



Medina County Policy Manual



Policy: Discipline	Section: Work Rules	Number: 7.025
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ORC 124.34

I Overview

- A. County employees are responsible for performing their jobs in a competent, professional manner and for conducting themselves at all times in a way that advances the goals of the County and increases public confidence in County government. This requires County employees to refrain from behavior which might be harmful to the County's interests, or which violates or conflicts with County, state, or federal policies, practices, and/or procedures.
- B. Employees are responsible for following any rules, regulations, or directives established by the individual Appointing Authority, whether written or unwritten.
- C. Supervisors are to follow an established system of progressive discipline when correcting job behavior.
 - 1. Prior to starting progressive discipline, where at the earliest stages where unsatisfactory performance or inappropriate behavior is found, supervisors are to meet with the employee to initiate non-punitive counseling with the objective of mentoring or coaching the staff member concerning the issue at hand (*refer to Section II, E, 1.- Counseling*). The elements of this meeting are to be documented in an anecdotal record and kept by the department, if needed, for future reference. The anecdotal record is not to be placed in the employee's personnel file in Human Resources.
 - 2. Where formal progressive disciplinary action is taken, it shall be issued in a timely manner, documented on the Disciplinary/Counseling Report (DCR) found in the appendix, and dealt with objectively; taking into account the nature of the violation, the employee's record of discipline and the employee's record of past performance and conduct.
- D. Although this policy provides standard penalties for specific offenses the examples of specific offenses given in any grouping are not all-inclusive, and merely serve as a guide. The violations provided in this policy do not prevent the application of a greater or less severe reprimand for a given infraction when circumstances warrant. In instances where a reprimand deviates from the recommended standard reprimand, the reason for deviation should be noted.

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II Progressive Discipline

- A. Disciplinary action will normally begin at the lowest step in the progressive discipline process, but may be advanced dependent upon the seriousness of the performance issue or offense. Prior to formal discipline, expectations for the staff member should be clearly identified in writing (*refer to Section III E. 1. - COUNSELING*).
- B. Progressive discipline provides a fair, consistent method of addressing unsatisfactory performance or inappropriate behavior. Its use is not intended as punishment but, rather, as a behavior modification tool with which to encourage the employee to meet the standards set by the appointing authority. Progressive discipline is established as a guide for management to use in administering discipline in a uniform manner. It is not a limitation upon the statutory rights stated in the Ohio Revised Code.
- C. Employees may be reduced in pay or position, suspended, fined, terminated, or otherwise disciplined for, among other reasons, incompetency, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, violation of departmental/agency regulations, conviction of a "felony" as defined in *ORC 124.34*, or any other failure of good behavior or for any other act of misfeasance, malfeasance, or nonfeasance in office.
 1. For the purpose of disciplinary action, a "fine" shall mean when vacation time is deducted from the employee's balance as a form of discipline.
 2. The only form of a "fine" that may be applied to an employee who is exempt from the minimum wage and overtime provisions of the Fair Labor Standards Act is the loss of accrued vacation time.
- D. The Board of County Commissioners retains the right to treat each infraction upon its individual merits without establishing any precedent for the treatment of future disciplinary actions.
- E. Progressive Disciplinary Steps
 1. **COUNSELING**
 - a. At the earliest stages of unacceptable performance or behavior the immediate supervisor is to initiate non-punitive counseling with the objective of mentoring or coaching the staff member concerning the issue.

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- b. The immediate supervisor will meet with the staff member and affirm their expectations regarding the unacceptable performance or behavior and discuss the performance deficit or behavioral concern.
- c. The immediate supervisor will provide a timeline and resources for improvement, unless the issue is misconduct, which must cease immediately.
- d. The immediate supervisor will create an anecdotal record of this counseling session and retain it in a departmental file for future reference, which must include a statement to the effect that failure to improve may lead to further discipline, up to and including removal.

2. **VERBAL WARNING (WRITTEN)**

- a. This title is undoubtedly a misnomer when in fact conventional wisdom stipulates a written record must be made to memorialize the first step of the disciplinary process. This is the least severe step taken and serves as an "alert mechanism" to establish more satisfactory performance or behavior is required. The department director, or designate, is authorized to issue a verbal warning.
- b. This disciplinary meeting is to be held in the privacy of an office or away from the eyes and ears of other staff and, ideally, include another management staff member to serve as witness and note taker. A written account of this meeting shall be made on the Disciplinary/Counseling Report (DCR).
- c. A well written verbal warning should include a clear description of the action(s) which lead to its issuance, the correct behavior expected, date(s) of occurrence(s), previous counseling(s) received (from records kept by the department), reference to the fact that this disciplinary action constitutes a verbal warning and a statement that continued unsatisfactory performance or conduct will result in more severe disciplinary action, up to and including removal.
 - i. The employee will be asked to sign the disciplinary form to verify presentation of the verbal warning; not for the purpose of agreeing with its content. Should the employee refuse to sign, the witness will write "Employee refused to sign", sign and date.

