

900.1 Progressive Discipline

Purpose To establish general guidelines for implementing progressive discipline.

Definitions Verbal Counseling is the first step in the disciplinary process in which an employee is provided feedback and put on notice about unacceptable performance, conduct or attendance.

A Written Warning is generally implemented in an effort to improve employee performance or behavior after one or more instances of verbal counseling regarding unacceptable performance, conduct or attendance.

A Written Reprimand is implemented when an employee has consistently failed to meet established standards of performance, conduct or attendance, **or** when an incident, such as misconduct, occurs requiring more than verbal counseling or a written warning.

A Disciplinary Suspension means an employee is placed on unpaid status for disciplinary reasons. This step in the disciplinary process is used when a pattern of unacceptable performance, conduct or attendance continues **or** for serious infractions as deemed by the Vice President for Human Resources or designee.

A Suspension Pending Investigation (With Pay) is implemented when an employee is instructed to leave and remain away from work while an investigation of their conduct or performance is made. The employee will be paid while on suspension pending investigation and appropriate disciplinary action, if any, will be determined at the conclusion of the investigation.

Discharge refers to a termination of employment. This is the final step in the progressive disciplinary process for unacceptable and unsatisfactory performance, conduct or attendance **or** for serious infractions. Rensselaer reserves the right to discharge an employee for any reason it deems appropriate, with or without notice or prior disciplinary actions.

Policy It is the policy of Rensselaer to maintain a disciplinary procedure of progressively more severe steps to address unsatisfactory performance, conduct or attendance in a thorough, fair and consistent manner. This policy is intended to provide guidance to Institute leaders in their development of staff. As such, these steps may be handled on a case by case basis, and Rensselaer reserves the right to deviate from its progressive discipline procedure based on the circumstances of each case. In some instances, circumstances may dictate that an employee may be immediately terminated.

The progressive disciplinary procedure is also designed to give employees who have successfully completed their initial period of employment advance notice of problems with their conduct or performance in order to provide an opportunity to correct such problems. Rensselaer may deviate from this progressive discipline procedure at any time based on the circumstances of each case.

Procedure The disciplinary procedure generally will be progressive involving verbal counseling, written warning, written reprimand, suspension and discharge. However, it should be understood that the disciplinary procedures are intended as guidelines. Rensselaer may determine that the nature of the offense, the employee's performance record, or other circumstances warrant immediate suspension, termination or action that does not conform to these procedures.

Generally, discipline will be documented on the *Disciplinary Action Form*¹.

I. VERBAL COUNSELING

- A. The supervisor will review the facts in private with the employee involved and should document such verbal counseling. The employee may be asked to sign the documented verbal counseling to indicate that he/she received a copy. The supervisor will inform the employee that further action will be taken if another violation occurs.
- B. A record of the meeting, stating the facts that were reviewed with the employee and the action taken or to be taken should be prepared and maintained by the supervisor. The supervisor will submit a copy of the Disciplinary Action Form to The Division of Human Resources.

II. WRITTEN WARNING

- A. The supervisor will review the facts in private with the employee involved and give the employee a copy of the written warning. The employee will be asked to sign the written warning to indicate that he/she received a copy. The supervisor will inform the employee that further action will be taken if another violation occurs.
- B. A written record of the meeting, stating the facts that were reviewed with the employee and the action taken or to be taken will be noted on the written warning should be prepared and maintained by the supervisor. The supervisor will submit the original Disciplinary Action Form with the employee's signature to The Division of Human Resources.

¹ Supervisors should include a note on the Disciplinary Action Form if the employee refuses to sign.

III. WRITTEN REPRIMAND

- A. The supervisor will review the facts in private with the employee involved and give the employee a copy of the written reprimand. The employee will be asked to sign the written reprimand to indicate that he/she received a copy. The supervisor will inform the employee that further action will be taken if another violation occurs.
- B. A record of the meeting, stating the facts that were reviewed with the employee and the action taken or to be taken will be noted on the written reprimand. The supervisor will submit the original Disciplinary Action Form with the employee's signature to The Division of Human Resources.

