

Understanding the Corrective Action Process

Organization and Human Resource
Consulting (OHRC)
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Office of HUMAN
RESOURCES



August 2009

Corrective Action

Corrective action is the informal and formal steps taken to identify and correct undesirable behavior of an employee. The objective of corrective action is to eliminate undesirable behavior and to provide the employee with due process. It is generally progressive in nature such that each successive step in the process is more severe than the last.

The university's corrective action processes differentiate between:

- 1) Unclassified Professional staff, and
- 2) Classified Civil Service staff and
- 3) Bargaining Unit staff.

The Need for Corrective Action at Ohio State

Corrective action is needed to:

- Modify undesirable behavior;
- Address performance problems that will more than likely increase if they are ignored;
- Ensure that employees are treated consistently;
- Provide employees the opportunity to change their behavior;
- Reduce liability.

The Reasons for Corrective Action

Ohio Revised Code 124.34 lists the reasons for which CCS employees can be disciplined. Those reasons are:

- **Incompetence** which means someone does not have the skills or abilities to perform their job
- **Inefficiency** is when someone has the skills and abilities to do their job but they keep making mistakes or taking too long to complete tasks
- **Dishonesty** is usually in the form of stealing or falsifying application or leave forms
- **Drunkenness** is used when an employee comes to work under the influence of alcohol or drugs and is sent to be tested and tests positive for being over the legal limit for alcohol or having illegal drugs in their system
- **Immoral conduct** typically involves sexual harassment or lewd behavior
- **Insubordination** is when an employee refuses to follow an order from a supervisor
- **Discourteous treatment of public** is inappropriate behavior toward a visitor or vendor of the University
- **Neglect of duty** is the “catchall” category. It is typically used for attendance issues, excessive breaks, personal phone conversations or viewing non work-related items on the internet or anything else that an takes the employee away from completing their job assignments
- **Failure of good behavior** can take the form of cursing in the workplace, unprofessional conduct toward a supervisor or co-worker, fighting or threatening behavior

Knowing When to Use Corrective Action

There are three occasions when supervisors are strongly encouraged to use corrective action. They are:

1. The employee's quality and/or quantity of work is below standard.
Examples include:
 - Performance expectations are not met
 - Deadlines are missed
 - Errors are repeated numerous times

2. The employee repeatedly violates University or departmental policy.
Examples include:
 - Excessive absenteeism or tardiness
 - Failure to follow call-off procedures
 - Taking unauthorized breaks

3. The employee commits a serious infraction of University or departmental policy. Examples include:
 - Sexual harassment
 - Theft
 - Assault

Management Considerations

There is a direct cause-effect relationship between a supervisor's actions and an employee's performance. A supervisor's behavior impacts the success of corrective action. *Supervisors are urged to act in the following ways:*

- Treat all staff equitably.
- Talk with the employee as soon as possible regarding the performance concern.
- Document all interactions with staff that relate to their performance.
- Provide written notice to the employee of performance issues.
- Resist reacting to a situation when a lot of anger is being felt.
- Coach and counsel employees in private settings.
- Clearly communicate expectations verbally and in writing.
- Listen to employees when they want to offer "their side" of an incident.
- Enforce rules and policies consistently.
- Thoroughly investigate situations by gathering all the facts.

Managers Should Not:

- Overreact
- Ignore Issues
- Act Inconsistently
- Disregard Policies/Procedures
- Proceed with incomplete information

Documenting Employee Performance

Supervisors should get into the habit of documenting performance that meets, exceeds and does not meet expectations. When performance is below expectations or when a policy or rule has been violated, it is imperative to document it. Adhering to the following points will help a supervisor effectively implement corrective action:

State the facts of the incident and/or behavior

- What happened
- What policy/rule was violated
- Where it happened
- When it occurred
- Witnesses to the incident

Use objective language

- Write facts, not feelings and not judgment

Be timely

- Write about the incident as soon after the event as possible

Inform the employee of the documentation

- Let the employee know that you are documenting the incident/behavior
- Describe to the employee why the behavior is unacceptable
- Give the employee the opportunity to respond either verbally or in writing to the documented behavior

The Probationary Removal/Demotion Process

- Only CCS staff serve probationary periods. Except for security and police positions, probationary periods are for 180 days
- A probationary employee should receive a “mid probationary” review around the 90th day of their probation. This review should clearly indicate those areas where the employee needs to improve and an indication of what the employee is doing well. It should also be noted if significant improvement is needed for the employee to pass probation
- A second review should then occur around the 150th day of probation. If the employee is not going to pass probation, then the overall rating must be “does not meet expectations” or equivalent.
- A request for probationary removal/demotion must be sent to the Office of Human Resources with enough time before the 180th day for the request to be properly reviewed. Ideally a request for removal or demotion will be received in OHR no later than the 160th day of probation
- The employee will be given two weeks notice in the case of removal
- In demotion cases, the department may have to keep the employee beyond the 180th day if their previous position has been filled. In such cases, a demotion order will be issued to the employee prior to their 180th day of probation. The department will then be required to provide work assignments to the employee that are consistent with the classification they have been demoted back to until such time that a same or similar position is found.

