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Relevant Policies

Corrective Action and Involuntary Termination, Policy 8.15
Performance Management, Policy 5.25
Probationary Period, Policy 5.10
Resignation or Voluntary Termination, Policy 9.25
Performance Improvement Process

The performance improvement process contains several elements. The process:

- Explains the deficient performance,
- Provides specific expectations,
- Allows reasonable time to resolve the deficient performance,
- Ensures staff are treated consistently, and
- Notifies staff of the consequences of continued deficient performance.

It also provides employees the opportunity to engage with management in developing strategies to improve performance and reduces liability to the university. The performance improvement process is generally progressive in nature such that each successive step in the process is more significant than the last.

The performance improvement process differentiates among:

- Unclassified staff,
- Classified Civil Service (CCS) staff, and
- Bargaining Unit staff.

Knowing When to Use the Performance Improvement Process

There are generally three instances when supervisors are strongly encouraged to initiate the performance improvement process, which are listed below.

The staff member’s quality and/or quantity of work are below standard. Examples include:

- Performance expectations are not met
- Deadlines are missed
- Errors are repeated numerous times
- Customer submits complaint

Staff violates department policy. Examples include:

- Excessive absenteeism or tardiness
- Failure to follow call-off procedures
- Taking unauthorized breaks

Staff commits an infraction of university policy. Examples include:

- Sexual harassment
- Theft
- Assault or workplace violence
- Discrimination
- Retaliation
Management Considerations and Fact-Finding

Supervisors should:

- Invest in the employee’s success.
- Provide a copy of the current position description to the employee.
- Clearly communicate expectations verbally and in writing.
- Identify areas of development and ensure that on-boarding practices are in place.
- Treat all staff equitably.
- Implement University Rules and University Policies consistently.
- Document all interactions with staff that relate to their performance.
- Neutrally and thoroughly assess situations by gathering all the pertinent facts. This includes giving the employee an opportunity to respond to the allegations (only the Office of Human Resources investigates discrimination or harassment allegations).
- Talk with staff as soon as possible regarding performance concerns.
- Resist reacting to a situation when emotional. Take time to breathe and wait until you can address the situation objectively and professionally.
- Coach and counsel staff in private settings.
- Listen to staff when they discuss “their side” of an incident and then document the response.
- Provide written notice to staff of performance issues.
- Consult with college/VP unit HR Office or HR Employee and Labor Relations

Supervisors Should Not:

- Overreact.
- Ignore issues.
- Take sides on an issue or situation.
- Promise or commit to take actions that are not consistent with university practices.
- Act inconsistently in the management of similar cases.
- Disregard policies and procedures.
- Proceed with incomplete information, such as not asking staff for a response about the performance concern.
- Issue corrective action/discipline without approval from college/VP unit HR Office.
Holding a Counseling Session

Informal Step

Setting performance expectations with staff and providing ongoing feedback to employees is an essential part of the performance improvement process. As issues arise with staff behavior or performance, the supervisor should talk with the staff member to ensure awareness of the problem. This informal conversation is known as a counseling session. These discussions should be documented in the supervisor file in case more formal action needs to be taken.

Formal Steps

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 actions that are seen and/or heard.
- Ask the employee for their side of the story or a response to the issue.
- Depending on the employee’s response, state the University Rule, policy, or expectation that has been violated or is unmet.
- Illustrate the impact the behavior/incident has on others and/or the workplace (e.g. hardship on coworkers and colleagues, poor service to customers, etc.).
- Discuss mechanisms for improvement; provide measurements and specific timeframes, if appropriate.
- Ask the staff member what she/he needs to perform successfully in this area of work.
- Inform staff that you have expectations for her/his behavior and will review her/his work to ensure expectations are met.
- Share with staff members areas where she/he is performing well.
- Document the conversation and follow-up with the employee. Keep documents in the supervisory file.

Documenting Staff Performance

One of the key elements in the creation of a high performance culture involves the effective management of staff performance. Supervisors play a pivotal role in this process which includes on-going coaching, feedback and documentation. In this context, it is critical for staff to know, and for supervisors to share with staff, whether they are not meeting, meeting, or exceeding performance expectations. Supervisors should encourage excellence in performance by sharing those instances where staff is meeting/exceeding expectations. When performance is below expectations or when a University Rule or policy has been violated, it is imperative to document it, as well as any counseling sessions with the staff member. Adhering to the following points will help a supervisor effectively implement the performance improvement process when needed:

State the facts of the incident and/or behavior

- What happened?
- The policy/rule that may have been violated.
- Where it happened.
- When it occurred.
- Witnesses to the incident.
- Give the employee an opportunity to respond.

Use objective language

- Write facts, not feelings and not judgment.

Be timely

- Document the incident as soon after the event as possible.
- As soon as possible after the event, get statements from any witnesses that observed the situation.
Assess and inform staff of the documentation

- Assess all the information obtained in an impartial way. Make a determination about next steps after consultation with the unit HRP.
- If appropriate, let the staff know that you are documenting the incident/behavior.
- Describe to staff why the behavior is unacceptable.
- Give staff the opportunity to respond either verbally or in writing to the documented behavior.
- Make note of when you talked to the staff member, their response, and any agreements that may be made.
- Keep copies of all document(s) collected concerning incident/behavior in the supervisory file.

Keep the documentation in supervisory file, not the staff member’s permanent personnel file.

Resignation in Lieu of Involuntary Termination

In cases where the performance improvement process leads to termination, staff being terminated may request the option of resigning in lieu of being involuntarily terminated. This option must be raised by the staff member only. The college/VP unit can consult with HR Employee and Labor Relations before making a determination to accept a resignation in lieu of involuntary termination, but the decision to accept the resignation is solely at the discretion of the college/VP unit. In making these determinations, managers and unit HRPs need to consider the seriousness of the infraction, the impact of the behavior upon members of the university community and whether it is in the best interest of the university, for the employee to be eligible for re-hire at a future time.

If the resignation is accepted, the college/VP unit must issue a letter of acceptance of the resignation to the employee (example on following page). The letter of acceptance must indicate whether the employee will or will not be eligible for rehire. Ineligibility for rehire, which must be decided in consultation with HR Employee and Labor Relations, must be noted in the HRIS by the college/VP unit. A copy of rehire ineligibility must be sent to HR Employee and Labor Relations.

Performance issues that should be considered for no rehire status for unclassified staff are major policy violations such as discrimination, workplace violence, sexual harassment, retaliation, and theft. This is not an all-inclusive list and HR Employee and Labor Relations must be consulted in these situations.
Example – Letter of Acceptance – Resignation in Lieu of Termination

[Date]

Employee Name
Campus address

Dear [Employee Name]:

We received your letter of resignation dated __________. We will accept your letter of resignation in lieu of Termination effective __________. Based on this decision, [you will] [you will not] be eligible for rehire with The Ohio State University.

You must return all university property, such as keys, BuckID, computer, files, etc., on your last day of work. Please turn these items in to ________.

Upon termination from The Ohio State University, you may be eligible to continue certain benefits. For more information, including deadlines for continuing and/or converting benefits, go to hr.osu.edu/life-events/leaving-ohio-state/.

Sincerely,

Appointing authority or designee

c: SHRP, Director, HR Employee and Labor Relations

Note: Items appearing in bold are required in the letter
Unclassified Staff Performance Improvement Process

Facts to Know about Unclassified Staff

Employment is “at will.” Unclassified staff serve at the discretion of the college/VP unit appointing authority.

The employer or employee may terminate the employment relationship at any time for any reason provided that the reason is not prohibited by law. We still want to ensure that staff are advised about their deficient performance and given a chance to improve the performance prior to termination (Please note: consultation with the college/VP unit HR and Office of Human Resources (OHR) should take place prior to termination).

- Unclassified staff do not serve a probationary period.
- The performance improvement process is not as formalized as it is for CCS staff. The guidelines outlined below are strongly encouraged by the university and they are not mandated by University Rules, policy or law.

