



POLICY: 6Hx28:3E-08

Responsible Executive: Vice President,
Organizational Development & Human
Resources

Policy Contacts: Assistant Vice
President, Human Resources

Specific Authority: 1001.64, F.S.

Law Implemented: 1001.64, F.S.;
553.865, F.S.; 775.21, F.S.; 877.13, F.S.;
943.0435, F.S.

Effective Date: 02-01-2024

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Disciplinary Action

Policy Statement:

- I. Valencia College is committed to providing all employees a fair, clear, and useful tool for addressing performance problems to include a process for rectifying instances of unacceptable performance and/or conduct. Supervisors are expected to address concerns consistently and at the onset of any employee performance or conduct deficiencies through coaching, counseling, additional training, or supervision unless the severity of circumstances dictates a level of disciplinary action. Employees are expected to be aware of, and abide by, existing College policies and procedures. If there are performance and/or conduct deficiencies, it is the employee's responsibility to address and improve these concerns on which a corrective or disciplinary action is based.
- II. Disciplinary actions are usually corrective and progressive in nature; however, serious misconduct, work performance problems, or violation of laws and/or college policies, procedures, and practices may warrant disciplinary action, including dismissal, outside of the corrective and progressive approach. To ensure fair processing of corrective actions and in accordance with specific position regulations, supervisors must consult with a representative from Organizational Development and Human Resources prior to the implementation of disciplinary action.

Policy History:

Adopted 1-19-83; Amended 11-18-92; Amended 5-28-2014; Amended 2-01-2024; Formerly 6Hx28:07-30

Related Documents/Policies:

College Policy 6Hx28:1-10 Policy Against Improper Activities; Whistleblower Protection

College Policy 6Hx28: 2-01 Discrimination, Harassment, and Related Misconduct

College Policy 6Hx28:3D-02 Leaves of Absence

College Policy 6Hx28: 3E-09 Employee Dispute Resolution

College Policy 6Hx28: 3F-01 Employment Separations and Exit Process

College Policy 6Hx28: 3F-03 Suspension, Dismissal, Return to Annual Contract, or Non-Renewal of Contracts

College Policy 6Hx28: 3F-05.2 Abandonment of Position

Sex Offender Procedures

Procedures:**I. Prohibited Conduct**

All Valencia College employees are expected to fulfill the duties outlined in their job descriptions, expected to abide by College policies and established procedures, and expected to engage in professional conduct throughout their employment. Types of prohibited conduct may include, and are not limited to:

- A. Violation of any college policy(ies), procedure(s), standard(s), or other college departmental rules and regulations governing the workplace;
- B. Conflict of interest; improper activities as defined in College Policy 6Hx28: 1-10 Policy Against Improper Activities; Whistleblower Protection;
- C. Conduct on or off campus that adversely affects the operation of the College;
- D. Insufficiency of productivity or quality of work, or neglect of duty: Isolated incidents or continued pattern of inefficiency, missed deadlines, disorganization, lack of initiative, reduced and/or insufficient productivity, inability or unwillingness to follow procedures/processes or any other performance deficiency that is not meeting acceptable standards;
- E. Excessive or habitual tardiness, absenteeism, and/or unauthorized or unexcused absences
 1. An unreasonable, or unacceptable number (determined by the supervisor based on operational needs), or frequency of absences (which may include a pattern that coincides on the day preceding or following the employee's regular days off, absence on the same day of each week or each month, or failure of an employee to obtain prior approval for an absence from work); and/or

2. A habitual failure of an employee to report to work at the established time to begin a shift, after a lunch or after a break period, or leaving work early without authorization that results in a negative impact on the workplace.

Note:

- Absences or tardiness as authorized by law, regulation, policy, or procedure are not taken into consideration for potential disciplinary action.
- Three (3) consecutive scheduled work day absences without approved leave or without appropriate notification of extenuating circumstances or medical emergency may also be evaluated as a resignation under College Policy 6Hx28: 3F-05.2 Abandonment of Position.

