



LAKE COUNTY
BOARD OF COUNTY COMMISSIONERS
County Procedure

Title: Corrective Action Administration

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I. PURPOSE AND SCOPE

The purpose of this document is to set forth administrative procedures for the County's Corrective Action, Pre-Determination Conference (PDC), and Grievance processes.

II. REFERENCES

A. Corrective Action Policy (LCC-86)

B. Classification and Pay Plan Procedure (ES-3.02.01)

III. APPLICABILITY

This procedure applies to all employees of Lake County Board of County Commissioners (BCC) with the exception of the County Manager, County Attorney, Deputy County Attorney, Assistant County Attorneys, Department, Office and Division Directors and any other management or at will employees designated by the County Manager in writing.

IV. DEFINITIONS

A. Corrective Action: Refers to supervisory action taken to address an employee's work-related performance or behavior.

B. Employees: Refers to all employees of Lake County Board of County Commissioners (BCC) with the exception of the County Manager, Deputy County Manager, County Attorney, Deputy County Attorney, Assistant County Attorneys, Department, Office and Division Directors and any other management or at will employees designated by the County Manager in writing.

- C. Progressive Corrective Action: Refers to disciplinary action that increases in severity with each violation.
- D. Non-Progressive Corrective Action: Refers to disciplinary action that due to the severity of the violation is implemented without following normal disciplinary step progression.
- E. Pre-Determination Conference (PDC): Each employee whose supervisor recommends suspension, involuntary demotion or termination will have the opportunity to participate in a Pre-Determination Conference with his/her Department Director. During this informal conference, the employee will be allowed to present all documentation and evidence in support of their respective positions in reference to the presented reasons for the recommended action.
- F. Grievance: An employee's formal complaint regarding Corrective Actions affecting terms or conditions of employment.
- G. Term or Condition of Employment: Adverse monetary action resulting from involuntary demotions, suspensions (including immediate suspensions) and terminations, with the exception of layoffs or furloughs or any changes in pay as a result of economic or budget conditions.

V. **PROCEDURES**

A. Levels of Corrective Action

The level or severity of the Corrective Action and the applicability of Progressive or Non-Progressive Corrective Action will be determined by the gravity of the violation, the employee's record of prior disciplinary actions, and other mitigating factors. The following are the levels of Corrective Action to be utilized in this order when Progressive Corrective Action is appropriate:

- Verbal Counseling
- Written Warning
- Formal Discipline (Suspension, Involuntary Demotion, or Termination)

(Corrective Action Forms and their use are detailed in Section K of this document.)

1. Verbal Counseling – Verbal Counseling in appropriate standards or behaviors is given by the supervisor immediately upon observation of misconduct, poor performance or inappropriate behavior. Verbal Counseling is documented on the Verbal Counseling form or a “memo to file” and retained by the supervisor at the departmental level. Documentation of numerous verbal counselings may be used to justify more progressive discipline and lower evaluation marks.

2. Written Warning – A Written Warning is typically given after Verbal Counseling(s) for the same or similar performance or behavior issue. A Written Warning may also be given after multiple infractions on varied issues, or as an initial step if the infraction is sufficiently serious in nature or the employee's record of service warrants it. Documentation of a previous Written Warning may be used to justify more progressive discipline and lower evaluation marks for the given evaluation period. The Written Warning must clearly state the expectations required in order for the employee to meet job standards. The Written Warning form is used and becomes part of an employee's personnel file.
3. Formal Discipline –The Formal Discipline level of Corrective Action results in a consequence that will impact the employee's pay or position (e.g., Suspension, Involuntary Demotion, or Termination). Refer to sections E, F, G, and H for more information on each level. If an incident is serious enough, or there is an accumulation or pattern of infractions, management should consult with the Department of Employee Services (Employee Services) to determine the appropriate course of action. In every instance, Employee Services must be contacted prior to taking any Formal Disciplinary action.

The employee is formally noticed of the Formal Discipline recommendation with the presentation of the Formal Discipline Form and the Pre-Disciplinary Conference (PDC) Notice. The PDC provides the employee with an opportunity for due process, which is the right to speak in their own defense. The PDC process is discussed in further detail in Section I of this procedure.