A&P and Unclassified Professional Staff

Things to Know about A&P and Unclassified Professional Staff:

- Employment is "at will." Employer or employee may terminate the employment relationship at any time for any reason provided that the reason is not prohibited by law. (Please note: consultation with the Office of Human Resources must take place prior to termination.)
- Employee serves at discretion of their Appointing Authority, the head of the College or VP unit.
- A&P Staff do not serve a probationary period
- Corrective Action for A&P and Unclassified Professional Staff is not formalized as it is for Civil Service staff. The suggested guidelines outlined below are strongly encouraged but they are not mandated by policy or by law.

Suggested Guidelines:

Any of the following actions may be taken to address A&P and Unclassified Professional Staff performance and/or attendance issues.

Verbal counseling

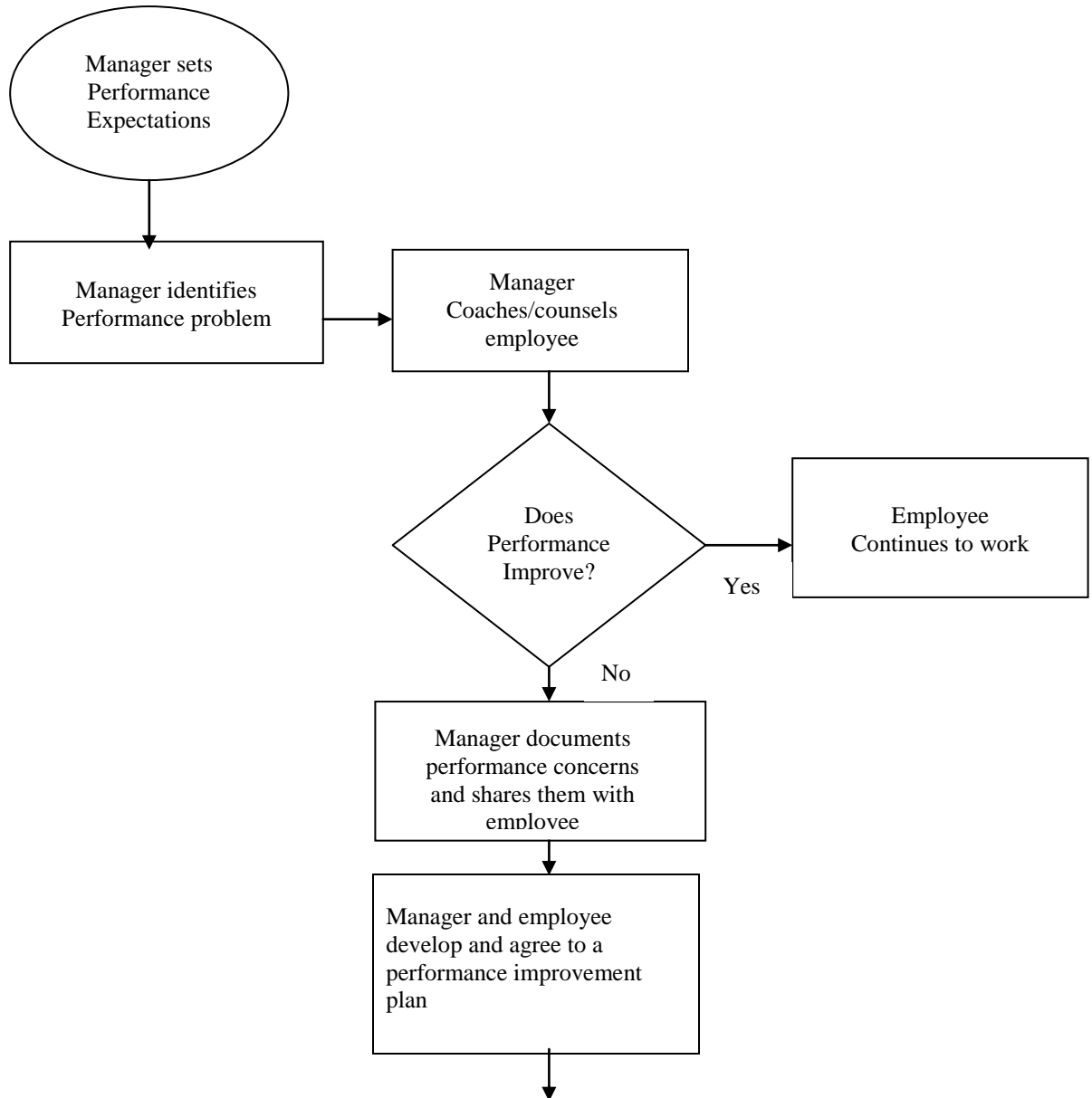
Documentation of performance issues, accompanied by a performance improvement plan