- F. Failure to obtain minimum job qualifications/certifications, or loss of or failure to report the loss of minimum job qualifications/certifications;
- G. Leaving assigned work area or workplace without authorization: Unauthorized absence from the workplace or assignment during the established work schedule or leaving the workplace for a lunch, break period, or prior to the end of the work schedule without proper relief where coverage is expected and/or required during specific periods of time;
- H. Safety violations: Performing unsafe acts, failure to wear safety equipment, failure to abide by or follow established safety procedures or practices, and/or actions or non-work related activities that result in property damage or injury to self or others;
- I. Abuse or misuse of prescribed medication that poses a safety risk; possession or consumption of illegal drugs while on duty; consumption of alcoholic beverages while on duty, except at approved College functions (i.e., culinary educational programs, etc.); and/or reporting to work or being under the influence of alcoholic beverages or drugs at work;
- J. Insubordination (blatant disregard of supervisor directions), or failure to follow supervisor directions or directions of another employee in a position of authority at the College, including, but not limited to:
 1. Failure to carry out a directive from a team lead, manager or supervisor as a verbal refusal or an unreasonable delay in completing the work;
 2. Disrespectful behavior towards a team lead/manager/supervisor including directing profanity towards a team lead/manager/supervisor;
 3. Verbally or physically intimidating a team lead/manager/supervisor, or speaking loudly or argumentatively to or about a team lead/manager/supervisor; and/or
 4. Failure to adhere to Florida Statute 553.865, "Safety in Private Spaces

Act” including willfully entering for an unauthorized purpose, a restroom or changing facility designated for the opposite sex, and refusing to depart by asking to do so by an employee, administrator, or safety and security staff;

- K. Disruptive or Aggressive Behavior: Behavior that is considered disruptive or aggressive towards others, or in the work environment. This may include and is not limited to:
 - 1. Language that may be considered or perceived as threatening, profane, vulgar, or abusive towards others;
 - 2. Gossip that is pervasive or persistent to disrupt the work environment;
 - 3. Physical violence or threats of violence committed against any member or guest of the College community;
 - 4. Forcible interference with the freedom of movement of any member or guest of the College;
 - 5. Obstruction of the normal processes, activities, and functions of the College community; and/or
 - 6. Disruptive activities as defined and prohibited in accordance with the criminal provisions of Section 877.13, Florida Statutes;
- L. Refusal or failure to work cooperatively with others. This includes and is not limited to failing to communicate, interact, supervise, and/or work with other individuals or in a collaborative environment in a professional or effective manner;
- M. Revealing Privileged Information: Revealing to unauthorized individuals information considered privileged, private, or confidential based on law, policy, or procedure;
- N. Sleeping on compensated time, during the scheduled work period and/or in the performance of duties;
- O. Fraud, misrepresentation, or dishonesty: Willful and/or deliberate misrepresentation or omission of any verbal and/or written documented facts, including fabricating information or knowingly furnishing false information to the College or to College officials acting in the performance of their duties including and not limited to falsification of submitted timekeeping records;
- P. Unauthorized entry to, possession, receipt, abuse, defacement of, or unauthorized removal of College property or the property of others while on College premises;
- Q. Loss of or failure to report lost or stolen College property (i.e., supplies,

technology devices, keys, equipment, etc.);

- R. Misuse or inappropriate use of compensated time: Isolated incident or continued pattern of non-productiveness or inactivity that diverts an employee from performing their assigned duties or interferes with the business needs and operations of the College, unless it is work-related and as authorized by a supervisor;
- S. Failure by an employee to notify their supervisor of an arrest, notice to appear, or information filed against the employee by a prosecuting official on an alleged violation of criminal law (e.g., felony or job-related misdemeanor);
- T. Failure by an employee to notify their supervisor of the employee pleading guilty, nolo contendere, or no contest, or being found guilty of a felony or job-related misdemeanor; and/or
- U. Failure by an employee, who is officially designated as a Sexual Offender/Sexual Predator in accordance with Florida Statute 775.21 (The Florida Sexual Predators Act), to notify their supervisor of such sexual offender/sexual predator designation.

Note: Florida law, in section 775.21 (The Florida Sexual Predators Act) states in part, “[r]epeat sexual offenders, sexual offenders who use physical violence, and sexual offenders who prey on children are sexual predators who present an extreme threat to the public safety. Sexual offenders are extremely likely to use physical violence and to repeat their offenses, and most sexual offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes.”