B. Violations of Lake County BCC Policy and Procedure

The severity of the violation determines whether Progressive or Non-Progressive Corrective Action is appropriate. Violations under the category of Misconduct usually result in Progressive Corrective Action, whereas those under the category of Serious Misconduct may result in Non-Progressive Corrective Action.

1. Misconduct

The “misconduct” or “conduct” for which an employee may be subject to Progressive Corrective Action is not limited to willful misconduct. Progressive Corrective Action may be imposed for any conduct which falls short of what an employer may reasonably expect and require of an employee.

Examples of Misconduct for Progressive Corrective Action which may begin at the *Verbal Counseling* level include, but are not limited to, the following:

- a. Tardiness
- b. Discourtesy
- c. Horseplay
- d. Substandard performance
- e. Smoking in a prohibited area
- f. Creating or contributing to poor housekeeping
- g. Inadvertent or isolated violation of Departmental rules or standards of conduct (other than “serious” misconduct which results from a lack of good judgment)
- h. Misuse of County equipment

Examples of Misconduct for Progressive Corrective Action which may begin at the *Written Warning* level include, but are not limited to, the following:

- i. Being absent for one (1) day without notification or approved leave, failing to notify of intended absence in a timely fashion, or failing to report after a leave of absence has expired.

Note: An absence of two (2) or more consecutive work days without notification and/or approval is considered job abandonment.

- j. Failing to notify Supervisor of an on-the Job Injury or Illness
- k. Violating a safety policy, procedure or regulation
- l. Sleeping on duty
- m. Gambling on County time or at County work sites

- n. Having excessive tardiness or absenteeism
- o. Leaving the workplace without the specific permission of the Supervisor, Department Director or County Manager

2. Serious Misconduct

Serious Misconduct may result in Non-Progressive Corrective Action, up to and including termination. Examples of serious misconduct violations which may warrant Non-Progressive Corrective Action up to and including termination, include but are not limited to the following:

- a. Failing to acquire or maintain competence or legal capacity to perform the duties required of the position, including maintaining a valid driver license, registration or certification, when such license, registration or certification is required in the classification or the position description.
- b. Exhibiting inefficiency, incompetence, irresponsibility, substandard job performance, or continued rendering of such after instruction and/or counseling.
- c. Demonstrating gross neglect of duty or a specific serious failure to perform assigned duties, including those that result from carelessness or gross neglect.
- d. Committing an act of insubordination, including the failure to obey any proper direction or an order given by a superior.
- e. Engaging in offensive conduct including rudeness, profanity or other conduct which disrupts the workplace.
- f. Committing harassment, including but not limited to sexual harassment, discriminatory in nature, or other prohibited harassment, towards another employee, customer, vendor, citizen, or any other person with whom the employee comes into contact as a result of employment.
- g. Engaging in or threatening to engage in a physical fight or engaging in a verbally abusive and/or intimidating confrontation with a supervisor, co-worker, or member of the public.
- h. Soliciting or taking for personal use a fee, gift, or other valuable object in the course of work, or in connection with it, when such fee,

gift, or other valuable object so solicited or taken might be construed as receiving a favor or obtaining better treatment than that extended to other persons, either on a present or future basis.

- i. Attempting to use one's County position, County property or resource in order to affect any term or condition of employment, or to receive any type of preferential treatment/benefit for themselves or others which would otherwise not be afforded.
- j. Being dishonest, including but not limited to knowingly making false statements of misrepresentation in a matter of official County business, in the course of the employee's work, or dealing with customers.
- k. Making false claims, misrepresentations or omissions on behalf of oneself or another (deliberate or otherwise) to obtain employment, County provided benefits, workers' compensation benefits, or other payments or credits. This would also include any claims made on County records including employment applications, time sheets, doctor's notes or other document required to be submitted to the County.
- l. Misappropriating County funds, property, services or personnel for his/her personal use, or illegally disposing of County property.
- m. Severely violating safety policies, procedures or regulations, including but not limited to performing unsafe acts and/or failing to enforce safety practice, wear and/or use safety equipment, immediately report a work-related personal injury or damage to property or equipment, or comply with safety policies, procedures, or regulations.
- n. Being at-fault in an accident on the job that results in personal injury or injury to others.
- o. Being found to have drugs and/or alcohol present in one's system or in violation of the Drug Free Workplace Policy.
- p. Being Careless or engaging in other behavior resulting in the loss or damage of County property, including but not limited to negligently operating a County owned or other vehicle used in the service of the County.
- q. Having unauthorized possession or use of County property or the property of a co-worker.

