



Fairmont State University Board of Governors

Policy HR-19 (Formerly Policy #64)

Effective: May 21, 2020

Revised: ____, 2026

TITLE: PROGRESSIVE DISCIPLINE AND SEPARATION FROM EMPLOYMENT

SECTION 1: PURPOSE AND SCOPE

- 1.1 This BOG Policy establishes consistent, fair, and legally compliant procedures governing employee discipline, separation from employment, and resignation at Fairmont State University. Nothing in this BOG Policy is intended to create an employment contract.
 - 1.2 This BOG Policy applies to all Fairmont State University employees, including staff, at-will administrators, and faculty.
 - 1.2.1 Staff members are at-will and may be terminated for any reason. The university may choose (but is not *required*) to implement progressive discipline consistent with this BOG Policy to remediate staff conduct, but in doing so does not waive the employee's at-will status.
 - 1.2.2 Administrators designated as at-will/will-and-pleasure appointees by the President may, at the President's discretion, be subject to either progressive discipline consistent with this BOG Policy or immediate dismissal. In opting to provide for progressive discipline, the university does not waive the employee's at-will status.
 - 1.2.3 Faculty dismissal proceedings remain subject to Title 133, Series 9 of the West Virginia Code of State Rules, "Academic Freedom, Professional Responsibility, Promotion, and Tenure," as adopted by the WV Higher Education Policy Commission ("Series 9"). However, faculty members are expected to adhere to the general provisions of this procedure, are expected to comply with the standards of conduct herein and are expected to not engage in acts of gross misconduct and/or any other conduct proscribed by Series 9. The university may, but is not required to, implement progressive discipline consistent with this BOG Policy to remediate the conduct and/or unacceptable job performance of a faculty member. This procedure in no way supersedes Series 9 and does not impose upon the university an obligation to use progressive discipline when addressing misconduct of a faculty member unless otherwise required to do so by law.
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SECTION 2: POLICY

- 2.1 **General Discipline Principles.** The university has a progressive disciplinary system which allows opportunities for correction of unacceptable workplace conduct and/or job performance while maintaining fair and equitable treatment of all employees. To maintain and operate the university in the best interests of both the employees and the university, it is necessary that all employees adhere to certain standards of conduct designed to create a friendly, cooperative, safe, and effective work atmosphere. This requires each employee to respect the rights and feelings of others as well as to ensure that each employee's personal conduct is not harmful to others or to the university. Employees are expected to act professionally during working hours (including lunch hours), when conducting University business, when performing their job duties, and/or when representing the university in their official capacity as a university employee. Employees are expected to perform their job duties effectively and to maintain satisfactory levels of job performance.
- 2.1.1 Employees may be disciplined for:
- 2.1.1.1 Misconduct, including but not limited to Gross Misconduct as defined in Section 2.2;
 - 2.1.1.2 Poor job performance;
 - 2.1.1.3 Policy violations;
 - 2.1.1.4 Failure to perform assigned duties;
 - 2.1.1.5 Failure to meet professional standards; and/or
 - 2.1.1.6 Off duty conduct that adversely affects the employee's ability to perform his/her job duties and/or bears a rational nexus to the employee's job and the reputation of the university.
- 2.1.2 Individual instances of conduct identified in Section 2.1.1, whether or not of a similar nature, may be considered together and result in discipline under this BOG Policy.
- 2.1.3 The university retains discretion to determine the appropriate level of discipline based on severity of conduct, operational impact, safety considerations, prior disciplinary record, and consistency with past practices.
- 2.1.4 All disciplinary actions will be determined on a case-by-case basis.
- 2.1.5 Discipline may include termination.
- 2.2 **Gross Misconduct.** Gross Misconduct may result in immediate termination.



- 2.2.1 Determining what constitutes Gross Misconduct is the purview of the President.
- 2.2.2 Examples of Gross Misconduct include, but are not limited to, the following:
 - 2.2.2.1 Theft of or malicious damage to property of the university or of another person;
 - 2.2.2.2 Violence or threats of violence;
 - 2.2.2.3 Harassment or discrimination;
 - 2.2.2.4 Consumption of alcoholic beverages or improper use of drugs while on duty and/or appearing to work under the influence of alcohol or improperly used drugs;
 - 2.2.2.5 Falsification of time records, including not reporting time off or using leave for purposes not covered under the leave definition used;
 - 2.2.2.6 Insubordination, in any form;
 - 2.2.2.7 Job abandonment and/or substantial neglect of duty;
 - 2.2.2.8 Unauthorized possession of weapons on university property in contravention of applicable law and/or policy;
 - 2.2.2.9 Sexual misconduct;
 - 2.2.2.10 Failure to comply with safety requirements;
 - 2.2.2.11 Lying in official matters;
 - 2.2.2.12 Failure to report to work for three (3) consecutive scheduled workdays without notice;
 - 2.2.2.13 Unauthorized and excessive absence or tardiness;
 - 2.2.2.14 Failure to comply with relevant federal, state, and local laws, established BOG Policy, and/or institutional rules and guidelines;
 - 2.2.2.15 Failure to effectively secure hazardous, medical, drug or other materials/supplies;
 - 2.2.2.16 Requesting that a university authority provide false information or testimony on one's behalf;
 - 2.2.2.17 Failure to sign a Notice of Appointment, contract, or any other required institutional document; and/or