Performance Improvement Process for Unclassified Staff

Any of the following actions may be taken to address unclassified staff performance and/or attendance issues.

- Verbal/written counseling.
  - For attendance issue you may want to consider engaging in a discussion with the employee, if there are any specific circumstances that preclude the employee from meeting the attendance policy.
- Documented performance improvement plan.
- Termination – the unit appointing authority should consult with OHR Employee Relations prior to involuntarily terminating an unclassified staff.
Manager sets performance expectations.

Manager identifies performance problem.

Manager coaches/counsels staff.

Does performance improve?

Yes

Staff continues to work.

No

Manager documents performance concerns and shares with staff.

Manager and staff discuss concerns and develop a performance improvement plan (see below).

Does performance improve?

Yes

Staff continues to work.

No

Manager confers with college/VP unit SHRP or designee regarding termination of employee.

Staff member is terminated.
Developing a Performance Improvement Plan (PIP)

A performance improvement plan is developed to help the staff member be successful in the job by changing the undesired behavior. The intent is to provide sufficient structure to support excellent staff performance. Although performance improvement plans are desirable, they are not required in all instances. The college/VP unit has discretion to proceed directly to termination if the facts warrant this action; consultation with HR Employee and Labor Relations is strongly encouraged in these situations. Performance improvement plans should be maintained in the staff member’s permanent personnel file.

A performance improvement plan and conversation should include:

- Description of the performance that needs to be corrected and why it needs to be corrected.
- A statement describing how the unit is negatively impacted by the lack of performance.
- A discussion with the employee to understand the reasons why performance is not at the desired level. Based on this dialogue proceed with the development of a performance improvement plan.
- Identify the expectation, University Rule, or policy that has been violated.
- Describe the desired performance; any qualitative or quantitative measurement, if applicable; and the time frame within which the desired performance must occur.
- Identify action steps that can be taken to reach the desired performance.
- Inform the employee as to how staff performance will be monitored/reviewed.
- Establish a date and time to discuss progress (successes and challenges) in changing the performance.
- Identify and select any additional resources that the unit may provide to help the staff member improve the performance.
- Include the statement, “Further disciplinary action, up to and including termination, will be necessary if the performance does not improve or if other performance issues arise.”
- Insert signature and date lines for the staff member and supervisor to note that the plan has been discussed.

What to do if performance declines again after the expiration of the PIP:

- Revisit desired performance expectations.
- Consult with college/VP unit HR and HR Employee and Labor Relations to seek direction.

Units should review all notices of involuntary terminations with HR Employee and Labor Relations prior to issuing.
Example #1: Formal Coaching

MEMORANDUM

To

From

Date

Subject Counseling Session

I want to make you aware of recent issues regarding your performance concerning our office metrics. For the month of February, you did not make the call quota for new accounts. Our standard is 60 calls per month (2 calls per day) and our records reflect that you only made 20 calls last month. The calls we make to our __________ are very important for developing different sources of revenues. To help you increase your calls per day, our trainer will work with you to improve this number to reach and/or exceed the standards set for the department. If you have any other suggestions that would help you reach this goal, please feel free to share them with me so that we can assess and implement, if appropriate.

We will continue to discuss your progress on __________, when we will meet with you to re-evaluate your call volume. We trust that by the above date, you will be meeting the standards that we have set forth for you and the unit.

Sincerely,

Supervisor

c: SHRP, Director
Example #2: Follow-up Communication - Formal Coaching

Dear Employee,
Thanks for taking the time to talk with me today about the customer complaint from a call you took last Friday. As we discussed, in the future, when a customer gets upset, the expectation is for you to remain calm and get a supervisor to help you with the situation. If a supervisor is not available at the time, you are expected to record the customer’s contact information and let them know that a supervisor will contact them shortly to resolve the issue, and thank the customer for their patience. Also, please alert me immediately if you think a customer was upset, so we can discuss it.

I will see you at our next formal feedback meeting next Thursday.
Sincerely,

Manager
### Example: Coaching Worksheet

Employee name: 

Supervisor name: 

Meeting date: 

<table>
<thead>
<tr>
<th>Performance Areas Meeting and Exceeding Expectations:</th>
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<table>
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<tr>
<th>Performance Areas Identified for Improvement:</th>
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<tr>
<th>Additional Discussion Items: (e.g., project updates, progress on priorities, training and professional development, employee’s concerns, due dates)</th>
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<table>
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<tr>
<th>Summary of Expectations:</th>
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<tr>
<th>Next Steps in Employee Development: (for both the supervisor and employee)</th>
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</table>

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

______________________________  ______________________________
Employee                                  Supervisor
Example: Letter of Counseling for Attendance

MEMORANDUM

To

From

Date

Subject Letter of Counseling

During a previous discussion(s) on __________, __________, and __________, we talked about the need to improve your attendance given its negative impact upon the unit. A review of your attendance disclosed a lack of improvement and a pattern of calling off on Mondays and Fridays (Attachment A). Your attendance is extremely important to the achievement of the unit’s goals and consequently, your timely attendance is required.

I will continue to assess your progress and on __________, I will meet with you to re-evaluate your attendance issues. Failure to meet the standards that we have set forth will result in further disciplinary action up to and including termination.

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

____________________________________  ______________________________
Employee Signature  Date

____________________________________  ______________________________
Manager/Supervisor Signature  Date
Example #1: Performance Improvement Plan

MEMORANDUM

To

From

Date

Subject

On June 5, 2010, 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 not completed for January 1 – June 1, 2010 and has not been completed since the beginning of this 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 1.

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 the following day.

2. The equipment inventory status report was due by June 15. The report must be completed and ready for signature by August 15. Future status reports must be completed and submitted by the deadlines specified on the report.

3. Requests for purchases should be ready for final signature within five work days or receipt of the request.

We will continue to meet biweekly to monitor your progress and on August 15, we will re-evaluate all items outlined above. Please identify further training needed to your supervisor by July 20. Further disciplinary action, up to and including termination, will be necessary if the performance does not improve or if further performance issues arise.

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

____________________________________  ______________________
Employee Signature                          Date

____________________________________  ______________________
Supervisor Signature                       Date

Note: Items appearing in bold are required in the letter
Example #2: Performance Improvement Plan

MEMORANDUM

To

From

Date

Subject

Based on the findings issued on __________ by __________, there was sufficient evidence to establish that you violated the university’s Workplace and Family and Relationship Violence Policy 7.05. Specifically you were found to engage in intimidating conduct that disrupted the work environment. To ensure that your performance and behavior is effective and meets the goals of the unit, you must meet the following expectations and deadlines:

1. You must review the university’s Workplace and Family and Relationship Violence Policy 7.05 and discuss it with your unit human resources professional or HR Employee and Labor Relations.

2. You must engage in professional and courteous interactions with co-workers, supervisors, students and other customers.

3. You must refrain from misusing or abusing university property.

4. You must follow all safety standards (Unit Guideline Book Attached) including wearing Personal Protective Equipment (PPE) and using Lock-Out/Tag-Out Procedures.

5. You must attend anger management training and coaching with Ohio State EAP. You must provide a release and/or documentation that demonstrate that you are actively participating in this training/coaching by __________.

6. You must attend Effective Communication training or Dealing With Difficult People training. Your training is schedule for _________ between the hours of ____________ at ______________ location.

We will meet again in 15 days on __________ at __________ to discuss your progress in meeting these expectations and any challenges that remain to be addressed. If you have not made significant progress in meeting these expectations during that period further disciplinary action up to and including termination will be taken.

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

__________________________________________  __________________________
Employee Signature                     Date

__________________________________________  __________________________
Supervisor Signature                     Date

Note: Items appearing in bold are required in the letter
Example: PIP Follow Up Discussion Document

| Employee Name: |
| Meeting Date: |
| Attendees: |

What is working well?