Termination - issued by supervisor, after conferring with the Office of Human Resources

Other Issues:

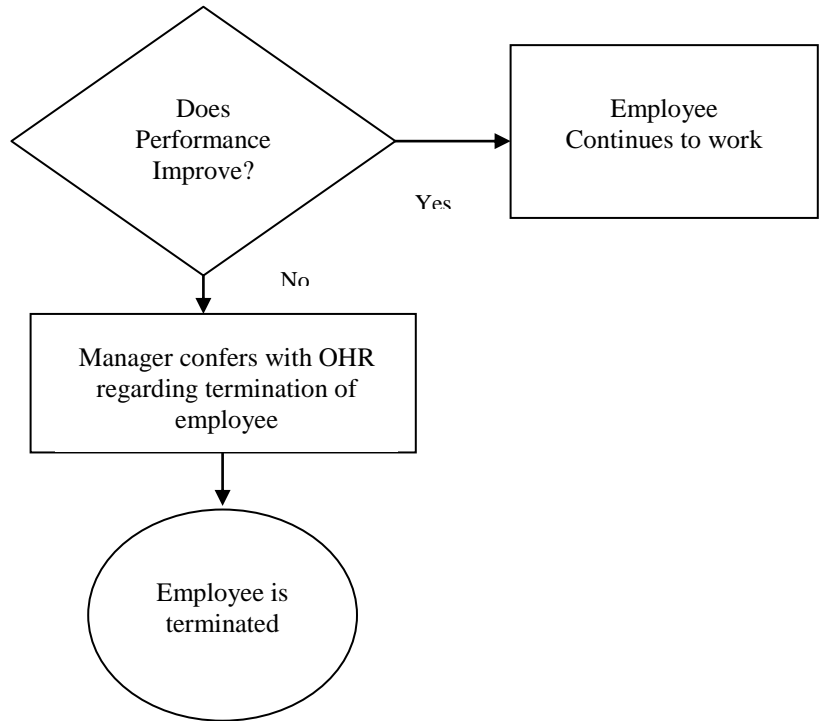
- Administrative Leave
- Vacation Payout

Suggested Guidelines for A&P and Unclassified Professional Staff



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Corrective Action Process for A&P and Unclassified Professional Staff
Continued



Developing a Performance Improvement Plan

A performance improvement plan is developed to help the employee change his or her behavior. The intent is to provide sufficient structure so the employee will be successful in meeting performance expectations.

A Performance Improvement Plan should include:

- Description of the behavior that needs to be corrected and why it needs to be corrected.
- The expectation or policy or rule that has been violated.
- Description of the desired behavior and the time frame within which the desired performance must occur.
- Action steps that can be taken to reach the desired behavior.
- Information on how the employee's behavior will be monitored/reviewed.
- An established date and time to discuss progress (successes and challenges) in changing the behavior.
- The statement, "Further disciplinary action, up to and including dismissal, will be necessary if the behavior is not corrected."

Maintaining Performance Improvement Plans

Performance Improvement Plans should be maintained in the employee's permanent personnel file.

Example: Performance Improvement Plan

TO:
FROM:
DATE:

During our last discussion on June 5, 2004, we discussed the need for improvement in meeting deadlines, reconciliation and purchasing turn-around-time. Since then there has been minimal to no progress in meeting these improvement goals. The following items are extremely important to the operation of the department in terms of service to staff, support of the budget planning and monitoring progress and ensuring security of property, equipment and funds. Therefore, the following activities must be accomplished within the time frames indicated below for you to obtain a satisfactory level of performance.

1. The FAS/Expenditure Tracking Reconciliation was never completed for January 1 - June 1, 2004 and has not been completed since the beginning of this current year. I have discussed this expectation with you in February, April and June, which included our setting target dates for completion. FAS reconciliation and paperwork to process resulting adjustments for the months of January - June must be completed by August 1st.

Future FAS reconciliation must be reconciled by the end of the month following the month being reconciled (e.g. February's report should be completed by the last working day in March). A copy of the expenditures versus budget report should be forwarded to my attention within the following day.

2. The equipment inventory status report was due by June 15th. The report must be completed and ready for signature by August 15th. Future status reports shall be completed and submitted by the deadlines specified on the report.
3. Requests for purchases should be ready for final signature within five working days or receipt of the request.

We will continue to meet biweekly to monitor your progress and on August 15th, we will re-evaluate all items outlined above. Failure to meet any of the deadlines will result in further disciplinary action, up to and including dismissal.

Please sign below indicating we have discussed all of the above items.