IV. DISCIPLINARY SUSPENSION

- A. In recurring cases of performance or conduct issues or single incidents deemed to be serious, the facts of the case and the possible suspension (typically one to five days) should be discussed with and approved by the Vice President of Human Resources or their designee prior to discussion with the employee.
- B. The supervisor will review the facts in private with the employee involved and give the employee a copy of the suspension documentation. The employee will be asked to sign the suspension documentation to indicate that he/she received a copy. The supervisor will inform the employee that further action will be taken if another violation occurs.
- C. A record of the meeting, stating the facts that were reviewed with the employee and the action taken or to be taken will be noted on the suspension documentation. Specific dates of the suspension should be indicated; a specific return to work date should be indicated on the suspension documentation. If applicable, previous disciplinary action taken should be indicated on the suspension documentation. The supervisor will submit a copy of the suspension documentation (Disciplinary Action Form) to the Vice President of Human Resources or their designee.

V. SUSPENSION PENDING INVESTIGATION

- A. In the case of a serious incident which places faculty, staff, students or Rensselaer property at risk, the employee should be removed from the work place pending an investigation to determine appropriate disciplinary action. The course of the investigation shall be at the discretion of the Vice President of Human Resources or their designee.
- B. This investigation will include a meeting with the employee, the Division of Human Resources, and the supervisor and/or

department head, at which time the employee will have the opportunity to state his/her account of the situation.

- C. After reviewing the situation with the department head, the supervisor will recommend disciplinary action to the Vice President of Human Resources or their designee. In cases where impending action presents a risk to the Institute in the judgment of the Vice President of Human Resources, the decision may be reviewed by Institute legal representatives prior to implementation.
 - D. The employee will be advised of the action to be taken in a written memorandum.
 - E. If the investigation absolves the employee, the employee will immediately be returned to work.
 - F. The time the employee is absent from work during the investigation will be paid time.
- VI. DISCHARGE
- A. The supervisor and/or department head will prepare a memorandum to the Vice President of Human Resources or their designee outlining the facts. Supporting documentation should be attached to the memorandum, including a summary of the employee's position on the infraction. A draft of the discharge form should also be prepared for review by the Division of Human Resources.
 - B. The supervisor and/or department head will review the facts in private with the employee involved and give the employee a copy of the discharge form. The employee will be asked to sign the discharge form to indicate that he/she received a copy. When a meeting is not feasible, the discharge form will be mailed to the employee's address of record and no employee signature will be sought.
 - C. A record of the meeting, stating the facts that were reviewed with the employee will be noted on the discharge form. If applicable, previous disciplinary action taken will be indicated on the discharge documentation. The supervisor will submit a copy of the discharge documentation to the Division of Human Resources to be placed in the employee's personnel file.
 - 1. The department will initiate an Employment Transaction Form (ETF) on the discharged employee to remove him/her from the payroll and to trigger notice of options relative to employee benefits conversion.
 - 2. The supervisor is responsible for processing the employee out of the Rensselaer system. (See Human Resources Policy #500.1, *General Policy on Employee Separations*.)

VII. GENERAL PROVISIONS

- A. It should be remembered that employment is at will unless a written and duly executed employment contract for a definite term is in effect. Accordingly, employment can be terminated at any time, at the employee's option or the option of Rensselaer, with or without cause or notice.
- B. The offenses meriting disciplinary action listed below provides an illustrative list of offenses but are not intended as a complete or comprehensive list thereof.
- C. Employees whose performance and/or behavior is being reviewed or who have received disciplinary action during the past six (6) month period of employment are not eligible to apply for a vacancy at Rensselaer.

