



University of
Virginia

Classified Staff
Employee Handbook

Provided By

University Human Resources



We Value People

Notice

This handbook contains general information about your employment with the University of Virginia and outlines policies and procedures that affect your daily work. It does not include specific provisions of the policies and procedures, nor does it create any employee rights or benefits. **The handbook is not a contract, express or implied, nor is it an invitation to contract, or a contractual commitment to continued employment. Nothing in this handbook should be construed to establish any legally binding conditions of employment, nor is the handbook intended to create or imply any contract rights.**

The University does not discriminate in any of its programs, procedures or practices on the basis of age, color, disability, national or ethnic origin, political affiliation, race, religion, sex (including pregnancy), sexual orientation, or veteran status. The University operates both affirmative action and equal opportunity programs for faculty, staff, and students consistent with resolutions of the Board of Visitors and with federal and state requirements.

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Introduction to Employee Handbook

This Employee Handbook outlines the basic elements of the employment relationship between you and the University.

It is designed for you as a classified employee of the University of Virginia. (Classified employees are salaried employees whose positions are subject to the Virginia Personnel Act.) The Employee Handbook contains basic information related to your employment and refers you to University Human Resources Policies as well as the Department of Human Resource Management policies for specific details. These policies are found at the Web site of the Department of Human Resource Management (DHRM) or at www.hrs.virginia.edu/policies.html. Supervisors, managers, and University Human Resources staff will also find information in these policies that are useful to their work with employees.

This handbook does not include all information that may apply specifically to your department because of the flexibility that departments have to meet their management needs. Other specific information is available from your supervisor or the Department of University Human Resources.

The official policies of the Commonwealth of Virginia's Department of Human Resource Management and University Human Resources, some of which are discussed in this handbook, are revised frequently as the need arises. Conflicts between provisions contained in the Handbook and DHRM Policies and University Human Resources policies will be resolved in favor of the policies.

General Conditions of Employment

Hours of Work

A full-time classified employee works a schedule of 40 hours per week or 32 to 39 hours per week. Classified employees working a schedule of 20-31 hours per week are part-time. There is no employment for a schedule of less than 20 hours per week.

For most jobs, an unpaid lunch break of 30 to 60 minutes is required. Your supervisor will schedule this for you. In addition, departments may provide two 15-minute breaks, one morning and one afternoon, which are part of the paid day. These breaks are optional and may not be used to cover missed time or to extend the lunch period.

The standard workday is 8 hours. Unless otherwise indicated, official statements including policy and handbook references to "workday" mean an 8-hour period. If you work an alternate schedule, remember that official statements generally assume 8-hour days.

Some departments have established flexible work hours to better meet their business needs. Normally, administrative offices must ensure adequate coverage during core business hours. In most cases, flexible schedules maintain a 40-hour workweek. Ask your supervisor if one of these schedules applies to you or is an option available to you.

The University may permit alternate work schedules in some cases. An example of an alternate schedule is four 10-hour days per week. Based on its business needs, your department may decide not to permit alternate schedules, or may decide to discontinue them at any time.

Most *non-exempt* employees (those covered by the Fair Labor Standards Act) may work only those schedules that maintain a 40-hour workweek. For certain employees in law enforcement and health care delivery, the Fair Labor Standards Act (FLSA) permits arrangements, such as 28-day cycles, which do not require a 40-hour workweek. In these cases, the calculation of overtime is based on the alternative work cycle.

Attendance

You are expected to report to work in accordance with the work schedule assigned by your supervisor, and you are responsible for letting your supervisor know as soon as possible if you expect to be late or absent. Ask your supervisor about your department's procedure for reporting absences. Failure to notify your supervisor appropriately may result in disciplinary action, including termination.

Hiring Requirements

Employees hired into certain positions must complete a Statement of Personal Economic Interests as required by the Code of Virginia. The Department of University Human Resources will know whether you need to complete this statement.

All employees must meet certain conditions of employment. Additionally, certain departments may require a background check which could include pre-employment tests and/or drug tests.

Information About Your Paycheck

Standard pay periods for classified employees are the 10th through 24th of a month and the 25th through the 9th of a month. Ask your supervisor about your position's pay schedule. Classified employees are required to participate in direct deposit. When paydays fall on weekends or holidays, paychecks normally are distributed and direct deposits normally are made the last workday before the regular pay date.

Tax liens, garnishments, child support and bankruptcy payments as well as student loan repayments, are honored as directed by state and federal law. An employee will be charged a fee for processing certain garnishments.

Employees should submit tax withholding forms (W-4, VA-4) indicating their preferences. The Payroll department will withhold at the highest rate ('single/no exemptions') in all cases where no forms are submitted.

Probationary Period

Classified employees serve a probationary period of one year from their employment or re-employment date. This is a trial period during which the University and employee learn whether the employee is suited for the job. This time may be extended if the employee experiences absence(s) of more than 14 consecutive days and for certain other reasons. Except to make up for the employee's absence, the probationary period may not be extended for more than six additional months. If you are selected for a position that requires certification following completion of a prescribed training program, you must complete a new probationary period.