- r. Misusing County purchasing or credit card.
- s. Possessing unauthorized weapons or explosives on or in County owned or leased property, or during the course of performing one's job.
- t. Being committed or convicted of, or plead guilty or no contest to an act which constitutes a felony or misdemeanor having specific relevance to the duties of the employee's classification, or any felony, first degree misdemeanor or other serious crime including but not limited to DUI and DWI.
- u. Failing to immediately notify direct supervisor/management if valid Florida driver's license, as required by their job description, is denied, expired, suspended or revoked or if ticketed for a moving violation by a law enforcement agency while operating a motor vehicle while conducting County business; if CDL, failure to immediately notify direct supervisor/management of all moving violations, except parking, regardless of the violation or type of vehicle driven at the time, on or off the job; or violation of any other provision of the Acceptable Driving (including CDL) procedures.
- v. Being arrested or convicted of a criminal offense, indicted by a Grand Jury, or incarcerated and/or charged with any unlawful act.
- w. Failing to immediately notify supervisor and/or management of arrests or convictions of a criminal offense, having been indicted by a Grand Jury, or incarcerated and/or charged with any unlawful act.
- x. Knowingly and willfully modifying, using or accessing data, communications systems, program or supplies used or intended to be used in County computers, computer systems, communications systems, or network without the required approval, or any other violation of a Lake County BCC Computer or Telephone Equipment Procedure.
- y. Disrupting, disturbing, or in any way interfering with an investigation, including but not limited to knowingly making false allegations, statements or misrepresentations during the course of an investigation, spreading false information concerning an investigation, or having inappropriately influenced (or attempted to) witnesses, potential witnesses or investigator(s).
- z. Exhibiting actions or conduct, on or off the job, that could be detrimental to the County's operations, could affect performance of

one's job, and/or could have a negative impact on the County, including the County's reputation (e.g., immorality).

- aa. Violating any County (this or other) or departmental policy, procedure, rule, standard of conduct. (Such policies shall be cited.)
- bb. Violating any other properly substantiated cause that is in the best interest of Lake County.

C. Performance Improvement Plan

A useful tool in assisting the employee to achieve and maintain an acceptable level of job performance is the implementation of a Performance Improvement Plan (PIP). The PIP's purpose is to identify a performance problem/gap and to monitor and measure discrepancies in an effort to improve performance or modify behavior.

1. Use of the Performance Improvement Plan
 - a. Corrective Action may be accompanied by placing the employee on a Performance Improvement Plan.
 - b. At the time that any area of an employee's job performance or behavior becomes substandard, a PIP should be implemented.
 - c. Employees who receive below standard rating in one or more areas of their annual performance evaluation may (not required) be placed on a PIP if not already on one due to recognized substandard performance. (Ideally, the employee who receives a below standard evaluation rating should already be aware of his/her substandard job performance prior to the annual evaluation.)
2. The supervisor will develop the PIP with the employee, which will include the identification of specific deficiencies, a statement of the expected standards, action steps, and a target date for achieving the improvement.
3. Any one (or combination of) the performance elements on the Employee/Supervisor Performance Evaluation or any area of job performance or behavior can be identified on the PIP as performance/behavior that needs improvement.
4. The normal time frame for the PIP is six (6) months.
5. The PIP requires periodic reviews of the employee's performance and behavior. Recommended intervals for review are a minimum of twice a month. The review meetings must be documented and the meeting notes and status reports submitted to Employee Services at the conclusion of the PIP.