Florida law, in section 943.0435, states in part, “[t]he Legislature finds that sexual offenders, especially those who have committed offenses against minors, often pose a high risk of engaging in sexual offenses even after being released from incarceration or commitment and that protection of the public from sexual offenders is a paramount government interest.”

Florida law requires sexual predators and sexual offenders to notify the state or sheriff, as appropriate, of enrollment, employment, or the carrying on of a vocation at an institution of higher education in Florida. Each change in enrollment or employment status must be similarly reported. The state or sheriff must promptly notify each institution of the sexual predator’s or sexual offender’s presence and any change in the sexual predator’s or sexual offender’s enrollment or employment status.

The College has determined that the employment of persons officially designated as Sexual Offenders/Sexual Predators would be disruptive of the orderly process of the College’s programs and/or would interfere with the rights and privileges of the members of the College community. In

accordance with §1001.64(46), F.S. the College may consider the past actions of any person applying for employment and may deny employment to a person because of misconduct if determined to be in the best interest of the College. Accordingly, applicants for employment at the College who are officially designated as Sexual Offenders/Sexual Predators will be excluded from further consideration, and employees who are officially designated as Sexual Offenders/Sexual Predators shall be given the opportunity to resign, or in the alternative, shall be separated from the College in accordance with applicable policies and procedures, including without limitation College Policies 6Hx28: 3F-03 (Suspension, Dismissal, Return to Annual Contract, or Non-Renewal of Contracts) and 6Hx28: 3E-08 (Disciplinary Action).

Information regarding sexual predators or offenders attending or employed by an institution of higher learning may be obtained from the local law enforcement agency with jurisdiction for the particular campus or by calling FDLE hotline (1-888-FL-PREDATOR) or (1-888-357-7332), or by visiting the FDLE website at: <https://offender.fdle.state.fl.us/offender/sops/offenderSearch.jsf>.

II. Informal Corrective Action

A supervisor is encouraged to address employee performance and/or behavior concerns when first identified and in a timely manner to allow opportunities for the employee to correct and improve performance and/or behavior. This includes, and is not limited to, conversations during which a supervisor and employee work together to identify ways to resolve the concerns. Supervisors are strongly encouraged to consult with ODHR Employee Relations prior to issuance of any written informal corrective action.

Informal corrective action is not considered disciplinary in nature and should demonstrate an attempt by the supervisor to correct the deficient performance and/or behavior. Should the employee's performance and/or behavior continue to be inconsistent with the College's established policies or procedures, the supervisor is expected to address and document these issues through a formal disciplinary action process and, as applicable, should use the informal corrective action(s) utilized as supporting documentation for the disciplinary action(s) taken.

Although informal corrective action includes tools that may be utilized by a supervisor, it is not a prerequisite to formal disciplinary action. If utilized, however, the supervisor shall maintain any documentation of informal corrective action in the employee's department file. Examples of informal corrective actions include, and are not limited to:

A. Coaching

A supervisor should engage in coaching discussions with an employee to address performance and/or behavior concerns. Coaching conversations are informal, should allow the supervisor to provide direct feedback to the employee on the concerning performance and/or behavior, the impact of the concerning

performance/behavior, and allow the employee an opportunity to respond to the concerns. Additionally, coaching conversations should include a discussion on possible ways that the employee can correct the concerning performance and/or behavior.

A supervisor should maintain documentation of the coaching conversation that includes and is not limited to the date/time/location of the conversation, the performance and/or behavior issues discussed, supervisor expectations, suggestions and established timeline for employee improvement, and any other relevant information. Examples of documentation may include and are not limited to a chronology of events, written notes by the supervisor, and/or a follow up email to the employee.

B. Individual Action Plan

The Individual Action Plan (IAP) is an informal performance management tool with the documentation maintained by the supervisor. This tool allows a supervisor to document performance concerns and work collaboratively with the respective employee to formulate an action plan to facilitate improvement. Though the IAP is not a prerequisite to formal disciplinary action and/or a Performance Improvement Plan (PIP), the IAP is often used to address performance concerns at the earliest possibility and prior to taking a more formal action.

For more information regarding the IAP process, supervisors may view the tool in the EDGE and/or consult with Organizational Development and Human Resources (ODHR) by contacting HR4U at 407-582-4748 (HR4U) or employeerelations@valenciacollege.edu.