<table>
<thead>
<tr>
<th>Objectives, Expectations and Areas of Improvement</th>
<th>Due Date</th>
<th>Progress</th>
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<tr>
<td></td>
<td></td>
<td>___ In Progress ___ Achieved ___ Did not Achieve</td>
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<td></td>
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<td>___ In Progress ___ Achieved ___ Did not Achieve</td>
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<td></td>
<td>___ In Progress ___ Achieved ___ Did not Achieve</td>
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Summary of Performance

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<thead>
<tr>
<th>Date</th>
<th>Overall Progress</th>
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<td></td>
<td>___ In Progress ___ Achieved ___ Did not Achieve</td>
</tr>
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</table>

Recommendations:

| ___ Extend Improvement Plan ___ Achieved ___ Did not Achieve |

Signatures:

------------------------------------------  ----------
Manager                                         Date
------------------------------------------  ----------
Employee                                       Date
Pre-Termination Checklist

This is a general list of questions to consider when there is a supervisory request for discipline or termination. The number and the sequence of the questions will vary depending on the facts and should be tailored to fit the situation.

Supervisor Responsibilities:

- What are the stated reasons for discipline/termination and how strong is the evidence in support of termination?
- Was the staff member provided with a position description and clear job expectations?
- Was the staff member given an opportunity to respond to the allegations of non-performance or poor behavior?
- Are there any mitigating or extenuating circumstances that might justify a lesser discipline? For example: use of protected Family Medical Leave (FML) leave, accommodations under the Americans with Disabilities Act (ADA), or Fair Labor Standards Act (FLSA) considerations, etc.
- Was the employee’s performance managed in accordance with university policy?
- Did the staff member have reasonable/fair advance notice of the standards by which performance would be evaluated?
- Was a performance improvement plan issued?
- Was the staff member treated in a manner consistent with policies, procedures and past practice? If deviating from past practice, what specific business related reasons exist for this departure?
- Was there other staff who engaged in similar conduct disciplined/terminated? Review documentation of comparable examples; this review should encompass all available records.
- Have alternatives to termination been used in the past for similar circumstances? What was the rationale for the application of a different standard?

College/VP Unit Human Resource Office Responsibilities:

- Has the risk of proceeding with discipline/termination been assessed and a safety/risk assessment plan identified and implemented? Considerations: safety, publicity, reputation, financial impact, etc.
- Did the supervisor coach and counsel the staff member? Were these actions documented?
- Does the supervisor’s documentation support the claim of staff non-performance or poor behavior?
- Did the staff member complain about the supervisor? Were these allegations reviewed and the appropriate offices notified?
- Has other staff complained about this supervisor? Is there a pattern of similar behavior?
- Prior to termination was the staff member’s entire personnel record considered?
- Communicate the termination to those with a “need to know” internally and at the university administrative level, e.g., Academic Affairs, Legal Affairs, Media Relations, etc. Manage potential public relations repercussions.
- Did the supervisor give the staff member an opportunity to respond to the allegations of non-performance or poor behavior? Was this exchange documented and what was the staff member’s response?
- Is management aware of any mitigating or extenuating circumstances that might justify a lesser discipline? For example: use of protected Family Medical Leave (FML) leave, accommodations under the Americans with Disabilities Act (ADA), or Fair Labor Standards Act (FLSA) considerations, etc.
- Has the staff member recently exercised a legal right such as filing a workers’ compensation claim; an OSHA (Occupational Safety and Health Administration) complaint; grievance; or complained about fraud, waste or misuse of public resources?
- Did the staff member recently complain about discrimination, retaliation, safety, or expressed concerns regarding the university’s integrity or reputation?
- Was the complaint reviewed, referred and investigated in accordance with university policies and procedures?
- Delete staff from list serves, web directories, and shared drives if applicable.
- Reference letters – determine the nature of the reference to be provided and identify a single point of entry for the reference.

After reviewing these questions, contact HR Employee and Labor Relations to discuss and determine next steps.
Example Termination Letter for Unclassified Staff

[Date]

Employee Name  
Campus address

Dear [Employee Name]:

I have notified you about problems concerning your performance as a __________ with the Office of __________and presented you with a Performance Improvement Plan on April 7, 2010 and May 11, 2010. Issues addressed were meeting deadlines, addressing customer concerns appropriately, and completing monthly reports.

At this time your performance has not progressed to a satisfactory level that permits you to perform the duties of your position effectively. I regret to inform you of your termination from university employment with the Office of __________effective August 15, 2010. You will [not be eligible] [be eligible] for rehire with The Ohio State University.

At this time, please prepare a list of your current projects, including the status of each and next steps for the projects. On August 14, 2010, we will review the listing, as well as any pending or outstanding issues needing additional attention.

You must return all university property, such as keys, BuckID, computer, files, etc., on your last day of work. Please turn these items in to ________.

Upon termination from The Ohio State University, you may be eligible to continue certain benefits. For more information, including deadlines for continuing and/or converting benefits, go to hr.osu.edu/life-events/leaving-ohio-state/.

Sincerely,

Appointing authority or designee

c: SHRP, Director

Note: Items appearing in bold are required in the letter
Post-Termination Checklist

Supervisor Responsibilities:

- Collect and submit BuckID, final payroll and/or leave forms.
- Ensure removal of staff access to university systems and return all university property and keys. Contact appropriate personnel to discontinue computer access (HR, financial, People Admin, etc.).
- Remind staff member to turn in parking tag to Transportation and Parking to stop the billing process.

College/VP Unit Human Resource Office Responsibilities:

- Develop a communication plan for unit employees. Balance confidentiality with the need for unit employees to know the specifics of the employment action.
- Provide information on benefit continuation (COBRA), parking refund, and benefits.
- Enter termination into the HRIS, including if the employee is ineligible for rehire.
- Process vacation, sick leave (if retiring), and compensatory time payout.
- If the staff member is on administrative leave, determine way to return personal items to the staff member.
- Delete staff from list serves, web directories, shared drives, if applicable.
- In consultation with HR Employee and Labor Relations, determine if the staff member will be “eligible for rehire.” If not eligible for rehire, provide written notice of this decision in the termination letter. Issues that should be considered for no rehire status for unclassified staff are major policy violations such as discrimination, workplace violence, sexual harassment, retaliation, and theft; this is not an exhaustive list. HR Employee and Labor Relations must be consulted in these situations.
- Send a copy of rehire ineligibility notification to HR Employee and Labor Relations.
Facts to Know about CCS Staff

- Staff serve under the University Rules for the Classified Civil Service.
- The Appointing Authority for non-bargaining CCS staff is the Vice President for Human Resources or designee.
- Unit appointing authority is the president, senior vice president, vice president, provost, vice provost, dean, or senior human resource professional of the employing unit.
- Staff may be covered by a Collective Bargaining Unit Agreement. The Manager of OHR Labor Relations is the Appointing Authority’s designee for staff covered by a Collective Bargaining Unit Agreement.
- Corrective Action and Involuntary Termination Policy 8.15 and this guide outline the appropriate and necessary steps for CCS staff.

Probationary Removal/Demotion Process

- CCS staff serves probationary periods. Except for especially approved positions, probationary periods are 180 days.
- Certain positions are designated to serve one year probation; see Probationary Period Policy 5.10.
- A probationary staff member should receive a “mid-probationary” review around the 90th day of their probation. This review should clearly indicate those areas in which the staff needs to improve and an indication of what work is being done well. It should also be noted if significant improvement is needed for the staff to pass probation.
- A second review or further coaching and feedback should occur around the 150th day of probation. If the staff member is not going to pass probation, then the overall rating on the review that was issued and given to the employee must be “does not meet expectations” or the equivalent.
- A request for probationary removal/demotion must be sent to OHR with enough time before the 180th day for the request to be properly reviewed. A request for removal or demotion will ideally be received in OHR no later than the 155th day of probation.
- Termination of an individual during the initial probationary period is effective on the day of notification. Employment and compensation cease on that day.
- In demotion cases, the department may have to keep the staff member 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 the 180th day of probation. The employee will be retained by the current employing unit for up to 30 days at the former classification unless placement can be arranged sooner.

