

Administrative Order



Administrative Order No.: AO 7-47

Title: STANDARDIZATION OF DISCIPLINARY ACTION

Ordered: 2/6/2023

Effective: 2/6/2023

AUTHORITY:

Section 5.02 of the Miami-Dade County Home Rule Amendment and Charter and Administrative Orders 7-3 and 7-16.

SCOPE: This Administrative Order (AO) applies to employees of certified bargaining agents that expressly enter into a Memorandum of Understanding (MOU) to consent to the implementation of this policy for discipline administered after the MOU is executed, and to non-bargaining unit employees under the Mayor's purview. This AO is not currently applicable to bargaining unit members of the Police Benevolent Association (PBA) Unit and the Metro Dade Firefighters IAFF Local 1403 (IAFF) Unit whose discipline is governed by Florida State Statutes and/or current departmental policies unless expressly negotiated via MOU.

–APPLICABILITY OF THIS ORDER:

This order shall be applicable only to permanent and regular part-time employees, and to Conditional employees (as authorized by Administrative Order) who have completed calendar periods of continuous employment equivalent to the probationary periods required for their respective classification. However, consistent with Administrative Order 7-3, this Administrative Order does not change the exclusion of regular part-time employees from the EMPLOYEE APPEALS section of Administrative Order 7-3.

EXCLUSIONS: Temporary, provisional, probationary, emergency, non-regular part-time, seasonal, trainee and exempt personnel are excluded from the provisions of this order unless otherwise provided by law, by a duly ratified collective bargaining agreement, or by action of the County Mayor for any reason which will promote the efficiency and good of the County service.

PURPOSE:

Miami-Dade County is committed to establishing greater transparency and consistency in the issuance of discipline to employees. The purpose of discipline is to correct the behavior and inefficient work performance of employees. Discipline should be administered in an unbiased manner.

POLICY: Departments and employees shall be governed by the following standardization policy:

- Except as specifically provided in this policy, all disciplinary matters shall be processed in accordance with the provisions of Administrative Order 7-3 Disciplinary Action, Administrative Order 7-16 Administration and Delegation of Authority to Discipline, the Personnel Rules for the Classified Service for Classified Service employees, and the applicable Collective Bargaining Agreement.

- Each department shall establish and standardize the levels of discipline based on their operational needs. Any employee may be reprimanded, suspended, reduced in grade or dismissed by the head of his department, or designee as approved in Administrative Order 7-16, for any good and sufficient reason which will promote the efficiency of the County service. Department Directors, or their designees as authorized by Administrative Order 7-3, shall have the authority to deviate from their established standard levels of discipline, but must detail in writing the reasons for doing so. Nothing herein shall preclude the Department from considering or setting forth additional grounds to support its decision during the appeal or grievance process.
- In order for counseling or discipline to be effective in changing an employee's behavior, it must be presented in a timely manner. By establishing the following time frames, employees will be properly and timely placed on notice of their deficiencies to improve workforce performance and effectiveness.
 - Records of Counseling should be presented to an employee within 30 calendar days from the date when the supervisor or management becomes aware of the violation(s).
 - Disciplinary Action Reports should be presented to an employee within 90 calendar days from the date when the supervisor or management becomes aware of the violation(s). The 90 days shall be tolled for the following reasons:
 1. The employee is on approved leave;
 2. A state of emergency declared by the Mayor/Governor;
 3. The employee is incapacitated and/or otherwise unavailable;
 4. The employee's representative is unavailable;
 5. An ongoing criminal, Ethics and/or Office of the Inspector General investigation.
 6. Or different established time frames via the MOU between the Union and the Department.
- The determination of whether tolling is applicable and the time frame for tolling is solely within the discretion of County management and is not subject to challenge in any administrative proceeding. A counseling or discipline issued after the 30-day or 90-day time frame does not prohibit the issuance or administration of counseling or discipline and shall not be subject to challenge in accordance with Section 2-47 of the County Code hearings or in arbitration, but will require a written justification explaining the reasons for the delay. The delay for a Written Reprimand or a Suspension must be approved by the Department Director or approved designee, and for a Demotion or Dismissal must be approved by the department's respective Mayor's Chief before being issued to an employee. An employee will be provided a copy of the departmental justification for the delay at the presentation of the Record of Counseling or Disciplinary Action Report.
- Before administering discipline, management should consider whether either a verbal counseling or a Record of Counseling are appropriate to achieve

compliance. For employee violations or conduct that warrants progressive levels of departmental discipline (e.g. absenteeism), the administering of discipline will progress in the following manner:

- Written Reprimand
 - Written Reprimand
 - Ten (10) Day Suspension (DAR)
 - Twenty (20) Day Suspension (DAR)
 - Demotion or Dismissal (DAR)
- When use of this progression of discipline is appropriate, the progression will increase for each offense regardless of the cause. There shall not be separate tracks of progressive discipline for each type of offense. For example, if an employee receives two written reprimands for absenteeism violations, a separate incident of antagonistic behavior will not be treated as a first offense warranting a written reprimand. Instead, such incident should be evaluated for a suspension, demotion or dismissal depending on the severity and other appropriate factors.
 - Ordinarily, discipline may be applied in a progressive fashion, with more severe penalties following successive violations. This is particularly true where a relatively minor offense is repeated. However, serious offenses may call for appropriately severe penalties.

Approved by the County Attorney as
to form and legal sufficiency _____