VIII. OFFENSES MERITING DISCIPLINARY ACTION

- A. Reasons for progressive discipline include, but are not limited to:
 - Unsatisfactory or poor performance, behavior or conduct;
 - Unsatisfactory absence or lateness;
 - Leaving work without permission;
 - Sleeping at work during work hours;
 - Unauthorized or excessive telephone or cell phone usage;
 - Use of profanity or abusive language;
 - Recording and/or using recording devices to document a meeting or conversation with a Rensselaer employee or student without the express written permission of the individual involved AND the Vice President for Human Resources or designee and,
 - Posting and/or removing material from Rensselaer's bulletin boards without proper authorization.
 - Violations of protocols, regulations and procedures governing safety or compliance for employees and students.
- B. Reasons for immediate discharge include, but are not limited to:
 - Insubordination;
 - Theft including theft by conversion;
 - Dishonesty;
 - Fighting on Rensselaer property;
 - Unauthorized photographing or copying of research projects or other confidential material;

- Misrepresenting or withholding pertinent facts in securing employment;
- Reporting to work under the influence of alcohol, illegal drugs or controlled substances;
- Sale, possession or use of illegal drugs or controlled substances as well as the sale, possession or on-site consumption of alcohol (except as provided for in HR Policy #800.4, *Alcohol Use and Possession*);
- Falsification of Rensselaer records including employment applications;
- Actions or behaviors that bring Rensselaer into public disrepute;
- Indecent, lewd or lascivious conduct;
- Language that is offensive to others and that is deemed improper in a working, living and learning environment of respect and open discourse;
- Violations of Non-Discrimination and Sexual Harassment Policies;
- Hazing; and,
- Financial or fiscal impropriety.

An employee may submit a written response to any disciplinary action covered by this policy. The response will be placed in the employee's personnel file. If an employee wishes to appeal a disciplinary action, refer to Human Resources Policy #900.2, *Dispute Resolution and Peer Review Appeal Process*.

900.2 Dispute Resolution and Peer Review Appeal Process

Purpose To establish a dispute resolution procedure that ensures a fair review and prompt resolution of work-related problems.

Definitions Confidentiality

All information obtained during the Dispute and Peer Review Appeal Process is considered confidential during and after the process has concluded. All persons involved in the process are expected to maintain confidentiality to safeguard the integrity of the process.

Eligibility

All regular employees below the department director or administrative dean level who have completed their initial period of employment are eligible to participate in the Dispute Resolution and Peer Review Appeal Process.

Exclusions to the Dispute and Peer Review Appeal Process

Concerns regarding pay/compensation, performance appraisals (including unsatisfactory performance and/or attendance), benefits, content and interpretation of Institute policies, establishment of work rules, discrimination including harassment, sexual harassment and matters in litigation are excluded from the Dispute and Peer Review Appeal Process.

Please Note: This dispute and peer review appeal procedure does not apply to employees who believe that they have been subject to unlawful discrimination and/or harassment. Instead, please refer to Human Resources Policy Section 600, Non-Discrimination/Non-Retaliation Equal Employment Opportunity.

Jurisdiction

Panel jurisdiction is limited to the application of Rensselaer policies, practices, and procedures; however, the panel may recommend changes to the content or application of such. The Vice President for Human Resources or his/her designee reserves the right to determine whether an issue is appropriate for the Dispute and Peer Review Appeal Procedure. The Vice President for Human Resources or his/her designee also reserves the right to:

- Determine the appropriate Step for a dispute or appeal; and
- Overrule recommendations and determinations at Steps 1, 2 or 3 of the Dispute Resolution Process and the Peer

Review Appeal Process that are not in the best interests of the Institute, do not adhere to Institute Policy, federal, state or local labor and employment laws, or do not represent a consistent application of Institute Policy.

Peer Panelist

Volunteer members of the panel are selected by random drawing from a pool of eligible employees and department directors whose responsibility it is to conduct a thorough review and reach a fair decision. Only those employees completing Peer Review Panel training are eligible to serve on the panel. Panelists will volunteer to serve for a two-year term. Panelists may also volunteer for an additional two-year term if they have not participated in three or more appeals. All vice presidents will serve as a panelist on a rotating, case-by-case basis.