Attendance Issues for CCS Non-Bargaining Unit Employees

The performance improvement process outlined below should be followed for non-bargaining unit CCS employees with attendance issues. These are general guidelines. Please consult your unit HR Professional or the OHR Employee/Labor Relations Consultant with your specific situation.

Absence or tardy occurrences should be evaluated for following proper procedure, for reason or for a pattern of abuse. Use the following criteria to approve or disapprove absences appropriately. The performance improvement process may be taken on approved or disapproved absences. Supervisors must review all requests for leave, including unpaid leave, and approve or disapprove them appropriately.

Approving Absences

Some absences cannot be disapproved. With proper notification, supervisors must approve absences for any of the following reasons:

- Request was pre-approved by supervisor.
- Reason for absence is protected under university policy (e.g., FML, military leave, jury duty, bereavement) and required documentation has been submitted.
Disapproving Absences

There are some situations in which unscheduled absences may be disapproved at any time, without prior counseling. Supervisors may disapprove absences for any of the following reasons:

- Employee does not follow established call-in procedures and/or submit a leave form.
- Reason not medically related (e.g., overslept, car broke down).
- Evidence exists that employee was dishonest about reason for absence.
- A pattern of excessive sick leave usage has been established and the employee has been put on notice about an attendance concern by the supervisor/manager/HR (e.g., using sick leave quicker than it is accrued, repeatedly being tardy, repeatedly calling off sick in conjunction with days off).
- Unpaid leave, unless for a reason protected under university policy, state, or federal law.

Notice of Attendance Issue (Formerly: Letter of Scrutiny)

When an employee demonstrates a pattern of abuse, the supervisor and/or unit may place the employee on notice that their attendance is not at an acceptable level. This notice will alert the employee that further absences will be evaluated closely and possibly disapproved. This notice needs to be done in writing. It can be a letter of counseling or included as a step in the performance improvement process. If attendance is included in the corrective action process it must include the bolded language below.

This letter is to notify you that future requests for sick leave will be more closely scrutinized to assure their legitimacy under Chapter 79 of the Rules for the Classified Civil Service. Consequently, you will be required to submit medical documentation to support your sick leave requests.
Example: CCS Staff Counseling Letter for Attendance (Formerly Letter of Scrutiny)

Date

Dear [Employee Name],

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 of 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. The above absences represent a pattern of misuse of this benefit. Since these absences are not protected under the Family Medical Leave Act, the above absences represent a pattern of misuse of this benefit.

This letter is to notify you that future requests for sick leave will be more closely scrutinized to assure their legitimacy under Chapter 79 of the Rules for Classified Civil Service. Consequently, you will be required to submit medical documentation to support your sick leave requests. If a request for ill time is not for legitimate reasons, your request will be denied and will be subject to corrective action.

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

Sincerely,

[Supervisor Name]

Note: Items appearing in bold are required in the letter
Reasons for the Performance Improvement Process

Chapter 75 of the University Rules for the Classified Civil Service lists the reasons for which CCS staff can be disciplined. Those reasons are generally defined below; definitions are not all inclusive.

- **Conviction of a felony** while a staff member is employed by the university or a conviction not disclosed during the hiring process.
- **Discourteous treatment of public** is inappropriate behavior toward a visitor or vendor of the university.
- **Dishonesty** is usually in the form of stealing or falsifying application or leave forms, other documents, lying to a supervisor, etc.
- **Failure of good behavior** It can take the form of cursing in the workplace; unprofessional conduct toward a supervisor, customer or co-worker; fighting or threatening behavior, etc.
- **Failure to return from a leave of absence** when the staff member is in an unapproved leave of absence status.
- **Immoral conduct** typically involves sexual harassment or lewd behavior.
- **Incompetence** means someone who does not have the skills or abilities to perform the 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.
- **Insubordination** is when staff refuses to follow a directive from a supervisor.
- **Malfeasance in office** is the performance of an unlawful act while in an official capacity. **Misfeasance in office** is the inadequate or wrongful performance of a normally lawful act.
- **Neglect of duty** is a “general” category. It is typically used for attendance issues, excessive breaks, personal phone conversations, viewing non work-related items on the internet, or anything else that takes staff away from completing their job assignments.
- **Nonfeasance in office** is the failure to act when a duty to act exists.
- **Other unsatisfactory job performance.**
- **Use or being under the influence of alcohol or illegal drugs at work or inappropriate use of prescription drugs** is used when staff behaves in a manner that raises a reasonable suspicion that they are under the influence of alcohol or drugs. Employees in these situations are evaluated to determine if a violation of university policy exists.
- **Violation of university rules or policies such as discrimination, nepotism, etc.**
Steps in the Performance Improvement Process for CCS Staff

Informal Step

When performance expectations have already been identified for the staff member and the staff begins to exhibit a performance problem, the supervisor should initiate verbal coaching or counseling.

Formal Steps

According to University Rules for the Classified Civil Service, each step in the performance improvement process must include written notice to the staff member of their level in the process, the nature of their deficient performance, the expectations for performance, the consequences of continued deficient performance, and the effective date of the action. This includes notification at each level of the process to ensure that staff members are fully aware that performance is considered in the displacement process when positions are abolished and Level Three Notice generally results in termination. College/VP units complete the Written Coaching, Level One and Level Two Notices. The Level Three Notice will be issued by the Office of Human Resources. Templates that include all of these elements are provided below.

Documentation must remain in the active personnel file for major policy violations such as discrimination, workplace violence, sexual harassment, retaliation, and theft. This is not an all-inclusive list.

OHR reserves the right to make alternative decisions at its discretion.

Written Coaching

- Supervisor issues this notice.
- Can be included in a written performance evaluation.
- This step is active for three (3) years and remains in the personnel file after this time in an inactive status indefinitely.
- After three years, the employee can request the removal of the disciplinary record from the personnel file. The inactive record is then placed in a separate section of the personnel file.

Level One Notice

- Supervisor issues this notice with SHRP or designee’s guidance.
- Notice is active for three (3) years and remains in the personnel file after this time in an inactive status indefinitely.
- After three years, the employee can request the removal of the disciplinary record from the personnel file. The inactive record is then placed in a separate section of the personnel file.

Level Two Notice

- After OHR approval, the college/VP unit appointment authority issues this notice with SHRP or designee’s guidance.
- Notice is active for three (3) years and remains in the personnel file after this time in an inactive status indefinitely.
- After three years, the employee can request the removal of the disciplinary record from the personnel file. The inactive record is then placed in a separate section of the personnel file.

Level Three Notice (termination)

- Issued by the CCS Appointing Authority.
- Written notification includes the board order with appeal instruction.
- Disciplinary records must remain in the personnel file in accordance with the university’s records retention schedule.

Appeals

CCS staff can appeal a demotion and Level Three Notice (termination) to the State Personnel Board of Review (SPBR).
When is it appropriate to skip steps in the process?

For more serious infractions, it may be appropriate to skip a step in the performance improvement process. Infractions such as sexual harassment, theft, workplace violence, and others may necessitate skipping steps, possibly even to termination. HR Employee and Labor Relations will assist with these determinations and based on the determination, a hearing may be scheduled to address these issues.

Using the annual performance review as a step in the process

In the event that proceeding with a Written Coaching, Level One Notice, or Level Two Notice coincides with the time of the staff member’s annual performance review, the review may be used as a step in the performance improvement process. Staff must have notice that the review is also serving as a step in the performance improvement process and must receive all the information normally included in that step or Level Notice (see above).

Merger and Bar

Merger and Bar prohibits the university from issuing a level notice for an incident that occurred prior to the issuance of the last formal corrective action or Level Notice.

Just Cause

Just cause is a burden of proof or standard that an employer must meet to justify discipline or discharge. The basic premise of just cause is:

- Did the employee have forewarning/foreknowledge of the policy being violated?
- Was the rule reasonable related (or needed) by the employer?
- Did the employer confirm that the employee did violate the policy?
- Was a fair and objective review conducted?
- Did the employer obtain substantial proof that the employee was guilty of violation of the policy?
- Have the employer’s policies been enforced in an evenhanded manner?
- Is the degree of discipline reasonably related to the policy?
Performance Improvement Process Flow Chart for CCS Staff

Manager sets performance expectations.