Signature

Date

Classified Civil Service (CCS) Staff

Things to Know about CCS Staff:

- Employees serve under the provisions of Section 124.34 of the Ohio Revised Code.
- Appointing Authority for non-bargaining CCS is the Associate Vice President for Human Resources.
- Employees may be covered by a Collective Bargaining Unit Agreement. The Manager of Labor Relations is the Appointing Authority for employees covered by a Collective Bargaining Unit Agreement.
- Corrective Action policy clearly describes the appropriate and necessary steps for Classified Civil Service staff.

Steps in the Corrective Action Process for CCS Staff

Corrective action for CCS is progressive: each successive step in the process is more severe than the last.

Informal Step:

Coaching/counseling by supervisor

Formal Steps:

Step 1 - Written reprimand issued by supervisor

Step 2 - Minor suspension - A suspension of three or less days issued by the Appointing Authority. It may be a working or non-working suspension.

Step 3 - Major suspension - A suspension without pay of four or more days issued by the Appointing Authority. It may be a working or non-working suspension.

Step 4 - Second major suspension - A suspension without pay of four or more days issued by the Appointing Authority. This step may be necessary for employees with eight years or more of service. The suspension may be working or non-working.

Step 5 - Demotion or removal order issued by the Appointing Authority.

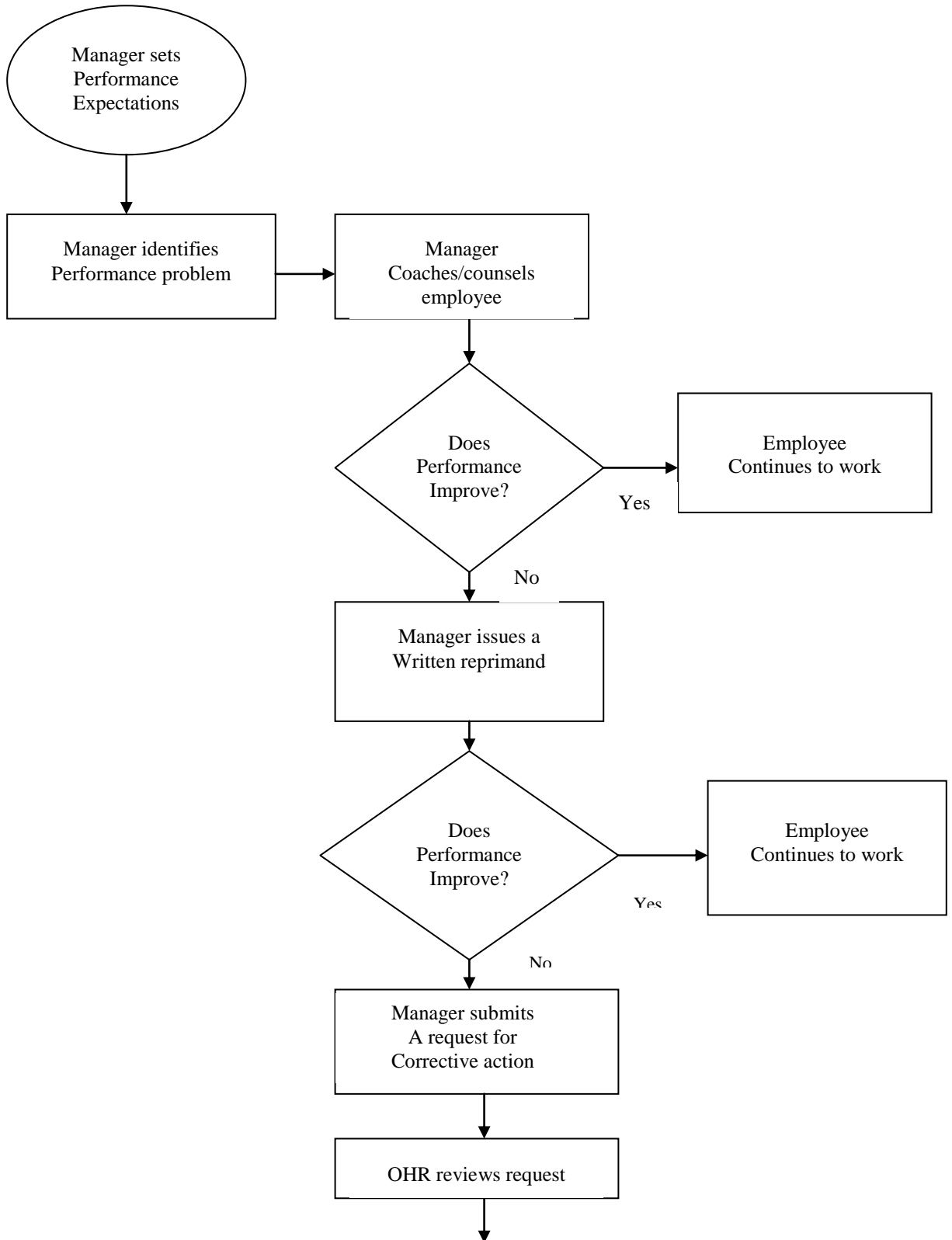
Appeals:

- Classified Civil Service employees can appeal major suspensions, demotions and removals to the State Personnel Board of Review (SPBR).