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ii. The original disciplinary form is to be forwarded to Human Resources for inclusion in the employee's personnel file. Copies are to be given to the employee and one retained by the department.

3. There are no appeal rights to a verbal warning.

3. WRITTEN WARNING

a. This continues the formal disciplinary process whereby the employee is again notified in writing of the continuation of unsatisfactory conduct or performance.

b. A written account shall be made on the DCR and a meeting is to be conducted as described in sections 2. *b. and c.* above.

c. The department director or designate has the authority to issue a written warning. Before doing so it is advisable to consult with the Director of Human Resources who may assist in assuring fairness and consistency of discipline is being provided across departmental lines and in developing language which is fair, clear, and accurate.

d. There are no appeal rights to a written warning.

4. SUSPENSION— LESS THAN TWENTY-FOUR WORK HOURS

a. Suspensions of any duration must first be approved by the Director of Human Resources.

b. In the case of an employee required to be paid overtime compensation, suspensions of less than twenty-four work hours or a fine of less than twenty-four hours' pay shall be served with a copy of the order of the fine, or suspension stating the reasons for the action. ORC 124.34(B)

c. The department may require an employee who is suspended to report to work to serve the suspension. An employee serving a suspension in this manner shall continue to be compensated at the employee's regular rate of pay for hours worked. Such disciplinary action shall be recorded in the employee's personnel file in the same manner as other disciplinary actions and has the same effect as a suspension without pay for the purpose of recording disciplinary actions.

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- d. When a workplace situation necessitates the immediate removal of an employee from the work site, the employee may be immediately placed on paid administrative leave by the supervisor pending further disposition of his or her case and directed to report back to the supervisor within two (2) working days of the incident. In such cases the director shall then meet with the Director of Human Resources no later than the next business day to inform the Director of the situation which lead to the employee's paid administrative leave.
- e. After meeting with the Director Human Resources, the department director will complete the DCR. This will assist in fully documenting the alleged reasons for the proposed disciplinary action, the specific policies or procedures that may have been violated, as well as preparing for the pre-disciplinary hearing.
- f. A pre-disciplinary conference shall be held prior to imposing a suspension of any duration (*refer to Section III*).
- g. Suspensions of **less than** twenty-four (24) **work** hours or fines of **less than** twenty-four hours' pay are not appealable to the State Personnel Board of Review or to the appointing authority. ORC 124.34(B)

5. SUSPENSION— UP TO 30 DAYS

- a. In cases where, in the judgment of the department, the violation of a work rule or performance issue warrants more than a 3-day suspension but not removal, a suspension of up to 30-days may be imposed. Step 4 suspensions shall first be approved by the Director of Human Resources.
- b. Suspensions shall follow the same procedures as in part 4. above (*SUSPENSION— 1-3 DAYS*).
- c. A pre-disciplinary conference shall be held prior to imposing a suspension of any duration (*refer to Section III*).
- d. Suspensions of **greater than** twenty-four (24) **work** hours or fines of **more than** twenty-four hours' pay are appealable to the State Personnel Board of Review or to the appointing authority. ORC 124.34(B).

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6. WORKING SUSPENSION

- a. The department "...may require an employee who is suspended to report to work to serve the suspension. An employee serving a suspension in this manner shall continue to be compensated at the employee's regular rate of pay for hours worked. The disciplinary action shall be recorded in the employee's personnel file in the same manner as other disciplinary actions and has the same effect as a suspension without pay for the purpose of recording disciplinary actions." ORC 124.34(A)

7. REMOVAL

- a. Removal may be necessary due to unacceptable or flagrant personal conduct, unsatisfactory work performance, or failure to observe County rules and regulations. This action may only be taken after consultation with the Director of Human Resources.
- b. Removals follow the procedures in part 4. above (*SUSPENSION- 1-3 DAYS*).
- c. A pre-disciplinary conference shall be held prior to imposing a removal (*refer to Section III*).