C. Written Counseling

When appropriate, a supervisor should document concerns and agreed-upon next steps to an employee through a Written Counseling. A Written Counseling is an informal written corrective measure or a follow up email to the respective employee that should include the date of the conversation, a summary of the concerns discussed, and if applicable, a highlight of prior conversations of a similar nature. The documentation should also include a summary of expectations moving forward, consequences for failing to adhere to those expectations, and developmental resources available to support the employee on improving the performance and/or behavior. These resources may include and are not limited to the assignment of internal or external training (technical and/or soft skill-based training) and/or the assignment of mentors who may be able to provide additional support and guidance.

III. Formal Corrective Action – Performance Improvement Plan

A Performance Improvement Plan (PIP) is a formal performance management process that is placed in the personnel file and is used to outline performance

issues to be improved. A specific written plan of action is developed by the supervisor(s) to guide an employee's necessary improvement. The PIP process lasts for a predetermined length of time (typically 45, 60, or 90 days), in which the employee's performance progress is evaluated in periodic meetings (usually weekly or bi-weekly) with the supervisor. The supervisor completes written summaries of these meetings to review at the end of the PIP process in order to determine appropriate next steps.

Employees who are unsuccessful in meeting the expectations outlined in the PIP may be subject to formal disciplinary action, as described in Procedures Section IV.

For more information regarding the PIP process, and prior to issuing a PIP to an employee, supervisors must consult with a representative of ODHR by contacting HR4U at 407-582-4748 (HR4U) or employeerelations@valenciacollege.edu.

IV. Formal Disciplinary Action

- A. All disciplinary actions issued by appropriate College personnel are determined on a case-by-case basis. In determining the proper level of disciplinary action, the supervisor may repeat, modify, or omit a level of disciplinary action based upon the facts and severity of the specific case to include prior corrective or disciplinary action for similar circumstances. Behaviors may be considered so significant that dismissal may be the first course of action, regardless of an employee's length of service, prior conduct, or performance record. Though supervisors, with guidance and support from ODHR as described in this section below, have options in determining the disciplinary action to be issued, the type of disciplinary action should be proportionate with the behavior and/or performance concern(s).
 1. In circumstances when a supervisor intends to issue formal disciplinary action, they must first consult with a representative from ODHR Employee Relations. Employee Relations will gather necessary details from the supervisor regarding the employee's alleged misconduct and will make a recommendation to the supervisor regarding the level or type of action. Supervisors who disagree with the recommendation from Employee Relations and desire to issue a different level or type of action (discipline or otherwise) must speak to their Vice President/Provost, who will then engage in a discussion with Employee Relations for a final action decision. Any formal discipline issued must be approved by Employee Relations.
 2. When engaging in a conversation with a likely outcome of disciplinary action, the supervisor is first encouraged to meet with the employee to discuss the concerning performance and/or behavior. This conversation should be held in a timely fashion, and in a private setting, which allows for more open and robust conversation. The supervisor is expected to inform the employee of the concern(s), and to provide the employee with

the opportunity to respond.

- B. In certain situations, an inquiry or investigation may be necessary in order to obtain sufficient facts related to a potential employee disciplinary matter. The supervisor of the respective area may request an inquiry or investigation through ODHR to assist in understanding the totality of circumstances in order to make an informed decision. Note: ODHR may also initiate an inquiry and/or investigation based on available information. (College Policy 6Hx28:2-01 addresses investigations specific to discrimination, harassment, and related misconduct complaints; College Policy 6Hx28:1-10 addresses investigations specific to improper activities and whistleblower protection).

As a condition of employment, employees may be required to participate in job-related meetings, hearings, inquiries, or investigations. To ensure that open and forthright dialog occurs, attorneys are not permitted to accompany individuals during interviews unless allowable based on other applicable policies/procedures as referenced in the preceding paragraph, nor are interview sessions audio or video recorded. Those interviewed are entitled to also submit a written statement if they so choose.

All individuals who participate in this process are expected to maintain appropriate privacy regarding the information and individuals engaged in this process. Employees are expected to not disrupt the normal operations of the College by discussing or disclosing private information with regards to this process. Under certain circumstances, employees disclosing confidential or privileged information may be subject to disciplinary action as outlined in this policy.