Merger and Bar

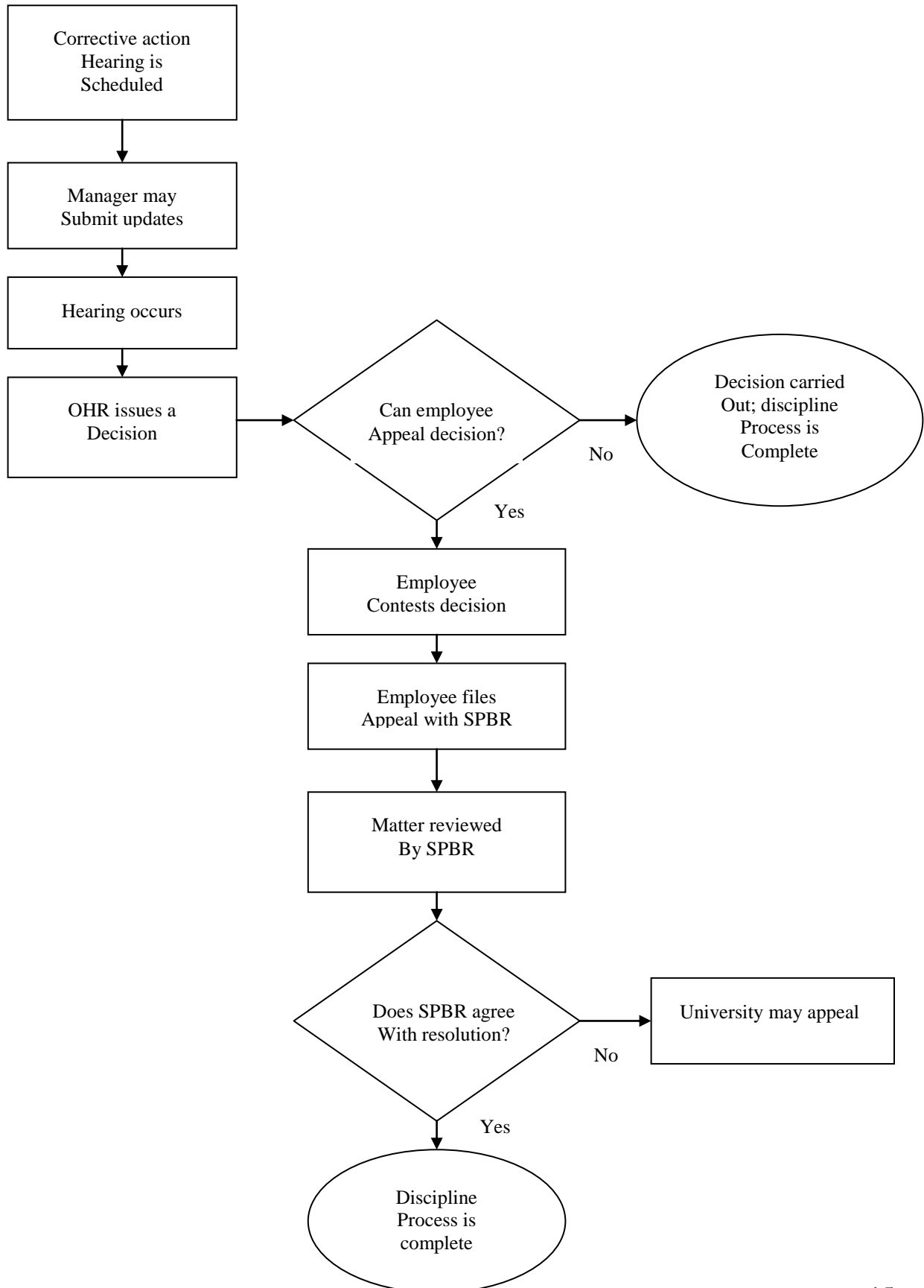
Prohibits the University from issuing a written reprimand, suspending or discharging an employee for an incident that occurred prior to the issuance of formal corrective action.

Corrective Action Process for CCS Staff



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Corrective Action Process for CCS Staff Continued



Bargaining Unit Employees

Things to Know about Bargaining Unit Employees:

- Bargaining unit employees are those who are represented by a labor union or other group in collective bargaining.
- Bargaining unit employees may have union representation at Corrective Action hearings.
- CWA Bargaining unit employees are guaranteed that Corrective Action hearings and disposition of discipline will occur within forty-five days from last incident.