III Pre-discipline Hearing

- A. An employee shall be given a pre-disciplinary hearing prior to invoking a suspension or removal. The employee is entitled to a written notice of the charges, an explanation of the employer's evidence and an opportunity to present their side of the story.
- B. When disciplinary action is initiated where suspension or removal is recommended, a written notice of this pre-disciplinary hearing shall be given to the employee who is the subject of the pending discipline. Written notice shall include a statement of the charges, recommended disciplinary action, the opportunity to have an attorney or another employee present to serve as their representative, a summary of the evidence being brought against the employee and the date, time and place of the hearing. The written notice shall either be hand delivered to the employee or sent by certified mail. A template of such notice can be found in the appendix.

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- C. This hearing shall be scheduled no earlier than three work days (72 hours) following giving notice to the employee. Absent any extenuating circumstances, the employee's failure to appear at the hearing will result waiver of their right to this hearing. The employee may also voluntarily waive this hearing by completing the Pre-Disciplinary Form, found in the appendix. The employee and witness(es) employed by the County will be paid for the time spent at the hearing, if the hearing is conducted during their assigned work hours.
- D. An impartial representative shall be appointed by the County Administrator or his designate as the hearing officer who is neutral and detached and has not been involved in the incident or investigation giving rise to the discipline.
- E. The employee, or their representative, may make a written request for continuance of up to forty-eight (48) hours.

Such continuance shall not be unreasonably requested nor denied. A continuance may be longer than forty-eight (48) hours if mutually agreed by the parties.
- F. Tape recording or the attendance of a court recorder shall not be permitted.
- G. The Department shall first present the reasons for the proposed disciplinary action. The employee may, but is not required to, give testimony
- H. After having considered all evidence and testimony presented at the hearing, the hearing officer shall, within five (5) work days of the conclusion of the hearing, submit a written recommendation to the County Administrator, department director and employee involved. The written recommendation shall be hand delivered to the employee or sent by certified U.S. mail.
- I. The department director shall accept, reject or modify the recommendation(s) and notify the employee within three (3) business days following receipt of the hearing officer's recommendation for final disposition of the charges.

IV Force and Effect of Disciplines

- A. All verbal and written reprimands shall cease to have force and effect after twelve (12) months from their date of issuance if there is no other discipline imposed during that period.
- B. Suspensions of three or fewer days shall cease to have force and effect from their date of issuance after twenty-four (24) months if there is no other discipline imposed during that period.

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- C. Suspensions of more than three days shall cease to have force and effect from their date of issuance after forty-eight (48) months if there is no other discipline imposed during that period.
- D. Disciplinary actions that no longer have force and effect shall not be used to determine any subsequent disciplinary action against the employee unless they are needed to show a pattern of adverse or untruthful behavior on his/her part. All disciplinary actions shall be permanently retained in the employee's personnel file.

V Grounds for Disciplinary Action

- A. The examples of Group I, II, and III Offenses, set forth below, are characteristic of those offenses which have been judged to be of such a nature as to warrant the level of discipline established for each group.

The categories are not intended to be all inclusive. They merely serve as general guidelines for the issuance of consistent, uniform discipline. The Board of County Commissioners retains the right to treat each infraction upon its individual merits without establishing any precedent for the treatment of future disciplinary actions.

- B. **Category I Offenses** may be defined as those infractions which are of a relatively minor nature and which cause only a minimal disruption to the organization in terms of a slight decrease in organizational productivity, efficiency, and/or morale. Group I Offenses, if left undisciplined by proper authority, will usually cause only a temporary or minor impact unless such acts are compounded over time.
- C. **Category II Offenses** may be defined as those infractions which are of a more serious nature than the Group I Offenses and which, in turn, cause a more serious and longer lasting disruption to the organization in terms of decreased organizational productivity, efficiency, and/or morale. Group II Offenses, if left undisciplined by proper authority, can cause a serious and longer lasting minor impact than the Group I Offenses.
- D. **Category III Offenses** may be defined as those infractions which are of a very serious or possibly a criminal nature, and which cause a critical disruption to the organization in terms of decreased productivity, efficiency, and/or morale. Group III Offenses, if left undisciplined by proper authority, may cause long lasting and serious impact.