Peer Review Panel

A five-member group of selected panelists made up of three peers, one department director and one vice president. A member of the Division of Human Resources will be involved as a non-voting advisor/facilitator for procedure, policy, application of relevant policy, clarity, etc.

Time Limit

Time limits documented in this procedure should be adhered to unless unusual circumstances occur, such as when an appellant has a medical emergency or is out of the office due to approved Paid Time Off (PTO) leave, holiday, or other medical reasons. Dates may be extended by written agreement of the Vice President for Human Resources or designee.

Work-Related Problem

A written statement of complaint, problem or dispute of a situation or condition where the employee does not agree with the immediate supervisor/manager's decision relative to application of Rensselaer policy, practices, procedures or working conditions.

Working Days are defined as weekdays, Monday through Friday. Saturdays, Sundays, designated holidays and days the Institute is closed are excluded.

Policy It is the policy of Rensselaer to provide a process by which problems and concerns can be resolved through employee participation and shared responsibility without fear of punishment or retaliation. Rensselaer recognizes that employees possess sufficient ability, skill, knowledge and interest to participate in problem solving and to ensure

applicable policies or practices have been followed correctly and fairly.

The problem-solving procedure involves five steps. Problems should be resolved in a timely manner. Therefore, an employee must pursue resolution of a problem within five working days of knowledge of an incident. Pursuing resolution means beginning the process of discussing the problem and providing documentation. Employees failing to meet the time limits waive their right to utilize this problem-solving procedure.

Procedure Dispute Resolution Process

The supervisor/department manager is expected to consult with the Division of Human Resources during all phases of the Dispute Resolution Process.

Step One

An employee verbally presents his/her grievance to his/her immediate supervisor or department manager within five (5) working days of the incident causing the issue or problem.

The supervisor/department manager will work with the employee to attempt to resolve the situation. If the supervisor/manager and employee are unable to resolve the situation, the manager will decide whether to uphold or deny the employee's grievance by written decision issued within five (5) working days of receiving the employee's grievance. A copy of the Step One written decision is to be simultaneously sent to the Vice President for Human Resources or designee.

Step Two

If an employee is not satisfied with the written decision received at Step One, he/she may contact the Division of Human Resources to appeal to the next higher level of management within three (3) working days of the date of the manager's decision. A representative of the Division of Human Resources will be available to assist the employee in completing the required information. A representative of the Division of Human Resources will attempt to resolve the problem by facilitating a meeting between the employee and the employee's department head within three (3) working days of receipt of the appeal.

The department head is responsible for providing a written decision within five (5) days of the Step Two meeting between the employee and the employee's department head. A copy of the Step Two written decision is to be

simultaneously sent to the Vice President for Human Resources or designee.

Step Three

If the employee is satisfied with the written decision received at Step Two, he/she should inform the Division of Human Resources in writing. If the employee is not satisfied with the written decision received at Step Two, he/she must inform the Division of Human Resources in writing of their intent to proceed to Step Three within three (3) working days of the date of the department head's decision

A representative of the Division of Human Resources will facilitate a meeting with the Division Vice President/Provost/School Dean within ten (10) working days of the employee's written notice to the Division of Human Resources. The Division Vice President/Provost/School Dean is responsible for consulting with the Vice President for Human Resources and providing a written decision to the employee within five (5) working days of the meeting with the employee. A copy of the Step Three written decision is to be simultaneously sent to the Vice President for Human Resources or designee.

Peer Review Appeal Process

Step Four

If an employee is satisfied with the written decision received at Step Three, he/she should inform the Division of Human Resources in writing. If the employee is not satisfied with the written decision received at Step Three, he/she should notify the Division of Human Resources in writing of their intent to proceed to the Peer Review Appeal Process within three (3) working days of the date of the Step Three decision. At that time, the employee will complete the Dispute/Appeal Form. A representative of the Division of Human Resources will facilitate the convening of a panel within five (5) working days of being notified of the employee's appeal.