Manager identifies performance challenge.

Manager coaches/counsels employee.

Does performance improve?

Yes

Employee continues to work.

No

Manager issues Written Coaching.

Does performance improve?

Yes

Employee continues to work.

No

Manager submits request to college/VP unit SHRP for Level One Notice.

SHRP or designee reviews request.

Continued on next page
Performance Improvement Process Flow Chart for CCS Staff (con’t)

Does performance improve?  
Yes  
Employee continues to work.

No  
Manager submits request for Level Two Notice.

SHRP or designee reviews request.

SHRP or designee send to OHR for paper review; if approved, Level Two Notice issued.

Does performance improve?  
Yes  
Employee continues to work.

No  
Manager submits request for Level Two Notice.

SHRP or designee reviews request.

SHRP or designee send to OHR for paper review; if approved, Level Two Notice issued.

Does performance improve?  
Yes  
Employee continues to work.

No  
SHRP or designee submits a request for Level Three Notice (termination) hearing.

OHR conducts and issues Level Three Notice (termination) hearing decision and board order.

Staff is terminated.

Employee can appeal to SBPR.

Decision carried out.
Coaching

Coaching is a directive process conducted by a manager or supervisor to train and orient employees to the realities of the workplace and to help remove barriers to optimum work performance.

Coaching is an exchange between two people that is intended to facilitate learning and behavior change, with the ultimate goal of enhancing performance or well being. In coaching, the coach and coachee explore issues that are important for successful performance and/or personal effectiveness. Coaching encourages deeper reflection on one’s personal effectiveness.

After setting and reviewing expectations and coaching with the employee, if performance becomes deficient or a policy violation occurs, the first formal step in the performance improvement process for CCS staff is Written Coaching.
Written Coaching Checklist

☐ Performance expectations were discussed with the staff member.
☐ Supervisor and employee engage in on-going discussions to determine effective approaches to enhance performance.
☐ SHRP or designee completes fact-finding process to evaluate the supervisor’s concerns and allow staff a chance to respond and collect any appropriate documentation. SHRP or designee documents this process.
☐ Staff is provided with a reasonable period of time to submit documentation or information; three to five business days is a reasonable period of time.
☐ The unit consults with HR Employee and Labor Relations as needed.
☐ SHRP or designee in conjunction with the supervisor will determine if staff will receive the Written Coaching.
☐ SHRP or designee (if needed) and supervisor meet with staff to deliver the Written Coaching (see template).
☐ Written Coaching remains active for three (3) years after issuance date. If no further Level Notices are issued after three (3) years, the Written Coaching will become inactive, and the process will start over again. The employee can request the removal of the Written Coaching from the active personnel file. The Written Coaching is retained indefinitely in a separate section of the personnel file.
☐ Written Coaching can be issued on the Level Notice template or other documentation, but it **must** contain the following elements:
  o Description of performance deficiencies.
  o Action plan to improve performance - specify expectations of performance.
  o Assessment of any assistance the unit may provide to help the staff member be successful, e.g., training, assignment of “buddy” for guidance purposes, flexible work arrangement, etc.
  o State to the employee that continuing in the performance improvement process may result in further disciplinary action. In addition, performance will be considered in the displacement and reinstatement processes.
  o Date the Written Coaching is issued to the staff member.
  o Ensure that both the supervisor and the staff member sign the Written Coaching. If the employee refuses to sign, note the refusal to sign, and sign and date.
Level One Notice Checklist

- Performance expectations were discussed with the staff member.
- Written Coaching occurred with the staff member regarding performance deficiencies.
- Supervisor and employee engage in on-going discussions to determine effective approaches to enhance performance.
- SHRP or designee completes fact-finding process to evaluate the supervisor’s concerns and allow staff a chance to respond and collect any appropriate documentation. SHRP or designee documents this process.
- Staff is provided with a reasonable period of time to submit documentation or information; three to five business days is a reasonable period of time.
- The unit consults with HR Employee and Labor Relations as needed.
- SHRP or designee in conjunction with the supervisor will determine if staff will receive the Level One Notice.
- SHRP or designee (if needed) and supervisor meet with staff to deliver the Level One Notice (see template).
- Level One Notice remains active for three (3) years after issuance date. If no further Level Notices are issued after three (3) years, the Notice will become inactive, and the process will start over again. The employee can request the removal of the Notice from the active personnel file. The Notice is retained indefinitely in a separate section of the personnel file.
- Level One Notice to staff must contain the following elements:
  - Description of performance deficiencies.
  - Action plan to improve performance - specify expectations of performance.
  - Assessment of any assistance the unit may provide to help the staff member be successful, e.g., training, assignment of “buddy” for guidance purposes, flexible work arrangement, etc.
  - State to the employee that continuing in the performance improvement process may result in further disciplinary action. In addition, performance will be considered in the displacement and reinstatement processes.
  - Date the Level Notice is issued to the staff member.
  - Ensure that both the supervisor and the staff member sign the Notice. If the employee refuses to sign, note the refusal to sign, and sign and date.
Level Two Notice Checklist

- Supervisor forwards to the SHRP or designee specific concerns about a staff member’s performance that occurred after the issuance of the Level One Notice.
- SHRP or designee completes fact-finding process to evaluate the supervisor’s concerns and allow staff a chance to respond and collect any appropriate documentation. SHRP or designee documents this process.
- Staff is provided with a reasonable period of time to submit documentation or information; three to five business days is a reasonable period of time.
- The unit must consult with HR Employee and Labor Relations before issuing notice.
- OHR, SHRP or designee in conjunction with the supervisor will determine if staff will receive the Level Two Notice.
- SHRP or designee (if needed) and supervisor meet with staff to deliver the Level Two Notice (see template).
- Level Two Notice remains active for three (3) years after issuance date. If no further Level Notices are issued after three (3) years, the Notice will become inactive, and the process will start over again. The employee can request the removal of the Notice from the active personnel file. The Notice is retained indefinitely in a separate section of the personnel file.
- Level Two Notice to the staff member must contain the following:
  - Description of performance deficiencies
  - Action plan to improve performance - specify expectations of performance
  - Assessment of any assistance the unit may provide to help the staff member be successful, e.g., training, assignment of “buddy” for guidance purposes, flexible work arrangement, etc.
  - State to the employee that continuing in the performance improvement process may result in further disciplinary action. In addition, performance will be considered in the displacement and reinstatement processes.
  - Date the Level Notice is issued to the staff member
  - Ensure that both the supervisor and the employee sign the Notice. If staff refuses to sign, note the refusal to sign, and sign and date.
Level Three Notice (Termination) Checklist

- Supervisor forwards to the SHRP or designee specific concerns about a staff member’s performance that occurred after the issuance of the Written Coaching, Level One and Level Two Notices. It does not need to be the same concerns.

- SHRP or designee completes fact-finding process to evaluate the supervisor’s concerns and allow staff a chance to respond and collect any appropriate documentation. SHRP or designee documents this process.

- Staff is provided with a reasonable period of time to submit documentation or information; three to five business days is a reasonable period of time.

- SHRP or designee in conjunction with the supervisor makes the determination that a request for a hearing is needed for Level Three Notice.

- SHRP or designee submits “Request Form for Level Three Notice Hearing” to CCS Appointing Authority for Level Three Notice hearing.

- Supervisor notifies employee of decision to request a hearing. The employee is informed of the option to waive the hearing as well as the ramifications of this action.

- OHR schedules hearing and parties are notified as appropriate.

- Hearing Officer assesses the facts and determines if Level Three Notice (Termination) is appropriate. Based on this determination, the CCS Appointing Authority issues Level Three Notice, holds case in abeyance\(^1\), or takes “no action.” CCS Appointing Authority issues the Notice and board order.

- Staff may appeal this Level Three Notice (Termination) to the SPBR (State Personnel Board of Review).