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Category I Offense

First Offense	Verbal Warning (Documented)
Second Offense	Written Warning
Third Offense	One (1) to thirty (30) day suspension or fine
Fourth Offense	Removal

- Abuse of sick leave or using sick leave for unauthorized purposes;
- Undocumented use of sick leave;
- Failure to provide prompt, courteous service to the public;
- Failing to notify supervision of tardiness or absence not been previously approved;
- Taking unauthorized or extended meal breaks or other breaks;
- Failure to commence duties at the beginning of the work period;
- Leaving work prior to the end of the shift without prior authorization;
- Preparing to leave work without prior authorization before lunch, official break or quitting time;
- Changing work schedule without prior consent;
- Working overtime without prior authorization;
- Working while eating lunch at work station;
- Loafing, loitering, or failing to perform work in a prompt and efficient manner;
- Reading material during regular work hours not job-related or authorized;
- Conducting non-work related business on County time, e.g. sports pools, selling products;
- Performing private work on department/agency time;
- Solicitation on department/agency premises without authorization;
- Failing to follow instructions or procedures;
- Unsatisfactory work or failure to maintain required standard of performance;
- Failure to perform a job assignment;
- Failing to sign time sheet or to punch time card;
- Carelessness in signing in or out;
- Smoking in County owned vehicles;
- Smoking in non-designated areas and at non-designated times
- Creating or contributing to unsanitary or unsafe conditions;
- Distracting others, unnecessary shouting or demonstrations, or otherwise causing disruption;
- Malicious mischief, horseplay, wrestling, or other undesirable conduct;
- Failure to cooperate with other employees as required by job duties;
- Failure to exercise reasonable care in the use of department property or equipment;
- Use or possession of another employee's equipment without authorization;
- Neglect or carelessness of official safety rules, or disregard of common safety practices;
- Unauthorized political activity;
- Failure to observe department rules;
- Failure to report an accident, injury, or equipment damage;
- Unauthorized use of County telephone for other than business purposes;
- Use of or disruption from personal cell phone on County time;
- Excessive garnishments;
- Failure to adhere to departmental rules regarding personal grooming, appearance, dress code;
- Unauthorized distribution or posting of written or printed matter of any description on department/agency premises;

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- Unauthorized removal, or changing of notices or signs from bulletin boards;
- Failure to attend a mandatory meeting;

Category II Offenses

First Offense Up to thirty (30) days suspension or fine
Second Offense Removal

- Sleeping on duty;
- Leaving a continuous operation without authorization prior to the end of the shift or prior to proper relief;
- Personal use of County equipment or property;
- Use of County telephone for personal long distance calls without reimbursement to County;
- Failing to report for overtime after being scheduled to work overtime or refusing to work mandatory overtime when assigned;
- Use of threatening, abusive or intimidating language, or profanity toward supervisors, co-workers, or clients;
- Coercing or interfering with supervisors, co-workers, or clients;
- Verbal abuse directed at a co-worker, supervisor, or the public;
- Using another employee's confidential computer identification code without authorization or giving another's code to anyone to use;
- Conduct violating morality or common decency;
- Unauthorized use of department/agency property or equipment;
- Making or publishing of false, vicious, or malicious statements concerning employees, supervisors, the department/agency, the County, or its operations;
- Gambling during working hours or on County property;
- Unauthorized presence on department/agency property;
- Lying to co-workers or supervisors;
- Revealing confidential information to families, friends, or other unauthorized persons;
- Refusal to work with or provide services to a disabled individual or an individual known or suspected to have a contagious disease;
- Obligating the County or department/agency for any expense, service, or performance without authorization;

Category III Offenses

First offense Removal

- Falsification of County records in manual or automated systems;
- Misuse or removal of department/agency records or information without prior authorization;
- Using alcoholic beverages on County property, or using alcoholic beverages while engaged in County business;
- Deliberate destruction in any manner of County or department/agency property, tools, equipment, or the property of employees;
- Intentionally destroying County records without prior written authorization from the County Record Retention Committee;

