

STATE OF MARYLAND
JUDICIARY

Policy on Progressive Discipline

I. PURPOSE

To establish a uniform practice for the administration of progressive discipline within the Judiciary.

II. DEFINITIONS

1. Administrative Official

- (a) the Clerk of Court for the Circuit Court in which the employee works;
- (b) the Administrative Clerk of the District Court for the District in which the employee works;
- (c) the director of the respective department or office within the Courts of Appeal, the Administrative Office of the Courts, the District Court Headquarters, or the Court-Related-Agency in which the employee works.

2. Contractual Employee – Any person whose conditions of employment and compensation are specified in a personal services contract.

3. Day – A scheduled working day, not a calendar day.

4. Executive Staff – Any employee in pay grades T18 and T19, or in a flat scale position, or in the Judiciary's Senior Management Pay Plan.

5. Progressive Discipline – An increasingly more severe disciplinary action may be imposed upon an employee each time a given offense is repeated, or a like offense is committed.

III. SCOPE

This policy applies to all employees of the State of Maryland Judiciary except Judges, Masters, Law Clerks, Executive Staff, Administrative Officials, Chief Deputy Clerks of the Circuit Courts (per MD Rule 16-301 [a]), Deputy Administrative Clerks of the District Court, District Court Commissioners, and individuals employed as contractual employees or on a temporary basis. The administration of the policy is the responsibility of all Judiciary administrators,

managers and supervisors responsible for the management or supervision of Judiciary personnel.

IV. POLICY STATEMENT

The purpose of progressive discipline is to provide a means to discuss and address errors, incompetence, failure to meet expectations, and infractions of Judiciary policies, rules, and standards committed by employees, so to provide the employees with opportunities to correct their behavior before more severe disciplinary action is necessary. The goal of the policy is to give employees every opportunity to become productive and valued employees of the Judiciary.

V. RESPONSIBILITIES

Managers and supervisors will inform their employees of the policies, rules, standards and expectations that employees are to meet, abide by and follow.

It is the responsibility of all employees to meet, abide by and follow the policies, rules, standards and expectations established by the Judiciary for its employees. Failure to do so may lead to disciplinary action against the employee, up to and including termination of employment.

Before taking any disciplinary action related to employee performance or misconduct, the appropriate Judiciary managers and supervisors are expected to:

- (1) investigate the alleged performance problem or misconduct;
- (2) meet with the employee, unless the employee is not available;
- (3) consider any mitigating circumstances;
- (4) determine the appropriate disciplinary action, if any, to be imposed; and
- (5) give the employee written notice of the disciplinary action to be taken.

It is the responsibility of those charged with administering this policy to implement it fairly and impartially.

VI. DISCIPLINARY PROCEDURE

1. Progression

Depending on the nature of the offense, management may elect to have a conference with the employee, provide counseling, or issue a written warning before progressing to disciplinary action. Conferences, counseling sessions, and written warnings are instructional communications. They are not disciplinary actions and are not the subject for grievance action, but they can be used for purposes of progressive discipline.

Disciplinary actions **may** include the following:

- Written Reprimand
- Suspension Without Pay or with Forfeiture of Accrued Leave Days (Suspensions without pay or with forfeiture of accrued leave days are usually for 1, 3, 5 or 10 days.)
- Denial of a pay increase
- Involuntary Demotion
- Termination of Employment

Management, at its discretion, may skip steps in the progression, depending on its interpretation of the frequency and/or seriousness of the offense and the nature of the employee's work assignment. Falsification of official records, assault on a coworker or other persons in the work place, insubordination, and errors causing undue hardship on the Judiciary or the public are some examples of offenses which warrant such action.

2. Initiation of Disciplinary Action

There is no time limit for imposing a disciplinary action.

Example of a Progression:

This **may** be a common course of action taken by management for most disciplinary situations:

- **Oral Reminder;**
- **Counseling session;**
- **Written Warning** of a reprimand on the next occurrence;
- **Written Reprimand** to be placed in the employee's official personnel file, warning of a suspension on the next occurrence;
- **Suspension** as appropriate, which may increase in length with each subsequent occurrence until termination becomes the appropriate action;
- **Termination of employment.**

3. Causes for Termination of Employment

The following shall be sufficient cause for termination of employment though termination may be for causes other than those listed:

- (1) The employee is incompetent or inefficient in the performance of assigned duties;
- (2) The employee has been wantonly careless or negligent in the

performance of assigned duties or has used unwarrantable or excessive force in the treatment of the public, fellow employees, or other persons;

- (3) The employee cannot perform the essential functions of his/her position. If the employee is an individual with a disability, there must be no reasonable accommodation that would enable the person to perform the essential functions of the position;
- (4) The employee has been insubordinate, or disrespectful toward a supervisor or Judiciary official, a fellow employee, or the public;
- (5) The employee has been wantonly offensive in conduct toward fellow employees, or the public;
- (6) The employee has accepted for personal use any fee, gift or other valuable thing in connection with or during the course of employment;
- (7) The employee, through negligence or willful conduct, has caused damage to public property or waste of public supplies;
- (8) The employee willfully has made a false official statement or report;
- (9) The employee was involved in criminal activity;
- (10) The employee improperly has divulged confidential information;
- (11) The employee misused the influence of his or her position as a Judiciary employee;
- (12) The employee failed to follow a Judiciary or other applicable State policy.

VII. INTERPRETIVE AUTHORITY

The Judiciary Human Resources Department, in consultation with other parties as appropriate, is responsible for the interpretation of this policy.