\(^1\) The hearing is suspended based upon lack of enough information to move forward.
Post-Termination Checklist

**Supervisor Responsibilities**

- Assess security considerations – does the person pose a risk of safety to self or others?
- Consult with supervisor/manager to assess security risks – is there a possibility of sabotage and destruction of university property?
- Collect and submit BuckID, final payroll and/or leave forms.
- Ensure removal of staff access to university systems and return of all university property and keys.
- Remind employee to turn in parking tag to Transportation and Parking to stop the billing process.
- Contact appropriate personnel to discontinue computer access (HR, financial, People Admin, etc.).
- Delete staff from listserves, web directories, and shared drives if applicable.
- Reference letters – determine the nature of the reference to be provided and identify a single point of entry for the reference.

**College/VP Human Resource Office Responsibilities**

- Consult with supervisor/manager to assess security considerations – does the person pose a risk of safety to self or others?
- Consult with supervisor/manager to assess security risks – is there a possibility of sabotage and destruction of university property?
- Determine the nature of reference to be provided to future employers, in coordination with the supervisor. Identify a single point of entry for the reference process.
- Communicate the termination to those with a “need to know” internally and at the university administrative level (Academic Affairs, Legal Affairs, Media Relations, etc.). Manage potential public relations repercussions.
- Develop a communication plan for unit employees, in coordination with the supervisor. Balance confidentiality with the need for unit employees to know the specifics of the employment action.
- Provide information on benefit continuation (COBRA), parking refund, and benefits.
- Conduct exit interview if appropriate.
- Enter termination into the HRIS.
- Process vacation, sick leave (if retiring), and compensatory time payout.
- If the staff member is on administrative leave, determine way to return personal items to the staff member.
- Delete staff from listserves, web directories, shared drives, if applicable.
Example: Informal Coaching example of documentation

Dear Employee,
Thanks for taking the time to talk with me today about the customer complaint from a call you took last Friday. As we discussed, in the future, when a customer gets upset, the expectation is for you to remain calm and get a supervisor to help you with the situation. If a supervisor is not available at the time, you are expected to record the customer’s contact information and let them know that a supervisor will contact them shortly to resolve the issue, and thank the customer for their patience. Also, please alert me immediately if you think a customer was upset, so we can discuss it.

I will see you at our next formal feedback meeting next Thursday.
Sincerely,

Manager
Example: Written Coaching

If template is not used, written coaching must include the bold items.

MEMORANDUM

To

From

Date

Subject Written Coaching

Description of performance issue: I want to make you aware of recent issues regarding your performance concerning our office metrics. For the month of February, you did not make the call quota for new accounts.

Action plan to improve performance, specific expectations: Our standard is 60 calls per month (2 calls per day) and our records reflect that you only made 20 calls last month. The calls we make to our customers are very important for developing different sources of revenues.

Assessment of any assistance the unit may provide: To help you increase your calls per day, our trainer will work with you to improve this number to reach and/or exceed the standards set for the department. If you have any other suggestions that would help you reach this goal, please feel free to share them with me so that we can assess and implement, if appropriate.

We will continue to discuss your progress in our next scheduled meeting, when we will meet with you to re-evaluate your call volume. We trust that by the above date, you will be meeting the standards that we have set forth for you and the unit. Lack of improvement could result in further disciplinary action up to and including termination. In addition, performance will be considered in the displacement and reinstatement process.

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

____________________________________  
Employee Signature  
Date

____________________________________
Manager/Supervisor Signature  
Date

c: SHRP, Director
Written Coaching or Level Notice Form

Employee Information

Employee Name: Date:
Employee ID: Job Title:
Supervisor: Unit/Department:

Type of Notice (check one)
☐ Written Coaching ☐ Level One Notice ☐ Level Two Notice

Type of Infraction

This action is based on your [PERFORMANCE/BEHAVIOR] in the following areas:

Details

Description of the Issue:

Previous Actions: This section only used when there is active corrective action on file.

Plan for Improvement (expectations, goals to be achieved, and timeframe):

Consequences of Further Issues/Impact:

Acknowledgment of Receipt of Notice

By signing this Notice, I acknowledge that this matter has been discussed with me and that I received a copy of this document. I understand that this is corrective action and that future infractions and/or performance issues may result in further corrective action up to and including termination. I understand that as a CCS employee, my performance will be considered in the displacement and reinstatement processes.

Employee Signature Date

Manager/Supervisor Signature Date

SHRP or Designee Signature Date

OHR Signature (Level Two Notice only) Date

Witness Signature (if employee understands warning but will not sign this form) Date

Employee Comment Section

Employee Comment: This section can be attached or continue on the back.
Steps in the Performance Improvement Process for CCS Staff

Informal Step
When performance expectations have already been identified for the staff member and the staff begins to exhibit a performance problem, the supervisor should initiate verbal coaching or counseling. See Performance Management Tools.

Formal Steps
According to University Rules for the Classified Civil Service, each step in the performance improvement process must include written notice to the staff member of their level in the process, the nature of their deficient performance, the expectations for performance, the consequences of continued deficient performance, and the effective date of the action.

This includes notification at each level of the process to ensure that staff members are fully aware that performance is considered in the displacement process when positions are abolished and Level Three Notice generally results in termination. College/VP units complete the Written Coaching, Level One and Level Two Notices. The Level Three Notice will be issued by the Office of Human Resources. Templates that include all of these elements are provided below.

Documentation must remain in the active personnel file for major policy violations such as discrimination, workplace violence, sexual harassment, retaliation, and theft. This is not an all-inclusive list.

OHR reserves the right to make alternative decisions at its discretion.

Written Coaching
Supervisor issues this notice.
Can be included in a written performance evaluation.
Notice is active for three (3) years and remains in the personnel file after this time in an inactive status indefinitely.
After three years, the employee can request the removal of the disciplinary record from the personnel file. The inactive record is then placed in a separate section of the personnel file.

Level One Notice
Supervisor issues this notice with SHRP or designee’s guidance.
Notice is active for three (3) years and remains in the personnel file after this time in an inactive status indefinitely.
After three years, the employee can request the removal of the disciplinary record from the personnel file. The inactive record is then placed in a separate section of the personnel file.

Level Two Notice
After OHR approval, the supervisor issues this notice with SHRP or designee’s guidance.
Notice is active for three (3) years and remains in the personnel file after this time in an inactive status indefinitely.
After three years, the employee can request the removal of the disciplinary record from the personnel file. The inactive record is then placed in a separate section of the personnel file.

Level Three Notice (termination)
Issued by the CCS Appointing Authority.
Written notification includes the board order with appeal instruction.
Disciplinary records must remain in the personnel file in accordance with the university’s records retention schedule.

Appeals
CCS staff can appeal a demotion and Level Three Notice (termination) to the State Personnel Board of Review (SPBR).
Requesting a Level Three Notice Hearing

For CCS staff, corrective action beyond a Level Two Notice is issued by the CCS Appointing Authority. The SHRP or designee must request this hearing. A template is included in this guide to facilitate this process. The request should be written objectively and include supporting documentation.

What to Expect at the Hearing

Hearings for CCS staff are held at the Office of Human Resources or designated unit and are led by the CCS Appointing Authority Designee, unless the staff member chooses to waive the hearing. The staff member and the unit are notified in writing of the date and time of the hearing. The unit’s SHRP and/or supervisor must deliver the hearing notice to the staff member. The certification form that accompanies the hearing notice must be signed by the staff member acknowledging receipt of the notice. Both the staff member and the unit are provided copies of the request for a Level Three Notice hearing. If the staff member is a bargaining unit member, a copy of the packet will be sent to the union.

Staff members are permitted to bring one support person to the hearing if they choose to do so. If they choose to bring an attorney, the attorney should provide a letter of representation prior to the hearing. The letter must be submitted to the CCS Appointing Authority Designee. The attorney may function only as a support person and will not speak for the staff member during the hearing proceedings. Bargaining unit staff members will be represented by an official from their union if requested (Weingarten Rights, NLRB v. Weingarten, Inc. 420 U.S. 251, 88 LRRM 2689).