6. Failure to improve while the Performance Improvement Plan is in effect or any severe infractions in any performance/behavior area may result in further Corrective Action up to and including termination.
7. Since the PIP time frame is an opportunity for the employee to improve their job performance in order to meet standards in all areas, employees on a PIP will remain eligible for merit increases depending on their overall evaluation rating.
8. If an employee is promoted, demoted or transferred into another department while on a Performance Improvement Plan, the employee is no longer required to complete the PIP, as he/she is now beginning a new assessment period for a new position. The employee's previous department is responsible for preparing and submitting a Personnel Action Form removing the employee from the PIP. The Personnel Action Form and backup PIP documentation shall be submitted to Employee Services.
9. The Performance Improvement Plan form is located on the Lake County BCC intranet/internet. The form requires the signatures of the Employee, the Supervisor, and Division and Department Directors at both the onset and conclusion of the plan.
10. A copy of the form shall be sent through interoffice mail, hand delivered, or scanned and sent via e-mail to Employee Services at the onset of the plan. The original and review meeting notes should be sent/delivered to Employee Services at the conclusion of the plan. The PIP will be filed in the employee's personnel file as a permanent record.

D. Corrective Action Administrative Leave

In the event of a possible incident of serious misconduct that would potentially lead to termination, an employee may be placed on Corrective Action Administrative Leave with pay during the investigation period and time leading up to the Pre-Determination Conference (PDC). This should only occur in rare instances. (Also see Section F - Immediate Suspension.)

1. Employee Services must be contacted prior to placing any employee on Corrective Action Administrative Leave.
2. Corrective Action Administrative Leave should be initiated immediately after the possible violation, and the employee should be escorted off the premises.
3. The employee will remain away from County premises, and will be advised not to contact any County employee during the leave.

4. The Corrective Action Administrative Leave will extend until the supervisor contacts the employee to arrange a meeting time to review the results of the investigation and any Corrective Action, if applicable.
5. Corrective Action Administrative Leave does not require the use of the Formal Discipline Form to initiate the leave. However, the supervisor should write a memo concerning the Corrective Action Administrative Leave for the employee's personnel file.

E. Suspension

Suspension is the docking of an employee's pay for a definitive period of time. Lake County BCC reserves the right to make appropriate deductions in pay for the purposes of suspensions.

An employee may be suspended from working without pay for a specified period of time as a consequence of Formal Discipline.

1. The Formal Discipline form is used. The employee will be advised of the terms and conditions of the suspension when the Formal Discipline form is presented.
2. The suspension will commence as soon as possible following the PDC.
3. The employee will be advised to remain away from County property and not to have contact with any County employee during the period of the suspension.

F. Immediate Suspension

In severe circumstances, immediate suspension without pay may be imposed to remove an employee from the workplace when current retention of the employee is not in the best interest of the County.

The reason(s) for the immediate suspension shall be addressed at the PDC in addition to the other corrective action(s) being recommended. Should the immediate suspension without pay be determined to be unwarranted, pay will be restored for the time of the suspension.

G. Involuntary Demotion

Involuntary Demotion is the direct placement of an employee in a lower classification and/or pay. Employees may be involuntarily demoted as a consequence of Formal Discipline, including employees who fail to maintain the required qualifications for a position.

1. An Involuntary Demotion will result in a reduction in pay. The adjustment in salary will be determined in accordance with the procedures outlined in the Lake County BCC Classification and Pay Plan Procedure (E.S.-3.02.01).
2. Employees will serve a six (6) month assessment period in the new position. During this assessment period, the employee's new department shall follow normal Corrective Action guidelines if the employee is not meeting standards for the new position.
3. Involuntary Demotion is only feasible if a position for which the employee qualifies is currently available. If there is not an available position for which the employee qualifies, then the employee will be subject to termination.

H. Termination

Termination is the involuntary separation of the employee from/by the employer. Despite Corrective Action's intent, which is to assist the employee to meet job standards, the desired result may not always be accomplished. In cases where the employee is unable to improve their performance to an acceptable level, or in cases of gross misconduct, it may be necessary to terminate the employee/employer relationship in accordance with these Procedures.

I. Pre-Determination Conference (PDC)

An employee whose supervisor recommends suspension, involuntary demotion, or termination under these employee procedures will have the opportunity to participate in a Pre-Determination Conference (PDC) with their Department Director and the Employee Services Director, or designee.

The PDC process does not apply to temporary, probationary or management (County Manager, County Attorney, Deputy County Attorney, Assistant County Attorneys, Department, Office and Division Directors and any other management or at will employees designated by the County Manager in writing) employees.