- 2.2.2.18 Conviction of a crime bearing a rational nexus to the employment position.
- 2.2.3 Other serious infractions that may involve immediate termination will be handled on a case-by-case basis at the discretion of the university.
- 2.3 **Progressive Procedure.** The following steps are typical of the procedure followed to counsel and discipline an employee; however, each situation is unique and the university reserves the right to choose the level of action it deems appropriate based upon the circumstances.
 - 2.3.1 **Verbal Counseling.** If an employee's work performance or conduct is unsatisfactory, the supervisor or anyone in the employee's chain of command should, after consulting with the Director of Human Resources, communicate this information to the employee through counseling. Face-to-face counseling is preferable, but email is an acceptable form of communication if timeliness is an issue/concern.
 - 2.3.2 **Written Warning.** The supervisor or anyone in the employee's chain of command should consult with the Director of Human Resources regarding the reasons for issuing a warning and to obtain approval to issue a written warning. Once the written warning has been approved, the supervisor is required to meet with the employee regarding the subject performance and/or conduct. The written warning and any attachments should be forwarded to the Director of Human Resources for retention in the employee's official university employee relations file.
 - 2.3.2.1 Employees must sign a written warning to acknowledge that it was received and discussed. The employee's signature does not indicate agreement with the contents of the written warning. If an employee refuses to sign, the supervisor or someone in the employee's chain of command should note the employee's refusal on the written warning.
 - 2.3.2.2 Employees may add rebuttals to the written warning, either on the document itself or as a separate document. These rebuttals must be forwarded to the Director of Human Resources.
 - 2.3.3 **Suspension Without Pay.** If, after a reasonable time following receipt of a written warning, performance or conduct deficiencies persist, the employee may be given a disciplinary suspension without pay. The supervisor or anyone in the employee's chain of command is required to consult with the Director of Human Resources for approval prior to suspending an employee without pay.
 - 2.3.3.1 Nonexempt employees may be suspended without pay for a period of one (1) to fifteen (15) working days, depending on the gravity of



the offense and the employee's previous record.

2.3.3.2 Exempt employees may be suspended without pay for a period of one (1) to fifteen (15) working days and must be in week-long increments to a maximum of three (3) weeks.

2.3.3.3 The Director of Human Resources is required to meet with the employee to explain the terms of the suspension and to answer the employee's questions.

2.3.3.4 A suspension without pay is not required prior to employment termination.

2.3.4 **Employment Termination.** Receipt of two (2) written warnings in one twelve (12) month period shall constitute grounds for termination of employment, regardless of whether the warnings are issued for the same or different performance or conduct deficiencies.

2.3.4.1 Prior to termination, the university shall issue an Intent to Terminate Employment letter to the employee, providing the employee with no fewer than five (5) working days to respond to the stated reason(s) for termination. The supervisor or anyone in the employee's chain of command must consult with the Director of Human Resources before an Intent to Terminate Employment letter will be issued.

2.3.4.2 The President shall make the final decision regarding employment termination.

2.3.4.3 The Director of Human Resources shall meet with the employee to communicate the final termination decision and answer questions regarding separation procedures and benefits.

2.3.5 **Immediate Termination.** Immediate termination of an employee without progressive discipline may result, without prior counseling or warning, where/when there are serious violations and/or gross misconduct.

2.3.5.1 Prior to termination, the university shall issue an Intent to Terminate Employment letter to the employee, providing the employee with no fewer than five (5) working days to respond to the stated reason(s) for termination. The supervisor or anyone in the employee's chain of command must consult with the Director of Human Resources before an Intent to Terminate Employment letter will be issued.

2.3.5.2 The President shall make the final decision regarding immediate termination.

2.3.5.3 The Director of Human Resources shall meet with the employee to



communicate the final termination decision and answer questions regarding separation procedures and benefits.