Steps in the Corrective Action process for CWA Bargaining Unit Employees:

Documented Constructive Counseling

First written notice

Second notice - one day suspension

Third notice - one day suspension - may be necessary for bargaining unit employees with eight or more years of service

Termination

Members Only Employees

Things to Know about Members Only Employees:

- Employees who are not currently covered by a CWA collective bargaining agreement may elect to be covered for the purpose of representation, grievance and arbitration procedures.

Steps in the Corrective Action process for Members Only Employees:

Documented Constructive Counseling

First written notice

Second notice - one day suspension

Third notice - one day suspension - may be necessary for bargaining unit employees with eight or more years of service

Termination

Holding a Counseling Session

Setting performance expectations with employees and providing ongoing feedback to them is an essential part of the performance management process. As issues arise with an employee's behavior or performance, the supervisor should talk informally to the employee to make him/her aware of the problem. This informal conversation is known as a counseling session. Counseling sessions may also be done in a formal setting if the situation is serious enough to warrant such a conversation. The supervisor is encouraged to include these steps in a counseling session:

- Describe the behavior or incident that is of concern and why it is a problem. Behaviors are things that are seen and heard.
- State the rule or expectation that has been violated.
- Illustrate the impact the behavior/incident has on others and/or the workplace (e.g. hardship on coworkers, poor service to customers, etc.).
- Discuss mechanisms for improvement. Ask the employee what he/she needs in order to perform successfully in this area of work.
- Inform the employee that you have expectations for his/her behavior and will review his/her work to make sure expectations are met.
- Share with the employee areas where he/she is performing well.

Documentation of a Counseling Session

A counseling session is generally informal and should not become a part of the employee's permanent personnel file. Supervisors are encouraged to make note of the counseling session in case the behavior is repeated in the future. A note of this type should include the facts - when you talked, what you talked about, agreements that were made, etc. This type of documentation can be maintained in the supervisor's file. Supervisors may also want to utilize incident reports to document issues as they arise. These reports can then be used as discussion items during a counseling session.

Example: Letter of Scrutiny

April 17, 2004

Dear

This letter is prompted as result of your excessive use of ill time over the past year. It has come to my attention that you have used an inordinate amount of ill time which, over that period, totals 212.4 sick leave hours plus 74 hours leave without pay and at least 40 hours of vacation taken in place of sick leave. In addition, your records indicate that much of the ill time requests have been in conjunction with days off, that is: weekends, holidays, or vacation. I sense that a pattern of misuse of this benefit may be developing.

Section 124.38 of the Ohio Revised Code states in part:

Employees may use sick leave, upon approval of the responsible administrative officer of the employing unit, for absence due to personal illness, pregnancy, injury, exposure or contagious disease which could be communicated to other employees, and to illness, injury, death in the employee's family.

Since you are a member of the classified civil service, this particular statute governs your use of ill time.

This letter is not a reprimand, but rather a notice to you that future requests for sick leave will be more closely scrutinized to assure their legitimacy under Section 124.38. If a request for ill time is not for legitimate reasons, your request will be denied.

If you have questions concerning this matter, please contact me.

Sincerely,

Issuing a Written Reprimand

A written reprimand starts the Corrective Action process. It follows a counseling session if the behavior is not corrected and/or the employee's performance does not improve.

The supervisor should meet with the employee and be prepared to deliver the written reprimand. The meeting proceeds similar to a counseling session.

If the employee is a bargaining unit member, provide the employee the opportunity to have a union steward present when presenting the written reprimand to the employee.

Items to include in a written reprimand:

- The employee's name, title, and department/ unit.
- The date the written reprimand was given to the employee.
- The statement, "This is a written reprimand."
- Specific examples of the behavior that needs to be corrected, including dates when it occurred.
- Descriptions of previous attempts by the supervisor to get the behavior corrected, e.g. counseling sessions, verbal warning.
- A clear description of the desired behavior.
- The statement, "Further disciplinary action will be necessary if the behavior is not corrected."
- A place for the employee to sign.

Maintaining Written Reprimands

Written reprimands should be maintained in the employee's permanent personnel file.

Request for Corrective (Disciplinary) Action

For Classified Civil Service staff, corrective action beyond a written reprimand and performance improvement plan is issued by the Office of Human Resources. Supervisors must request disciplinary action.

Supervisors are asked to include the following when submitting a request for disciplinary action:

- A written sequence, in chronological order, of the repeated incidents and/or violations. Be sure to include date, time, location and other pertinent details. Clearly state what the employee did or failed to do.
- Supporting documentation should indicate the names of witnesses who can testify to any of the incidents if necessary.
- Copies of documentation related to the employee's behavior - incident reports, counseling session notes, and written reprimands.

This request for disciplinary action should be written objectively and factually. Observations of behavior, and not judgment of behavior, should be included. Hearsay should not be included.