While the hearing is an opportunity for the staff member to respond to the incidents of non-performance or behavior, the college VP unit should be prepared to:

- Address questions regarding the performance or practices of the department and/or unit;
- Articulate or summarize the performance concerns; and
- State how and in which areas the staff member is performing satisfactorily.

What to Expect After the Hearing

The Hearing Officer conducting the hearing will provide both management and the employee with an opportunity to provide information about the request for discipline. The Hearing Officer will review the statements, any written documentation, university policies and procedures as well as unit policies to determine whether a violation of policy or procedure occurred. Once the analysis is conducted, the Hearing Officer will write a report of the hearing and make a determination based on the facts. The CCS Appointing Authority designee reviews and approves the action, and a letter is produced from the CCS Appointing Authority, which will notify the employee and the department of the outcome of the hearing. Possible outcomes include: “No cause for action,” “Appointing Authority Reprimand,” “Demotion,” and “Level Three Notice (termination).” Bargaining unit members may also receive an outcome of “Suspension.”

Outcomes may require the unit to make changes in the HRIS.

Staff involved in a situation(s) that led to Level Three Notice may appeal to the State Personal Board of Review using their process. This process is only initiated if the staff member receiving corrective action appeals the university’s decision.
Request Form for Level Three Notice Hearing

1. Letter to request hearing, including:
   • Employee name.
   • Employee ID #.
   • Job title.
   • Work location/address.
   • Date of last incident\(^2\).
   • Nature of infraction or performance deficiency (alcohol/drug misuse, discourteous treatment of public, dishonesty, failure of good behavior, immoral conduct, incompetence, inefficiency, insubordination, neglect of duty, violation of rules or policies).
   • Summary of why a hearing is being requested referencing policy, procedure, rule/guideline or contract article violated and impact of the violation on the department. Include a chronological summary of incidents related to infraction or performance deficiency.

2. Supporting documentation to accompany request:
   • Counseling documents.
   • Witness statements.
   • Pertinent e-mails.
   • Attendance summary.
   • Position description (if appropriate).
   • Application for leave forms (completed and marked unapproved or approved by the supervisor) if attendance-related issues exist.
   • University Rule, policy and/or procedure violated.
   • If absences for ill three consecutive days:
     • Was FML considered and was FML notification letter sent as appropriate?
     • If CWA, was a doctor’s note provided for three days absence?
   • Has the individual self-identified as a person with a disability (ADA)?
   • Was an accommodation requested? If yes, please describe.
   • Was an accommodation granted?
   • Are there any particular restrictions?

3. Record of Previous Discipline:
   • Copy of Written Coaching, Level One, and Level Two Notices.
   • Copy of letter signed and dated by the employee if written reprimand, or signed by witness if employee refused to sign.
   • Notes of fact-finding process that led to the request for corrective action.
   • For CWA and covered members’ only, refer to appropriate contract regarding timelines on using previous discipline.

4. Considerations:
   • Is the employee on leave? This will affect scheduling.
   • Ensure the supervisor with first-hand knowledge will be available and present at the hearing.

For information about what to expect at a SPBR hearing:

pbr.ohio.gov/FAQ.stm

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\(^2\) For CWA staff members, according to the OSU/CWA contract, employee is due notification of the hearing outcome within 45 days of the last incident.
Hearing Request Form

Employee Information

Employee Name: ___________________________ Date: ____________
Employee ID: ____________________________ Job Title: ____________
Employee Service Date: ____________ College/VP Unit: ____________
Supervisor: ____________________________ Work Address: ____________

Work Location: ____________________________

Previous Notice(s) Attached (please check)
☐ Written Coaching ☐ Level One Notice ☐ Level Two Notice ☐ DCC

Nature of Infraction or Performance Deficiency

[PERFORMANCE/BEHAVIOR] in the following areas:

Details

Description of most recent issue(s) including date(s):

Events leading to current corrective action request:

Supporting document(s) attached:

Summary of why a hearing is being requested referencing policy, procedure, rule/guidelines or contract article violated: “See Evidence of Just Cause” on the back of this form for assistance.

Is employee Currently on Administrative Leave  ☐ Yes  ☐ No

Manager/Supervisor Signature ____________________________ Date ____________

SHRP or Designee Signature ____________________________ Date ____________

OHR Signature (Level Two Notice only) ____________________________ Date ____________
Standards Which Should Be Used In Disciplinary Cases

The Questions

• Was the employee warned of the consequences of the conduct?
• Was the employer’s rule reasonable?
• Did the management investigate before disciplining?
• Was the investigation fair and impartial?
• Was there evidence of guilt?
• Were the rules and penalties applied evenhandedly?
• Was the penalty reasonable, given the offense?

Please refer to the Request for Level Three Notice Hearing checklist in the Performance Improvement Process Guide for additional resources.
Example: Employee Hearing Letter

Date

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 present reasons why corrective action should not be taken, a hearing has been scheduled for **Tuesday, April 6, 2010 at 11 a.m. at 4th Floor, Suite 430, Conference Room 439, 1590 North High Street, Columbus, OH 43201-2190.**

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. (For union employees: “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 phone number or the CWA Office at 614-294-5265.)

Please contact the Office of Human Resources at 614-292-2800 if you have any questions.

Sincerely,

[Name]
[Title]

C: Department
File
Bargaining Unit Staff

Facts to Know about Bargaining Unit Staff

- They are represented by labor unions under an established collective bargaining agreement.
- The performance improvement process for bargaining unit members is progressive in nature and usually starts after informal coaching has already occurred.
- Bargaining unit members may have union representation during investigatory interviews that the employee reasonably believes may result in discipline.
- Bargaining unit staff members have the right to union representation at Corrective Action hearings.
- For CWA members, the performance improvement process is addressed in “Article 11 Corrective Action” of the collective bargaining agreement hr.osu.edu/services/elr/labor-relations/.

For further information, see the OHR Labor Relations website hr.osu.edu/services/elr/labor-relations/.

Facts to Know about Members Only Staff

- Staff not currently covered by a CWA collective bargaining agreement may elect to be covered for the purpose of representation, grievance and arbitration procedures.
- In the Members Only Agreement, “Article 11 Corrective Action” addresses the performance improvement process for these staff members hr.osu.edu/services/elr/labor-relations/.

For further information see the OHR Labor Relations website hr.osu.edu/services/elr/labor-relations/.

Job Abandonment Guidelines (Unclassified and CCS)

Job abandonment occurs when a staff member fails to report to work and fails to notify the supervisor of the reason for the absence from work for more than three consecutive workdays.

After the third consecutive workday the staff member is absent from work and fails to obtain approval for the absence, the supervisor should consult with HR Employee and Labor Relations to determine if the circumstances are such that job abandonment appears evident. The unit must conduct a fact-finding assessment of the situation. This fact-finding must include sending a letter to the staff member that explains the unit’s position and requires the staff member to contact the unit if there are any specific circumstances that support the absence. The letter must include the date by which the staff member must contact the supervisor. In addition, the letter must state that failure to respond by the specified time will subject the staff member to disciplinary action up to and including termination due to job abandonment. This letter should be sent registered mail to the staff member’s last address of record. A return receipt should be kept by the unit for proof of notification. If the staff member is CCS or a union member, the unit needs to request a hearing.
Example: Job Abandonment Letter

Certified Mail – Return Receipt Requested

Date

Employee name
Employee address

Dear [Employee name]:

You have been absent from your assigned workplace since [DATE - LAST DAY OF WORK OR LAST DAY OF APPROVED LEAVE]. Your department attempted to contact you via phone and mail to no avail. Because your absence, which has been for at least three workdays, has not been approved, I must assume that you have abandoned your position.

Your last official date of employment was [DATE]. Your termination due to job abandonment will be effective on [DATE] at the [CLOSE OF BUSINESS OR END OF THE WORK SHIFT]. You will receive payment for any accrued vacation leave, as appropriate. If applicable, your final pay check or pay statement will be mailed to the above address. You may call [NAME, PHONE NUMBER] to make arrangements to pick up any personal belongings and to return any university property that may be in your possession. As necessary, collection efforts may be initiated if university property is not returned.