- 2.3.6 **Employee Representation.** An employee may be accompanied by a designated representative of his/her choosing when attending any meeting for the purpose of discussing or considering disciplinary action.
- 2.4 **Grievance Rights.** Any eligible employee may seek resolution of an employment related dispute through the Public Employees Grievance Procedure, established by the legislature in W. Va. Code § 6C-2-1, et seq. Information about the Grievance Procedure and Grievance forms are available in the Human Resources Office and online at: <http://www.pegb.wv.gov/Pages/default.aspx>.
- 2.5 **Expectations of Managers/Supervisors in the Progressive Discipline Process.** Any University employee who serves as a supervisor or manager over other employees (including student workers) in any capacity will be required annually to take supervisory training offered by the university under the auspices and direction of Human Resources. Such training will include, at a minimum, the equitable and fair treatment of all employees, miscellaneous employment law, employee development principles and practices, basic leadership skills, the progressive discipline policy and procedure, employee performance management and evaluation, conflict management, and ethics. Failure to take such supervisory training timely and as mandated may result in progressive discipline for the supervisor/manager as outlined above.
- 2.6 **Resignation.** In accordance with the notification requirements of this section, an employee shall submit a signed and dated resignation letter or statement to his/her immediate supervisor, indicating the date when the resignation is to be effective. A written notice is required; an email from the employee's official assigned University email account is acceptable as written notice. Immediately following receipt of written notice, the employee's supervisor shall confirm acceptance of the resignation in writing to the employee (email is an acceptable format.) The supervisor or departmental business office shall immediately forward a copy of the signed written resignation letter or confirmation to the Human Resources Office for placement in the employee's personnel file so that the termination can be processed. A resignation becomes effective upon written acceptance by the University.
- 2.6.1 **Notification Requirements for Resignation.**
- 2.6.1.1 A staff employee shall provide at least two (2) weeks' written notice of his/her resignation whenever possible.
- 2.6.1.2 A staff employee at the manager or administrator level shall give at least four (4) weeks' notice. A shorter period of notice may be accepted if authorized by the employee's immediate supervisor and his/her Vice President or Dean, as applicable.

- 2.6.1.3 A faculty member shall give notice of resignation in writing at the earliest opportunity, giving due consideration to the university's need to have a full complement of faculty throughout the academic year. Notice of resignation shall be forwarded by the Dean or business office to the Provost's Office immediately.
- 2.6.1.4 Part-time and temporary employees are also required to submit resignations in writing to their immediate supervisor. The supervisor should consult with Human Resources immediately so that the termination can be processed timely.
- 2.6.1.5 A staff employee is expected to be present and functioning at his/her position, as scheduled, throughout the notice period unless this requirement is waived by the immediate supervisor.
- 2.6.1.6 Benefits-eligible employees are not to use sick leave during the notice period unless the need to use the leave is documented by the employee's medical provider and such documentation is provided to the Human Resources office.
- 2.6.2 Resignations shall be regarded as permanent and irrevocable, and the employee shall forfeit all eligibility for continued services and benefits, in accordance with the currently existing policies of the Higher Education Policy Commission, the Fairmont State University Board of Governors or university, employment contracts, notices of appointment, and/or federal and state laws.
- 2.7 **Separation Responsibilities.** Employees who are resigning or terminating shall adhere to the following responsibilities. Failure by an employee to meet the following responsibilities and/or the resignation notice requirements provided in Section 2.5.1 may result in the employees leaving the university in poor standing, the consequences of which may include ineligibility for re-hire at the university. It is the policy of the university to refer all requests for employment references on all former employees to the Human Resources Office, which provides only dates of employment, job title, and salary.
- 2.7.1 The employee shall contact Human Resources regarding health insurance benefits, COBRA, annual leave accruals, retirement accounts or other benefits in place for the employee at the time.
- 2.7.2 The employee shall settle any outstanding bills or monetary commitments to the university, such as parking tickets, fines, tuition, etc., prior to the resignation or termination date.
- 2.7.3 The employee shall surrender to his/her supervisor or the appropriate authority all university property, including but not limited to ID cards, keys or key cards, computers or tablets, parking permits, other equipment, thumb drives, documents, etc., on or before the employee's last day at work.



2.7.4 The employee may not “wipe” or erase any files from equipment provided to him/her by the university and must provide any passwords used to lock equipment or files to his/her supervisor and/or IT.

2.8 **Leave.** Benefit-eligible employees will continue to earn leave accruals through their last day at work. Employees are not permitted to remain on payroll to exhaust any annual or sick leave balances. Employees will be paid out their accumulated annual leave balances as of the resignation or termination date, which will typically be paid in the employee’s last paycheck, paid under the timelines and rules of the payroll system in place at the time of resignation or termination.

SECTION 3: AUTHORITY

3.1 W.Va. Code §§ 18B-1-6 and 18B-2A-4(k)

FOR PUBLIC COMMENT