

**GRAND FORKS COUNTY
POLICY MANUAL**

POLICY NO. 105-24

Eff. 2/21/12

**DISCIPLINARY ACTIONS FOR
NON-DEPARTMENT MANAGERS**

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When, in the sole discretion of the Department Manager, due cause exists for taking disciplinary action against an employee, the Department Manager, as set forth below, may utilize the following forms of disciplinary action either individually or in any combination thereof:

Reprimand. The Department Manager may reprimand an employee, in writing, provided that the reprimand is issued within a reasonable period of time of the Department Manager learning of the existence of due cause. A Department Manager may only reprimand an employee of his or her department. See Appendix for examples.

In the event a written reprimand is issued, a copy of the reprimand shall be provided to the employee and placed in the employee's personnel file.

An employee receiving a written reprimand may file a written reply to the reprimand in his or her personnel file.

An employee may appeal a reprimand issued by a Department Manager to the County Commission within ten (10) working days after the action is taken.

After the County Commission has issued a written decision regarding the reprimand, the employee may appeal to the Appeal Board within ten (10) working days after the decision of the County Commission.

If a reprimand is determined to be without merit, all reference to the reprimand in the employee's personnel file is to be removed from the personnel file.

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Suspension by Department Manager: The Department Manager may suspend an employee with or without pay for up to three (3) days.

An employee may appeal a suspension to the County Commission within ten (10) working days after the action is taken.

After the County Commission has issued a written decision regarding the suspension, the employee may appeal to the Appeal Board within ten (10) working days after the written decision of the County Commission.

The suspension shall become effective on the date as set forth by the Department Manager in the written notice of suspension, irrespective of whether the employee has appealed or may appeal the suspension.

Should either the County Commission or the Appeal Board determine the suspension was unwarranted, the employee shall be reinstated with full back pay. Furthermore, reference to the suspension in the employee's personnel file is to be removed from the personnel file.

Investigatory suspension. The Department Manager may suspend, with or without pay, an employee who is the subject of a disciplinary or criminal investigation, provided a reasonable basis exists to warrant such a suspension. If at the conclusion of the investigation, disciplinary action is not warranted, the employee shall be reinstated and reimbursed for any lost pay. Furthermore, reference to the investigatory suspension in the employee's personnel file is to be removed from the personnel file.

Demotion. The Department Manager may demote an employee from a position in one (1) class to a position in a lower class.

In addition to or alternately, the Department Manager may reduce an employee's salary within the range provided for the employee's class, return the employee to the entry level probationary status, or withhold any pay increase.

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An employee shall not be demoted if he or she is not eligible for employment in the lower class or the demotion would result in the layoff of a regular employee.

The Department Manager shall provide the employee and the County Commission written notice of the demotion at least five (5) calendar days prior to the effective date of the demotion.

An employee may appeal a demotion to the County Commission within ten (10) working days after the action is taken.

After the County Commission has issued a written decision regarding the demotion, the employee may appeal to the Appeal Board within ten (10) working days after the decision of the County Commission.

The demotion shall become effective on the date as set forth by the Department Manager in the written notice of demotion, irrespective of whether the employee has appealed or may appeal the demotion.

Should either the County Commission or the Appeal Board determine the demotion was unwarranted, the employee shall be reinstated with full back pay. Furthermore, reference to the demotion in the employee's personnel file is to be removed from the personnel file.

***Probation.* The Department Manager may place an employee on probation.**

The placement of an employee on probation for disciplinary reasons shall not affect the employee's accrual of benefits or seniority.

An employee may appeal the placement on probation to the County Commission within ten (10) working days after the action is taken.

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After the County Commission has issued a written decision regarding the placement on probation, the employee may appeal to the Appeal Board within ten (10) working days after the written decision of the County Commission.

The probationary period shall become effective on the date as set forth by the Department Manager in the written notice of probation, irrespective of whether the employee has appealed or may appeal the probation.

During placement of an employee on probationary status, the employee is not to be considered an at-will employee, unless explicitly stated so in the written notice of placement on probationary status.

Should either the County Commission or the Appeal Board determine the probationary status was unwarranted, the employee shall be reinstated with full back pay. Furthermore, reference to the probationary status in the employee's personnel file is to be removed from the personnel file.

Dismissal. The Department Manager may dismiss an employee. Such dismissal will become effective as of the date set forth by the Department Manager in the written notification of the dismissal to the employee, irrespective of whether the employee has or may appeal the dismissal.

An employee may appeal the dismissal to the County Commission within ten (10) working days after the action is taken.

After the County Commission has issued a written decision regarding the dismissal, the employee may appeal to the Appeal Board within ten (10) working days after the written decision of the County Commission.

The dismissal shall become effective on the date as set forth by the Department Manager in the written notice of dismissal, irrespective of whether the employee has appealed or may appeal the dismissal.

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Should either the County Commission or the Appeal Board determine the dismissal was unwarranted, the employee shall be reinstated with full back pay. Furthermore, reference to the dismissal in the employee's personnel file is to be removed from the personnel file.

Due Cause for Disciplinary Action

An adequate reason or "due cause" for a disciplinary action shall include, but not be limited to, the following:

- Incompetence or inefficiency in the performance of duties.
- Offensive or inappropriate conduct or language toward county employees or other persons, including any harassment or retaliation.
- Performance of personal or other non-work-related matters during work hours.
- Dishonesty in the performance of duties, or making any false statement or material omission in any matter relating to the employee's duties or employment, including employment and promotion applications and work undertaken in the scope of employment.
- Acting or failing to act in a manner that tends to lower discipline or morale among county employees, brings or tends to bring discredit to the county, its elected officials or employees, or that adversely affects the prompt, courteous, and efficient provision of public services. Any speech protected by the First Amendment shall not be a basis for disciplinary action, however.
- Conviction of or a plea of guilty to a felony or Class A misdemeanor.
- Violation of any ordinance or lawful and reasonable official regulation, policy, order, or directive, or failure to obey any lawful and reasonable direction made and given by the employee's supervisor, where such violation or failure amounts to an act of insubordination.
- A serious breach of proper discipline resulting in or which may be reasonably expected to result in loss or injury to the county or to the public.