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- Hostile conduct aimed at a protected group that includes offensive epithets, slurs, words or comments, cartoons, and drawings or any written or electronic media;
- Reporting to work intoxicated or under the influence of drugs;
- Giving false testimony during a complaint or grievance investigation or hearing;
- Soliciting or accepting a gratuity or bribe from anyone conducting business with the County or seeking to do business with the County;
- Refusal or failure to submit to a drug test as required;
- Failing an alcohol or drug test in violation of the County's Fitness for Duty Policy;
- Manufacturing, using, selling, distributing, or transporting of a controlled substance or illicit drugs on County time or County property;
- Possession of a firearm, explosives, or other dangerous weapons on County premises or while engaged in County business on County time without proper authorization;
- Performing an act which constitutes a felony under the laws of the United States, the State of Ohio or the jurisdiction in which the act was committed;
- Disregarding safety or security regulations that result in serious physical harm or major property loss or damage;
- Failing to report to work for three consecutive scheduled work days without notification and without prior approval;
- Making an unwelcome, uninvited sexual advance or request for a sexual favor, especially of a subordinate, a vendor or a customer, and/or touching someone else if it is unwelcome and uninvited.
- Engaging in a pattern of behavior which creates a sexually hostile, intimidating, or offensive work environment. Examples of prohibited behavior include displaying sexually offensive posters, photographs, signs, or objects, calling co-workers affectionate or demeaning names, commenting on their bodies or touching them without cause, invitation or consent;
- Committing any other act, or failing to act, which constitutes gross incompetence, inefficiency, dishonesty, neglect of duty, immoral conduct, insubordination, discourteous treatment of the public, failure of good behavior, misfeasance, malfeasance, or nonfeasance (*OCR 124.34*);
- Being convicted of a felony within the meaning of R.C. 124.34, even if prior discipline has been issued for the underlying conduct.
- Wanton or willful neglect in the performance of assigned duties or in the care, use, or custody of any County or department/agency property or equipment;
- Signing or altering other employee's time cards, or unauthorized altering of own time card;
- Falsifying testimony when accident or complaints are being investigated; falsifying or assisting in falsifying or destroying any department/agency records, including work performance reports;
- Giving false information or withholding pertinent information in an employment application or process;
- Making false claims or misrepresentation in an attempt to obtain any Employer-provided benefit;
- Theft or concealment of department/agency property or of other employees;
- Fighting, striking, physically assaulting or attempting to injure other employees, supervisors, other persons, or the public;
- Knowingly concealing a communicable disease which may endanger other employees;

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- Dishonesty or any dishonest action. Some examples of what is meant by "dishonesty" or "dishonest action" are: theft; pilfering; opening desks assigned to other employees without authorization; theft and pilfering through lunch boxes, tool kits, or other property of the department/agency or other employees without authorization; making false statements to secure an excused absence or to justify an absence or tardiness; making or causing to be made inaccurate or false reports concerning any absence from work. The foregoing are examples only and do not limit the terms "dishonest" or "dishonest action";
- Insubordination by refusing to perform assigned work to comply with written or verbal instruction of the supervisors and/or Appointing Authority.
- Sleeping on the job and such action creates a life threatening situation for a co-worker and/or member of the general public;



Medina County Commissioners

DISCIPLINARY/COUNSELING REPORT

Name: _____ Dept.: _____ Date: _____

Time of Meeting: _____ AM PM

ACTION:

Counseling Verbal Warning Written Warning Suspension: _____ # Days Termination

List date(s) of previous counseling or disciplinary action(s) and attach copies of previous actions which this report is based upon:

DESCRIPTION OF ISSUE (Attach additional comments if more space is required):

Further violation of Medina County policies will result in additional disciplinary action up to and including removal. By signing below you acknowledge you have received this notice.

Employee: _____ Date: _____

Supervisor: _____ Date: _____

Witness: _____ Date: _____

- Copy Distribution:
- 1. Human Resources
 - 2. Department file
 - 3. Employee

(Indicate method of delivery)

Sent by Regular and Certified Mail

Hand Delivered to Employee

Month Date, Year

Employee Name

**1123 Anywhere Drive
Old Towne, Ohio 12345**

Dear _____;

This letter shall serve as notification that your director has recommended to the Medina County Board of Commissioners that you (*select one*) *receive a _____ day suspension without pay | be removed* for _____.

In accordance with the Personnel Handbook, you will be afforded a pre-disciplinary conference to present information about the facts underlying the proposed discipline. This conference has been scheduled for _____ (*day & date*) at _____ (*time*) to be conducted in _____ (*location*).

At this conference you may present oral or written statements about the facts underlying the proposed discipline. Additionally, you may have an attorney or another employee present to serve as your representative during this meeting. You may present a witness or witnesses to offer testimony on your behalf. All witnesses are expected to be truthful in their statements and failure to do so may encumber these proceedings.

I will take the information presented under advisement and consideration and, following the conference, submit my written decision to you and your director within five (5) workdays. Moreover, and absent extenuating circumstances, your failure to attend will result in waiver of said conference. You also have the right to waive this conference by completing and returning the attached form to me no later than 4:30 p.m., on _____ (*month date, year – usually 24 hours prior to date of hearing*).

If you have any questions regarding this process, please feel free to contact me at _____ (phone number of hearing officer).

Sincerely,

Hearing Officer

cc: File



Medina County Commissioners
PRE-DISCIPLINARY CONFERENCE WAIVER

I hereby waive my right to the pre-disciplinary conference which had been scheduled for _____ . I have been advised of my right to the conference and it is my free act and deed to waive this right.

Employee Signature

Date

Witness

Date