For information regarding your retirement contributions contact Human Resources Benefits Customer Service at 614-292-1050.

Upon termination from The Ohio State University, you may be eligible to continue certain benefits. For more information, including deadlines for continuing and/or converting benefits, go to hr.osu.edu/life-events/leaving-ohio-state/.

Sincerely,

NAME
TITLE

Note: Items appearing in bold are required in the letter
Administrative Leave Guidelines (Unclassified and CCS)

Paid Administrative Leave

The university may place a staff member on administrative leave with pay at its discretion. Such leave is to be used in circumstances when the health or safety of any staff member or of any person or property entrusted to the staff member’s care could be adversely affected. Compensation for administrative leave will be equal to the staff member’s base rate of pay. The length of such leave is solely at the discretion of the university. HR Employee and Labor Relations must approve placing a staff member on administrative leave. Under paid administrative leave, the person is considered to be in an “active pay status.”

Unpaid Administrative Leave

The university may place a staff member on unpaid administrative leave for a period not exceeding two months, if the staff member has been charged with a violation of law that is punishable as a felony. If the staff member subsequently does not plead guilty to or is not found guilty of a felony with which the staff member is charged or any other felony, the appointing authority shall pay the staff member at his/her base rate of pay, plus interest, for the period the staff member was on the unpaid administrative leave. Due to the seriousness of these cases, units must consult with HR Employee and Labor Relations before placing an employee on unpaid administrative leave.

Checklist: When to Place Staff on Unpaid Administrative Leave

(Appplies Only to Instances Involving Felony Charges)

- College/VP unit Senior Human Resources Professional (SHRP) contacts HR Employee and Labor Relations once information is received that leads the SHRP to believe that staff committed a felony.
- HR Employee and Labor Relations contacts SHRP if information concerning felony charge is first received by OHR.
- SHRP and HR Employee and Labor Relations assess the information received from the Courts and/or any other appropriate source and determine next steps. The assessment may include the activation of the Crisis Assessment Team (CAT) if staff was not incarcerated and may pose a danger to Ohio State employees and/or property.
- SHRP notifies dean/vice president of staff member’s criminal charge.
- HR Employee and Labor Relations notifies Vice President for Human Resources, Legal Affairs and University Relations-Media Relations as appropriate. SHRP and HR Employee and Labor Relations will prepare a brief summary of the staff member’s situation when the reputation of the university and/or public relations concerns exist. This information is shared with University Communications-Media Relations and Health System Media Relations in case the media requests information or a response regarding charges.
- HR Employee and Labor Relations guides SHRP and dean/vice president about placing staff on unpaid administrative leave. (See draft letter).
- SHRP notifies staff that HR Employee and Labor Relations will contact her/him to conduct fact-finding investigation.
- SHRP ensures that staff’s computer access is removed until the conclusion of the investigation or until further notice by SHRP and/or HR Employee and Labor Relations.
- SHRP requests that staff return all university property and keys pending investigation.
- HR Employee and Labor Relations issues letter to staff notifying her/him of need to schedule appointment to conduct investigation. (See draft letter).
- HR Employee and Labor Relations will determine if staff is represented by counsel. If staff is represented by counsel, HR Employee and Labor Relations must communicate exclusively with the attorney.
- HR Employee and Labor Relations will request a letter of representation from the attorney before engaging her/him in conversations about the staff member’s case.
- HR Employee and Labor Relations will conduct investigation. The investigation must be concluded as soon as possible. Ohio Revised Code provides that an employee may only be placed on unpaid administrative leave for up to 60 days from the day staff was placed on leave.
Checklist: When to Place Staff on Unpaid Administrative Leave, cont’d

- HR Employee and Labor Relations, Employment Law & Compliance Manager, Legal Affairs and SHRP will assess whether the investigation can be concluded within 60 days and a decision issued. If the investigation cannot be concluded within 60 days, a determination must be made to either return the staff member to work or terminate him/her. If the staff member is found innocent or charges are dropped, staff will be entitled to back wages and reinstatement.

- HR Employee and Labor Relations, Employment Law & Compliance Manager, SHRP and Legal Affairs determine the viability of returning staff to the workplace based upon nature of the criminal charges, impact upon the unit’s vulnerable populations, etc.

- After review and approval from the Employment Law & Compliance Manager, HR Employee and Labor Relations will issue findings and action steps. Steps may include re-assignment or termination of employee.

- If re-assignment is the appropriate step, the Unit in conjunction with OHR will determine the most appropriate placement.

- SHRP prepares letter of termination in cases involving unclassified staff. Termination letter must specifically state that the staff member is not eligible for re-hire. In cases involving classified staff, SHRP requests a hearing from OHR.

- In cases involving classified staff, OHR issues letter of termination. Letter of termination must indicate that the staff member is not eligible for rehire.
Example: Paid Administrative Leave Letter

Date

Employee name
Employee address

Dear [Employee name]:

We have received reports of _________________________. This letter is to notify you that you will be placed on administrative leave with pay effective immediately. You will be on administrative leave with pay pending a fact finding investigation to be conducted by the Office of Human Resources. You will be contacted once this investigation is completed.

Pending this investigation, I request that you immediately return any and all university property and keys currently in your possession. You can make arrangements to deliver university property by contacting _____________. You must obtain permission from your SHRP or designee to be on Ohio State campus while on administrative leave unless you have a prearranged meeting with the Ohio State Employee Assistance Program or a medical appointment.

We know this can be a difficult time and encourage you to contact the Ohio State Employee Assistance Program at 614-292-4472 or 800-678-6265.

Please feel free to contact me if you have any questions or concerns.

Sincerely,

Name
Title

Note: Items appearing in bold are required in the letter
Example: Unpaid Administrative Leave Letter

Date

Employee name
Employee address

Dear [Employee name]:

I have been informed of the allegations filed against you with the ____________________________ Court. This letter is to notify you that you have been placed on administrative leave without pay effective immediately. You will be on administrative leave without pay pending a fact finding investigation to be conducted by the Office of Human Resources. You will be contacted by (Employee and Labor Relations Consultant or investigator) to schedule a time to meet with you to discuss the allegations. Upon conclusion, (consultant or investigator’s name) will inform you of the outcome of the investigation and next steps.

Pending this investigation, I request that you immediately return any and all university property and keys currently in your possession. You can make arrangements to deliver university property by contacting ______________ at __________. You must obtain permission from your contact person to be on Ohio State campus while on administrative leave unless you have a prearranged meeting with Ohio State EAP or a medical appointment.

You are expected to not delete any emails, documents and/or materials produced during your tenure as an Ohio State employee. Please know that your access to university computers has been removed until further notice.

Please feel free to contact me if you have any questions or concerns.

Sincerely,

Dean or Vice President
The Ohio State University

Note: Items appearing in bold are required in the letter
Example: Unpaid Administrative Leave Investigation Letter

(Prepared by OHR)

Date

Employee name
Employee address

Dear [Employee name]:

RE: Schedule meeting and Administrative leave

Dear ______________________:

This letter is a follow up to the communication issued by [Dean/VP’s name] formally placing you on administrative leave without pay effective (date).

You will be on administrative leave without pay pending a fact finding investigation. In order to conduct this investigation, it will be critical that you schedule a time to meet with me as soon as possible. This meeting will provide you with an opportunity to respond to the allegations filed against you and will also assist the university in determining your continued employment status. If you are represented by counsel, please forward this letter to your attorney immediately and ask her/him to fax a letter of representation to my attention at 614-___________. Upon receipt of this letter, I will contact him/her to schedule a meeting with both of you.

Please feel free to contact me to discuss any questions or concerns. I can be reached at 614-___________.

Sincerely,

[Name]
Employee/Labor Relations Consultant/Investigator
Office of Human Resources, The Ohio State University

Note: Items appearing in bold are required in the letter