Note: A PDC may also be used for Non-Corrective action matters such as an employee who has demonstrated mental or physical impairment that prevents the employee, with or without reasonable accommodation, from performing the essential functions of his/her position. This is an administrative standard and not to be considered disciplinary. The affected employee shall be afforded PDC due process rights.

1. Prior to the PDC

- a. The supervisor recommending Suspension, including Immediate Suspension, Involuntary Demotion, or Termination must contact Employee Services prior to taking such action.
- b. The employee will be provided notice of the opportunity for a PDC when Formal Discipline is presented. If the employee is away from work due to immediate suspension, the Formal Discipline form and PDC notice are sent by certified mail, return receipt requested, within three (3) working days or five (5) calendar days of the first day of the suspension, whichever is sooner.
- c. The PDC should be scheduled based upon the availability and work schedule of the Department Director and Employee Services Director, or designee. The PDC should be scheduled at least two (2) calendar days after the Notice of Pre-Determination Conference notice has been received by the employee.
- d. The supervisor will prepare documentation for the PDC as outlined in Section K.

2. During the PDC

- a. At the PDC, the Department Director will review the Notice of Pre-Determination Conference memo and any other documentation with the employee. The employee will then be allowed to present all pertinent facts, documents, and evidence in support of his/her respective position.
- b. The employee must be self-represented. The non-union employee may not be accompanied or represented by any other individuals at the PDC. (Union employees may bring their union representative, in accordance with applicable federal law, e.g. Weingarten Rights.)
- c. Any recording (audio or video) of the PDC by the employee is prohibited.
- d. If the employee fails to appear at the PDC, the PDC will be conducted in his/her absence, and unless there is a compelling reason for the failure to appear, the recommendation will be upheld.

3. Post PDC

- a. After hearing testimony and reviewing documentation, the Department Director, in collaboration with the Employee Services Director, will approve, modify, or disapprove the recommendation of the supervisor. The

Department Director may do further research on his/her own part. The Department Director has seven (7) calendar days to respond with the decision on the recommendation. An extension in time may be granted provided the Department Director requests such, in writing, from the Employee Services Director.

- b. Procedures for collecting a terminated employee's personal items are as follows:
- (1) The terminated employee may collect his/her personal items within seven (7) calendar days of receiving notification of the PDC outcome for termination. The employee needs to be escorted to the work area by a supervisor/manager, and should set up a date and time in advance.
 - (2) The terminated employee will be advised that any remaining personal items not collected within the seven (7) calendar days from receipt of PDC determination will be boxed for him/her to pick up. When boxing personal items there should be two supervisor/management employees conducting an inventory and both should sign the inventory list. The terminated employee can make arrangements to be met outside the work area to collect the items.
 - (3) If the terminated employee's personal items are minimal, it may be possible to make mailing arrangements.
 - (4) Personal items not collected after thirty (30) calendar days from date of receipt of PDC determination will be discarded.

J. Grievance Process

The Grievance process provides employees with a means to appeal actions which affect terms and conditions of their employment, e.g. Involuntary Demotions, Suspensions (including Immediate Suspensions - following PDC determination that it was justified) and Terminations. It may not be used in reference to a layoff/reduction in force. The Grievance Procedure is as follows:

1. If an employee decides to appeal the Department Director's decision from the Pre-Determination Conference, the employee may request in writing, and within seven (7) calendar days of receipt of the decision, that the grievance be heard by the County Manager.
2. The County Manager reserves the right to refer the grievance to a grievance committee to consider the matter and make recommendations.
3. Prior to the Grievance Proceedings