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- **Inducing or attempting to induce a County employee to commit an unlawful act, violate any ordinance, or to act in violation of any lawful and reasonable regulation, policy, directive or order.**
- **Any absence from scheduled duty without leave contrary to the provisions of county policy, or failure to report after a leave of absence has been disapproved, revoked, or canceled.**
- **Any false statements or fraudulent conduct or deception with any person in making any false statement, engaging in any fraudulent conduct, or in any deception in any official county business.**
- **Any false statement or fraudulent conduct in order to obtain compensation from the county or assistance of any employee in fraudulently obtaining compensation from the county.**
- **The employee's taking for personal use a fee, gift, or other valuable thing in the course of the employee's work, when such fee, gift, or other valuable thing is given by persons in the hope or expectation of receiving a favor or better treatment than accorded other persons.**
- **The employee's engaging in a private business or in an outside trade or occupation, so that the duties of the employee's position, as prescribed by law or regulation or by the employee's superior, are impaired or made less effective by the employee's outside business, trade, or employment.**
- **The employee, through gross negligence, multiple incidents of negligence, or willful conduct, has caused damage to public or private property, funds, or waste of public supplies.**
- **Violation of the alcohol and controlled substance policy.**
- **Abuse of sick leave or any other leave.**
- **That the employee has threatened, used, or has attempted or caused to be used, personal or political influence in securing promotion, transfer, leave of absence, change of grade, character of work, or increased pay.**
- **Fighting or threats of physical violence.**
- **Intentional falsification or material omission in employment application, personnel records, time reports, or other county records.**

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- Theft or intentional destruction of county property, or the unauthorized possession or use of County property, equipment, or materials.
- Deliberate or careless conduct endangering the safety of the employee, other employees, or members of the public.
- Failure to report for work without notification and/or habitual tardiness.
- Leaving assigned work area without prior authorization by a supervisor.
- Discussing with unauthorized persons any confidential information gained through employment with the county.
- Engaging in a strike, slowdown, or group work stoppage, or any kind of unauthorized interruption of work.
- Possession of unauthorized firearm on the work place.
- Loss, suspension or revocation, whether temporary or permanent, of any license, permit, certification, and/or registration required to hold the employee's position or any failure or inability to meet or maintain minimum job qualifications.
- Engaging in acts of sabotage or other material interference with county projects or activities.

Notice of proposed disciplinary action; informal disciplinary conference.

A written notice of a proposed disciplinary action must be given to the employee in person or mailed by registered or certified mail to the last known place of residence no later than ten (10) working days prior to the proposed action. The notice of disciplinary action must contain the following:

- The disciplinary action being considered;
- Specific reason or reasons for the action;
- The effective date of the action;
- An explanation of the evidence against the employee;

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- A statement of the employee's right to submit a written response and/or to request an informal disciplinary conference with the Department Manager, for the opportunity to be heard prior to the effective date of the disciplinary action; and
- A statement of the employee's right to appeal any adverse decision to the County Commission and, subsequently, the Appeal Board.

Following any informal disciplinary conference with the employee and his or her legal counsel or other representative, or following any submission of a written response by the employee, the Department Manager shall affirm, modify, or withdraw the proposed disciplinary action.

The affirmation, modification, or withdrawal of the proposed disciplinary action shall be accompanied by a written statement to the employee stating the decision on the matter, the reasons, and the employee's right to appeal the decision as provided by county policy.

Appeal of disciplinary action.

Within ten (10) working days after the date of notice of the disciplinary action by a Department Manager of an employee, the affected employee may appeal the action by a Department Manager by filing a written notice of appeal with the County Commission. The notice of appeal shall identify the ruling appealed from and be signed by the appealing employee. It shall be the duty of the County Commission to inform the Department Manager of the filing of an appeal. Within ten (10) working days after the filing of written notice of appeal, the County Commission shall meet and, upon consideration of the evidence and a review of the employee's personnel record, shall issue, and serve upon the employee, an order:

- Affirming the disciplinary action; or
- Reversing the disciplinary action; and/or
- Imposing such other forms or combinations of disciplinary action as the County Commission deems reasonably appropriate.

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The decision of the County Commission is subject to appeal by the employee to the Appeal Board.

Appeal from decision of County Commission to Appeal Board

Within ten (10) working days after the date of order of the County Commission, the affected employee may appeal the action to the Appeal Board. The notice of appeal shall identify the ruling appealed from and be signed by the appealing employee. It shall be the duty of the Appeal Board to inform the County Commission of the filing of an appeal. Within ten (10) working days after the filing of written notice of appeal, the Appeal Board shall meet and, upon consideration of the evidence and a review of the employee's personnel record, shall issue an order:

- Affirming the disciplinary action; or
- Reversing the disciplinary action; and/or
- Imposing such other forms or combinations of disciplinary action as the Appeal Board deems reasonably appropriate.

The decision of the Appeal Board is final, subject to any right of review under any law of the State of North Dakota or the United States. The Appeal Board's decision shall not be stayed pending a review in any court of competent jurisdiction. In the event the Appeal Board's decision is reversed, the appealing employee shall then be reinstated as of the date the disciplinary action was taken and shall be entitled to compensation from the same date. Furthermore, reference to the dismissal in the employee's personnel file is to be removed from the personnel file.