In circumstances where a formal investigation of an employee is conducted by ODHR Equal Opportunity, ODHR Employee Relations, or the Internal Auditor/Director of Compliance & Audit, the supervisor must discuss the results with ODHR Employee Relations to determine the appropriate course of action regarding the investigation and/or findings.

- C. In certain circumstances and after consultation with ODHR, a supervisor may choose to place an employee on administrative leave of absence with pay pending the resolution of an inquiry/investigative process or while reviewing all relevant facts and circumstances prior to determining if disciplinary action is an appropriate next step. Placing an employee on an administrative leave of absence with pay is not disciplinary in nature and is taken to ensure continuity of normal operations of the College. Employees placed on an administrative leave of absence with pay shall be notified both verbally and in writing of this decision and any additional expectations while on administrative leave. For more information, see College Policy 6Hx28: 3D-02 Leaves of Absence.
- D. Disciplinary action may include and is not limited to the following:

- 1 **Written Reprimand:** This action occurs when prior coaching or counseling attempts by the supervisor have been unsuccessful and the employee's performance and/or behavior continues to be below expectations. Under most circumstances, written reprimands occur before more progressive disciplinary actions are undertaken by supervisors. Circumstances may also arise when a reprimand is appropriate without previous informal resolution attempts. The written reprimand formally documents the discussion between the supervisor and employee and may also be accompanied by a Performance Improvement Plan (PIP), though a PIP is not a disciplinary action. For more information about the PIP Process, supervisors must consult with a representative of ODHR by contacting HR4U at 407-407-582-4748 (HR4U) or employeerelations@valenciacollege.edu.
- 2 **Suspension:** This action documents discussion(s) between a supervisor and employee who continues to not meet behavioral or performance expectations after receiving a written reprimand and/or a PIP. Circumstances may also arise when a suspension is appropriate without a written reprimand previously issued to the employee. Suspensions shall be without pay and available leave balances may not be used by the employee. Suspensions shall be for a period of no less than the balance of the employee's shift on the day the action is taken and shall normally not exceed up to ten (10) consecutive working days/shifts. Multiple day suspensions must be taken consecutively.
- 3 **Demotion:** This action occurs if there is a serious violation of policies or there are repeated offenses and other disciplinary actions have been unsuccessful, there is an available vacant position for demotion, and there exists a reasonable expectation that the employee can be successful in their new role.
- 4 **Return to Annual Contract (for continuing contracts):** In the case of a full-time tenured faculty on a continuing contract, this action may occur if there is a serious violation of policy(ies) or there are repeated offenses and other disciplinary actions have been unsuccessful. For more information, see College Policy 6Hx28: 3F-03 Suspension, Dismissal, Return to Annual Contract, or Non-Renewal of Contracts.
- 5 **Dismissal:** This action occurs when there is a serious violation of policy(ies) and/or there are repeated offenses that other disciplinary actions have failed to rectify. Circumstances may also arise when dismissal is appropriate without a previous disciplinary action issued to an employee. For more information on terminations "for cause" of a full-time employee on a continuing, annual, or other full-time employment contract, see College Policy 6Hx28: 3F-03 Suspension, Dismissal, Return to Annual Contract, or Non-Renewal of Contracts.

- E. Notice of disciplinary action or pending action should normally be made within ten (10) College business days of the supervisor's knowledge of the reported incident unless an authorized inquiry or investigation is ongoing. In the case of an incident subject to an authorized inquiry or investigation, notice of disciplinary action or pending action should normally be made within ten (10) College business days of the completion of the investigation or inquiry.
- F. ODHR shall provide consultation to the supervisor on drafting the written notice of disciplinary action. At a minimum, the disciplinary action documentation should list the performance and/or behavior concerns (which may include when applicable a reference to the prohibited action(s) described in Procedures Section I, as well as any other applicable corrective and/or disciplinary action(s) previously taken to address the performance and/or behavior concerns). Additionally, the document should include, when appropriate, the type of conduct or behavior expected in future similar situations, and the consequences if improvement is not achieved or if repetition of unacceptable performance, behavior or work habit occurs.
- G. The supervisor is responsible for providing a copy of the written notice of disciplinary action to the affected employee and forwarding a signed copy to ODHR for placement in the respective employee's personnel file. The disciplinary action issued will take effect upon notice to the employee and is not deferred pending an appeal or grievance process, as applicable, and outlined in Procedures Section V.A. Should an eligible employee choose not to submit a respective appeal/grievance, or the appeal/grievance is denied, the decision becomes final.
- H. For final employment separation actions initiated by the College, the respective supervisor is responsible for initiating the employee separation process in accordance with College Policy 6Hx28: 3F-01 Employment Separations and Exit Process.