- a. Should a grievance committee be convened, the grievance committee shall be composed of not less than three (3) employees to hear informal testimony.
 - b. The grievance committee shall be randomly chosen and shall not include employees who are from the grievant's department.
 - c. The grievance committee shall include one Department Director, one Supervisor other than a Department Director and one employee who is not a supervisor and has satisfactorily completed his/her new hire probation. All three (3) employees of the Committee shall be from different departments.
 - d. Employee Services shall make arrangements for the grievance committee to meet to hear testimony. Should a committee not be convened, the County Manager shall hear informal testimony.
 - e. The employee has the right to be accompanied, represented, and advised by legal counsel, or be self represented. If the employee will be represented by counsel, the employee shall inform Employee Services of this in writing at least three (3) working days before the hearing. The employee shall be responsible for his/her own attorney fees. The employee may also bring character witnesses on his/her behalf to the proceedings.
 - f. The County may also bring legal representation as well as witnesses to support its action.
4. During the Grievance Proceedings
- a. The committee shall elect a chairperson.
 - b. Grievance proceedings before a committee are subject to Sunshine Law.
 - c. All proceedings before the grievance committee or the County Manager shall be informal and legal rules of evidence and procedure shall not apply.
 - d. If a grievance committee is hearing the testimony, the members shall make a decision by a majority vote and a written statement of the decision and recommendations shall be issued to the County Manager and the participants within five (5) calendar days of the meeting.
5. Following the Grievance Proceedings
- a. Within ten (10) calendar days of a proceeding heard by the County Manager, or within ten (10) calendar days of a grievance committee recommendation, the County Manager shall issue a written order which will

sustain, reverse, or alter the outcome of the matter which is the subject of the grievance matter.

- b. The decision of the County Manager shall be final and binding.

K. Corrective Action Forms

Corrective Action Forms, including the PIP documents, are available on the Lake County Intranet, through the "Forms" Quick Link. Internet access is through the Employee Services webpage. The Pre-Determination Conference Notice document template is available from Employee Services.

Supervisors are responsible to ensure that the appropriate documents are completed and submitted in a timely manner.

1. Verbal Counseling Form - This form is the preferred method to document a Verbal Counseling. It is also acceptable for the supervisor to document the Verbal Counseling in another manner such as a memo to file or a supervisor's calendar.
 - a. The supervisor and employee both sign the Verbal Counseling form or documentation.
 - b. If the Verbal Counseling form is used, the employee's signature does not necessarily indicate agreement with the Verbal Counseling. It is just an acknowledgment of receipt.
 - c. The employee receives a copy.
 - d. Verbal Counseling documentation is retained at the department file level for two years from the date of issue, and is not forwarded to Employee Services unless further Corrective Action is required.
2. Written Warning Form – This form is used to document a Written Warning.
 - a. The supervisor completes the Written Warning form and attaches a copy of all supporting documentation.
 - b. The supervisor and the employee both sign the Written Warning.
 - c. The employee's signature does not necessarily indicate agreement with the Written Warning, just acknowledgement of receipt.
 - d. The employee receives a copy.

- e. The original/signed Written Warning form shall be sent through interoffice mail or hand delivered to Employee Services. It will be filed in the employee's personnel file as a permanent record.
3. Formal Discipline Form – This form is used to document Suspension (including Immediate Suspension), Involuntary Demotion, or Termination.
 - a. The supervisor completes the Formal Discipline form, and attaches a copy of all supporting documents.
 - b. The supervisor and the employee both sign the Formal Discipline form.
 - c. The employee's signature does not necessarily indicate agreement with the Formal Discipline, just acknowledgement of receipt.
 - d. The employee receives a copy and is advised of the opportunity to participate in a Pre-Determination Conference by receipt of the PDC notice.
 - e. The original/signed Formal Discipline form and the PDC notice shall be sent through interoffice mail or hand delivered to Employee Services. Both will be filed in the employee's personnel file as a permanent record.
 4. Pre-Determination Conference Notice
 - a. The Pre-Determination Conference Notice template is available through Employee Services.
 - b. The notice is prepared by the supervisor to be sent from the Department Director to the employee, with copy to the Employee Services Director and the Division Director/Manager. The notice should contain the following:
 - (1) The time and date of the scheduled PDC.
 - (2) The recommended action and the reasons for the recommendation.
 - (3) Supporting references from policies and/or procedures.
 - (4) A copy of any investigative reports and/or supporting documentation, if applicable.
 - (5) Witnesses' signed and dated statements, if any.
 - (6) A summary and timeline of previous related infractions, including copies of corrective actions.

- c. The PDC Notice should be presented at the same time as the Formal Discipline Form. If the employee is not at work, it should be sent as outlined in Section I.

VI. RESERVATION OF AUTHORITY

The authority to issue or revise this Procedure is reserved to the County Manager. The County Manager may authorize exceptions to this procedure when deemed appropriate.



Sanford A. Minkoff
Interim County Manager
Lake County