inquiry, the employee has the option of bringing an observer to the meeting. The observer must be a College full-time employee. The observer's role is to serve as a witness.

The action of the College at Level III is final and not appealable to any individual, Board, court, or administrative body.

VI. COMPLAINT PROCESS

A complaint may involve an issue as to whether College regulations/procedures have not been followed or that state/federal regulations have been violated. Complaints must be filed in a timely manner within thirty (30) workdays after the occurrence of the alleged act or failure to act. At the discretion of the Offices of Talent Management (TM) and/or EOP/ADA/TITLE IX, the date may be extended due to extenuating circumstances. All references to days in this section shall be workdays.

Employees hired into full-time positions may not use this Complaint Process until after they have completed their initial 90-day probationary period. The College prohibits retaliation against employees who file complaints or who participate in the resolution of complaints.

Shift assignments, reduction-in-force actions, promotions, transfers, annual performance reviews, annual contract renewal or non-renewal decisions, and such rights of the College to

direct the workforce shall not be subject to this Complaint Process.

A. Informal Resolution of Complaint:

Informal complaints will typically be made verbally or by an informal email or other form of communication. Complainants are encouraged, where appropriate, to attempt initially to resolve complaints by informal resolution. The informal resolution process is an attempt to resolve complaints quickly and to the satisfaction of all parties, while protecting confidentiality to the extent authorized by law. The Offices of Talent Management (TM) and/or EOP/ADA/TITLE IX will be available to provide assistance to the department in order to resolve the complaint.

The informal resolution process shall be handled by the following offices:

1. The Office of the Campus President, Vice Provost, College Provost or designee (collectively referred to in this procedure as the “Area Head”); or
2. The Offices of Talent Management (TM) and/or EOP/ADA/TITLE IX.

The Complainant will be directed to the appropriate office as referred to above, and will have an opportunity to address his/her complaint. If the complaint involves an interaction with his/her supervisor/administrator, then that individual may be present for the meeting. If the complaint cannot be informally resolved, a formal complaint may be filed as outlined in this procedure. If the College determines that the complaint is appropriate as defined under “Complaint Procedure” above, the matter may proceed as a formal complaint. Confidentiality of the investigation shall be maintained to the extent authorized by law.

B. Formal Complaint Process:

All formal complaints must be in writing and on the “Complaint Form,” which may be obtained from the Office of Talent Management (TM) or Equal Opportunity Programs/ADA/TITLE IX (EOP/ADA/TITLE IX) or from the College’s website (www.mdc.edu). The complaint shall include the employee’s name, signature, and a description of the complaint; identify the person or persons purportedly responsible; and indicate the dates on which the act or acts occurred. The complaint should also include names, addresses, and phone numbers of potential witnesses; the effect the alleged acts have had on the employee; employee’s desired resolution; and any other information the employee believes is relevant. Once a complaint is verified as being in compliance with this procedure an investigation may be conducted. As a condition of employment, employees of the College are required to cooperate with these types of investigations by providing truthful and complete information. It is the College's expectation that the employee will answer all questions and provide any knowledge he/she possesses that may be helpful to the inquiry. Employees who refuse to answer questions related to their employment are subject to discipline, up to and including termination of employment.

The investigation may include, but not be limited to:


1. Interviews with material persons who may have relevant information
2. Reviewing relevant files and records such as Human Resources employee files, departmental and/or unit files, and others
3. Comparing the treatment of complainant to that of others similarly situated in the department or unit; and
4. Reviewing applicable policies, procedures, and practices.

The investigation should be concluded within forty-five (45) workdays of its inception, and Talent Management (TM) or EOP/ADA/TITLE IX shall issue a written report making findings of fact and any appropriate recommendations; however, the timeframe may be extended by the Vice Provost of Human Resources. Copies of the report will be provided to the Complainant and the Campus President/District Vice Provost, Vice Provost of Human Resources and the appropriate College Provost. Confidentiality of the investigation shall be maintained to the extent authorized by law.

If Talent Management (TM) or EOP/ADA/TITLE IX concludes that the Complainant's allegations are substantiated, the report will recommend that a directive be issued to stop the violating practice, if it is ongoing; and, if appropriate, recommend provisions for the Complainant, such as reinstatement, hiring, reassignment, training, back pay, or other compensation or benefits.

The College Provost will make a determination, upon review of the ER/EOP/ADA/TITLE IX report, in consultation with the appropriate area head, the Vice Provost of Human Resources, and any other appropriate Department head; and upon consideration of any other relevant information, including aggravating or mitigating circumstances, whether a rule, regulation or law has been violated. The College shall take such corrective action as may be appropriate under the circumstances.

The action of the College is final and not appealable to any individual, Board, court, or administrative body.

	
10/04/2024	
PRESIDENT	DATE