The Peer Panel will be composed of three employees, one department director, and one vice president. The employees and department director panel members will be selected in a random drawing conducted in the Division of Human Resources. The appellant will draw five names from the eligible Employee Peer Panel pool. Three will be selected to serve on the panel, one will be selected as an alternate and one will be returned to the Employee Peer Panel pool.

The appellant will then draw two names from the eligible department director Peer Panel pool. The appellant will select one to serve on the panel. The remaining one will be used as an alternate. If a situation occurs where the appellant is

unfamiliar with someone whose name he/she has drawn, the representative of the Division of Human Resources may provide the panelist's job title, department, service date and a brief summary of their duties. The vice president panelist will be designated by the Human Resources representative.

Please Note: A member of the employee's family or someone in the employee's chain of command may not serve as a panel member. If those names are drawn, they will automatically be disqualified. An employee may not serve as a panelist if he/she has a current problem-resolution pending or if he/she has been named as a witness involved with the work-related problem. Any employee randomly selected to be a panelist, who feels that he/she may not be able to maintain impartiality or objectivity, for whatever reason, should disqualify him or herself by notifying the Division of Human Resources.

The Division of Human Resources will notify panelists of their selection. If the panelist is unable to serve, he/she must respond immediately to the Division of Human Resources so that the alternate may be notified. If less than three panelists from the Peer Panel Pool can serve, the appellant will randomly draw the additional panelists needed from the eligible pool.

Attorneys, outside consultants, current employees (other than those already on the panel) and non-employees will not be allowed to attend or participate in the problem-solving proceedings. Employees called as witnesses by the appellant's supervisor/manager are expected to participate in the hearing process. Failure to adhere to these procedures will disqualify the employee from further participation in the appeal procedures.

The Division of Human Resources will provide copies of the written appeal and prior responses at each step of the process to the Peer Panel, as well as all other materials of information relevant to the proceedings. All written documentation must be returned to the Division of Human Resources.

The panel will interview and gather data only when meeting as a group. No individual investigations will be permitted. The panel will call in order of appearance: the appellant, the appellant's supervisor/manager and any witnesses.

Written questions to be asked of either party or the witnesses by the panel shall be submitted to the Division of Human Resources at least two days before the scheduled hearing

date. Only the panel members and a member of the Division of Human Resources will be present during the testimony and deliberations.

After all testimony and evidence have been presented, the panel will deliberate and vote on its recommendation by secret ballot. The final Peer Panel decision will be the result of a simple majority vote. A Division of Human Resources representative will serve as a resource for the Panel, providing clarification of policy. The panel's recommendation may grant the request, deny the request or include modification of the request.

If "modification" of the request is the recommendation reached, additional deliberation and/or votes may be taken to determine exactly how to modify the request. All proceedings will be held privately.

Panelists will sign the recommendation, which will be forwarded to the President or the President's designee. The Division of Human Resources will maintain a record of all notes, documents, minutes and materials pertaining to the problem-solving process in a file separate from the appellant's personnel file. This information is considered Private and Privileged by Rensselaer and will only be disclosed to persons that the Institute considers necessary for reviewing and enforcing any decisions.

Step Five

The Vice President panelist and the Division of Human Resources representative are responsible for communicating the panel recommendation in writing to the Vice President for Human Resources or designee within three (3) working days of the recommendation. The Vice President for Human Resources or designee will review the recommendation. The Vice President for Human Resources or designee will make a written decision within five (5) working days of being notified of the panel's recommendation. The written decision of the Vice President for Human Resources or designee is final.

Rensselaer will do its best to adhere to the guidelines set forth in this policy. However, failure of Rensselaer to do so shall not give any employee an independent right to seek redress against Rensselaer for any such failure.