The request for corrective action should be sent to:

Consultant's Name
Office of Human Resources
Consulting Services
Room 433 Archer House
2130 Neil Avenue
CAMPUS

Sample: Request for Disciplinary Action

Subject: Request for Further Disciplinary Action for

Date: November 17, 2004

From:

To:

This is a request for further disciplinary action to be taken against Mr. _____, a custodial worker in the third shift (42nd district), for Neglect of Duty in the form of Excessive Absenteeism and Tardiness and failure to report to work after suspension.

Mr. _____ received a 3 working-day suspension, effective on 8/26, 27, 28/1997, for Neglect of Duty in the form of Excessive Absenteeism and Tardiness, failing to complete work assignments, failure to answer a page from supervisor, and showing up to work smelling like alcohol on one occasion. Since the suspension, Mr. _____ has had an ongoing attendance problem and has been absent as follows:

<u>Type of Absence</u>	<u>Number of Times</u>
Late	2 Disapproved
Excessive Ill	3 Approved 2 Disapproved
No Call/No Show	2 Disapproved

In addition, since the three-day suspension, Mr. _____ has received two incident reports regarding his performance at work:

Incident report on 9/20/04 for NOD and failing to report to work after suspension.

Incident report on 9/25/04 for NOD and Excessive Absenteeism.

I have included an attendance summary for Mr. _____ as well as copies of his suspension letter and incident reports. If you concur, please forward to the appropriate personnel for further processing.

Corrective Action Hearings

Corrective action hearings for CCS staff are held by members of the Office of Human Resources, Consulting Services staff. The employee and the department are notified in writing of the date and time. It is the supervisor's responsibility to give the employee their hearing notice and make sure the employee signs the certification form. Both the employee and the department are provided copies of the request for corrective action. If the employee is a union member, a copy of the packet will be sent to the union.

Non-bargaining unit employees are permitted representation at the hearing. If they chose to bring an attorney, the attorney should provide a letter of representation prior to the hearing. They may chose to have an attorney or some other support person present. Bargaining unit employees will be represented by an official from their union.

The HR Consultant conducting the hearing will notify the employee and the department of the outcome of the hearing in writing. Possible outcomes include:

- No cause for action
- Appointing Authority Reprimand
- Suspension
- Demotion
- Removal



**Office of Human Resources
Consulting Services and
Employee Relations**

Archer House
2130 Neil Avenue
Columbus, OH
43210-1156

Phone 614-292-2800

Fax 614-292-0549

August 12, 2009

Employee Name
Employee Address

Dear (Employee Name):

The purpose of this letter is to advise you that your department has requested corrective action against you because of your neglect of duty. In order to afford you every opportunity to explain why such action should not be taken, a hearing has been scheduled for (Date) at (Time) at (Location), Columbus, OH 43210.

Please note that this hearing will only be rescheduled in the event that an unavoidable circumstance arises which renders one of the parties unavailable to attend. Unless there are mitigating circumstances, each party will only be granted one (1) reschedule.

Please be advised that this hearing will start on time. If you are scheduled to work during the time of the hearing, your department will be advised to excuse you from work 30 minutes prior to the scheduled time of the hearing. You are to use this time to meet with your steward to prepare for the hearing. To discuss your case before the pre-corrective action hearing, please contact your CWA Steward, (Steward Name) at (Steward Number) or at the CWA Office at 294-5265.

Should you need to reschedule this hearing, please contact the Office of Human Resources, Consulting Services at 292-2800 no less than 24 hours prior to the hearing.

Sincerely,

Todd Hunter
Manager, Labor Relations

C: Steward
CWA
File

Participating in a Corrective Action Hearing

While the Corrective Action hearing is an opportunity for the employee to respond to the charges, the department (supervisor) should be:

- Prepared to address questions regarding the performance or practices of the unit;
- Able to articulate or summarize the performance concerns; and
- State where or how the employee is performing satisfactorily.

Human Resources Policy and Procedure Manual

Subject: CORRECTIVE ACTION
Number: 8.15
Applies to: University staff

Issued: 10/1/73
Revised: 9/1/94
Edited: 10/31/97

Policy

Staff may be reprimanded, suspended, demoted, or terminated for violation of University rules, policies, and/or such offenses as incompetency, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, and/or failure of good behavior. It is important for supervisors to manage performance and to take corrective steps when appropriate.

Corrective action for employees represented by labor unions must be implemented in accordance with the terms of applicable collective bargaining agreements.

Policy Guidelines

I. Administrative and Professional and Unclassified Professional Staff

A. Administrative and professional staff serve at the discretion of their appointing authority. In case of involuntary termination, demotion, or suspension because of unsatisfactory performance, at least two weeks' advance written notice should be given by the unit appointing authority, unless the termination is a result of actions that necessitate termination without advance notice.