V. Appeal Eligibility and Process for Disciplinary Action

A. Disciplinary Action Appeal Process Eligibility:

- 1 Full-time employees are eligible to appeal a formal disciplinary action. Appeal exceptions are based on the following conditions:
 - a. A full-time employee on an annual contract and part-time faculty whose employment contracts are terminated prior to the contract expiration date are not eligible to appeal a formal disciplinary action through this policy. These employees are eligible to file a grievance through the process outlined in College Policy 6Hx28: 3E-09 Employee Dispute Resolution.
 - b. A full-time employee on a continuing contract who decides to formally challenge a decision to dismiss their employment/contract termination or a decision to return the

employee to an annual contract may choose either the internal grievance process as outlined in College Policy 6Hx28: 3E-09 Employee Dispute Resolution; or may choose an alternative external hearing process in accordance with State Board of Education rules. For more information on the external process, see College Policy 6Hx28: 3F-03 Suspension, Dismissal, Return to Annual Contract, or Non-Renewal of Contracts. The choice of either the internal or external hearing process, once made by the eligible employee on a continuing contract, is not revocable, and the eligible employee on a continuing contract cannot choose both hearing processes.

- c. An employee appealing a formal disciplinary action may not simultaneously maintain multiple separate appeals and/or grievances on the same issue nor can they initiate any further College process on the same issue provided in College Policy 6Hx28: 3E-09 Employee Dispute Resolution.

B. Disciplinary Action Appeal Process:

- 1 Eligible full-time employees are able to submit a written appeal of the disciplinary action to the Assistant Vice President, Human Resources, or their designee, by the required timeframe as outlined in the disciplinary letter issued. Appeals received after the deadline date will not be considered.
 - a. If the appeal involves the Assistant Vice President, Human Resources, another College Assistant Vice President or designee will be assigned to oversee the appeal process.
- 2 The appeal shall consist of a specific, concise, and complete written statement from the employee outlining the grounds for their appeal and detailed information supporting the reason for their appeal. The limited grounds for appeal are as follows:
 - a. New information that could affect the issuance of the disciplinary action that was not reasonably available through the exercise of due diligence at the time of the decision; and/or
 - b. Material deviation(s) from written procedures that significantly affected the outcome.

Note: Mere dissatisfaction or disagreement with the discipline issued is not a valid basis for an appeal.

- 3 The concerns raised in the appeal shall be limited to those matters

raised as part of the issuance of the disciplinary action. Any concerns not raised during the issuance of the disciplinary action, unrelated matters, or new concerns that could have been raised but were not raised at the time of the issuance of the disciplinary action are not allowed as part of the appeal.

- 4 Upon acceptance of an appeal, the Assistant Vice President, Human Resources (AVP/HR) or designee will identify an appeals officer, who is typically an Executive employee of the College. The AVP/HR or designee will notify the employee and supervisor who issued the discipline of the appeal being accepted, the assignment of an appeals officer, and next steps of the appeals process.
- 5 The appeals officer shall consider the facts presented in support of the appeal request and seek clarification of the facts as deemed necessary. Upon review of the totality of the information, the appeals officer shall make a determination to uphold or modify the existing disciplinary action.
- 6 The appeals officer shall communicate in writing the results of the appeal to the employee, supervisor, next level supervisor, and Assistant Vice President, Human Resources, or their designee, within fifteen (15) College business days. The decision of the appeals officer is the final action of the College's appeals process on the matters presented.

Procedure History:

Adopted 1-19-83; Amended 5-28-14; Amended 6-27-19; Amended 02-24-21; Amended 10-24-22; Amended 2-01-2024; Formerly 6Hx28:07-30

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