B. All notices of involuntary termination should be reviewed by the Office of Human Resources prior to being issued.

II. Classified Civil Service Staff

A. The University subscribes to the principle of corrective action and follows a policy of progressive steps for minor infractions, as determined by the University. Corrective action for minor infractions usually involves counseling, written reprimands, and one or more suspensions before termination.

B. In the case of serious infractions, the University may proceed directly to termination.

C. Administrative officials have authority to counsel and issue written reprimands.

D. In accordance with Chapter 124 of the Ohio Revised Code, a classified civil service staff member may be suspended, demoted, or terminated only by direct action of the appointing authority. The appointing authority for the classified civil service is the vice president for human resources or a designee when appropriate.

Corrective Action Policy Continued

Procedure

I. Administrative and Professional and Unclassified Professional Staff

Departmental appointing authorities should contact the Office of Human Resources prior to issuing an involuntary termination to administrative and professional or unclassified professional staff.

II. Classified Civil Service (CCS) Staff

A. Requests for suspension or termination of CCS staff are to be made to Human Resources within a reasonable period of time from the last alleged infraction or notice of the infraction, unless considerable investigation is necessary. Requests should contain the following information:

1. The employee's name, job title, and work address (or home address if the employee is not currently working), and the work schedules of the employee and supervisor;
2. A summary statement of the reasons for requesting corrective action;
3. Specific documentation as evidence to support the request.

B. Upon receipt of a request for suspension or termination, Human Resources will schedule a precorrective action meeting and notify the employee and the supervisor of the date, time, and location. During the meeting, the supervisor should be prepared to discuss the reasons and the basis for requesting corrective action. The staff member will have an opportunity to explain and present evidence as to why action should not be taken.

C. After the precorrective action meeting, Human Resources will recommend appropriate action and notify the college/department and staff member of the decision. The appointing authority will issue decisions within 40 calendar days of the request for corrective action unless considerable investigation is necessary.

D. CCS staff may appeal the following corrective actions to the State Personnel Board of Review:

1. Terminations except during the second half of an initial probationary period;
2. Demotions except during the second half of a promotional probationary period;
3. Suspensions greater than three days.

Human Resources Policy and Procedure Manual

Subject: PROBATIONARY PERIOD
Number: 5.10
Applies to: Classified civil service staff

Issued: 10/1/73
Revised: 7/25/94
Edited: 10/31/97

Policy

A probationary period is required for classified civil service and bargaining unit staff in order to evaluate performance during the initial phase of employment.

Policy Guidelines

I. Probationary periods for employees represented by labor unions are established in accordance with terms of applicable collective bargaining agreements.

II. Probationary periods are served:

- A. Upon initial appointment or promotion to a position, except when a position is reclassified;
- B. Upon rehire after resignation or termination, except for reinstatement to the former position;
- C. Upon lateral transfer to a different classification outside the classification series.

III. Conditions of Probationary Period

- A. A staff member serving an initial or promotional probationary period is not eligible to apply for other University positions.
- B. A demoted staff member does not serve a probationary period. However, civil service certification must be obtained in the new classification before the staff member is eligible to apply for other University positions.
- C. Time spent on leaves of absence or layoff is not calculated as part of the probationary period.

IV. Performance Evaluation, Demotion, and Termination

- A. Probationary performance evaluations should be conducted during the second half of the probationary period.
- B. A staff member whose performance is unsatisfactory following initial hire may be terminated.
- C. A staff member whose performance is unsatisfactory following a promotion may be demoted to the former classification.

Probationary Policy Continued

D. The effective date of termination or demotion must be prior to completion of the probationary period.

E. A staff member may be terminated or demoted only by direct action of the University's appointing authority.

F. Terminations or demotions from the second half of a probationary period are not appealable to the State Personnel Board of Review. Terminations or demotions prior to completion of one-half of the initial probationary period are appealable to the State Personnel Board of Review.

G. A demoted staff member may be returned to the former position if the position is vacant. If a transfer to the former position cannot be made, the employee will be retained by the current employing department at the demoted classification until a transfer can be arranged.

Procedure

Issued: 10/1/73
Revised: 6/22/97
Edited: 07/28/98

Length of Probationary Period

I. The probationary period for bargaining unit members is determined by the contract agreement.

II. The probationary period for nonbargaining civil service staff is 180 calendar days, regardless of percentage of appointment or appointment category (e.g., regular, seasonal, intermittent).

III. The Office of Human Resources may determine the length of probationary period within the classification specification of specific titles.

A. Security Officer 1 has a one-year probationary period.

B. Security Officer 2 and Security Officer 3 have a one-year initial probationary period and a 180-day promotional probationary period within the job series.

C. Traffic Control Officer 1 has a one-year probationary period.

D. University Law Enforcement Officer (ULEO) has a one-year probationary period.