The state's grievance procedure is not available to probationary employees. If you are having a work related issue you may call University Faculty & Staff Employee Relations or the University Ombudsman. However, if you believe you have been discriminated against in any condition of employment based on age, color, disability, national or ethnic origin, political affiliation, race, religion, sex (including pregnancy), sexual orientation, or veteran status, you may file a discrimination complaint through the University's Office of Equal Employment, with the Office of Equal Employment Services of DHRM, or with the federal Equal Employment Opportunity Commission

During your probationary period and throughout your employment with the University of Virginia, you should consult the Department of University Faculty & Staff Employee Relations for assistance with workplace issues of all kinds. They can provide guidance and referral to other resources as needed.

Transfers from other state agencies are required to complete the remainder of their probationary period.

Overtime

Some positions involve occasional or periodic overtime work; employees must work overtime as required by their supervisors. Employees are designated as covered by the federal Fair Labor Standards Act ("non-exempt") or not covered ("exempt"). The University determines the exempt

or non-exempt status of each employee using FLSA guidelines and based on the type of work done. For non-exempt employees, payment of overtime hours worked must comply with the Act.

Non-exempt employees are normally paid overtime at time and one-half their regular rate for hours worked over 40 during a workweek. Departments may elect to grant overtime leave instead of overtime pay. Overtime leave hours do not expire, and there is a maximum number of overtime leave hours an employee may earn. Thus, an employee may be required to take paid time off to avoid exceeding his or her limit. Employees receive pay for earned overtime hours when leaving state service or the University and at certain other times specified in policy.

All overtime worked by non-exempt employees must be pre-approved.

Exempt employees typically are not compensated for working overtime. However, in unusual circumstances, departments may choose to provide straight-time compensatory leave or pay.

Inclement Weather/Emergencies

When weather conditions or an emergency situation forces late openings, early closings, or full-day closings here at the University, classified employees may be paid for these periods

Please see UHR Policy www.hrs.virginia.edu/Policies.html for detailed information.

Shift Modification decisions are announced on local radio and television stations. Employees may also call the **Snow Hotline at (434) 243- and 924-SNOW.**

Be sure you know the radio or television stations that will announce closings in your area. You are responsible for knowing this information and for acting accordingly.

Certain personnel may be designated by their departments as being required to work during authorized closings. They may earn compensatory leave or pay for hours worked during periods of closing.

Telecommuting

Departments may designate certain positions and certain employees for telecommuting (teleworking). This practice enables employees to conduct some of their work from their homes or from a site other than the central workplace.

Outside Employment

As a University Staff employee, your obligation to your job is considered to be your primary duty. An employee may be disciplined for outside employment that is deemed to affect work performance.

Alcohol and Other Drugs

The University intends to maintain a workplace free from the adverse effects of alcohol and other drugs. Employees are forbidden to use these substances at the workplace or to come to the workplace while under the influence of these substances. In addition, employees are expected to notify their supervisors if they are convicted of violating any criminal drug law, either within or outside the work place, or if they are convicted of violating any alcohol beverage control law or law that governs driving while intoxicated, based on conduct occurring in the workplace. Violation of policies related to these matters can result in serious disciplinary action, including termination.

Because of the nature of the work, some departments require drug testing before a final employment offer is made. Some positions may also require ongoing random drug testing and/or as-needed drug or alcohol testing.

Safety and Security in the Workplace

As an employer, the University of Virginia makes every effort to ensure a safe and healthy workplace for its employees as well as for customers, patients, business colleagues, and visitors. Harassment (sexual or other), threats of violence, and violent acts will not be tolerated in the workplace. EOP Policy as well as UHR Policies located at www.hrs.virginia.edu/Policies.html provide guidance regarding the kinds of actions which will not be tolerated in the workplace, and describes the responsibility of departments to take certain measures to promote safety and security in the work environment. Violation of policies related to these matters can result in serious disciplinary action, including termination.

You should consult University Faculty and Staff Employee Relations if you have concerns in these areas. Incidents of workplace violence should be reported immediately through appropriate channels in your department.

See also DHRM Policies 1.80, Workplace Violence, and 2.30, Workplace Harassment, at www.dhrm.virginia.gov.

Layoff and Severance

Business needs, including economic constraints, may require the University to re-configure or reduce its workforce. Layoff policy, Severance Benefits policy, and Temporary Work Force Reduction policy outline procedures for departments to follow and rights of employees in these situations.

Employees may be identified for layoff using a number of factors, including business needs, job functions, and employees' length of continuous state service. Severance benefits are based on salary and length of continuous state service and may sometimes be used by eligible employees for enhanced retirement. Restricted employees (those paid from non-continuing sources of funds) and part-time employees should check these policies and consult Faculty & Staff Employee Relations to find out whether they are eligible for layoff and/or severance benefits.

The University may experience variations in work flow which make temporary staff reductions advisable. The Temporary Work Force Reduction policy explains how departments should implement these short-term reductions and defines the rights of employees during such actions.

Statement of Public Accountability

The University of Virginia is a public institution supported by the Commonwealth of Virginia, a public employer committed to serving the interests of the taxpayers and accountable to them for the effective use of public funds. Therefore, it is the policy of the University that employees are not paid for time that they do not work, unless they use leave time, such as annual leave or sick leave, accrued under human resource policies. You will be placed on Leave Without Pay, and your paycheck for that pay period will be reduced, if you are absent from work for personal reasons or because of illness or injury, even for periods of less than one day, if you do not use accrued leave because (1) you do not request use of accrued leave or your request is denied, (2) your accrued leave has been exhausted, or (3) you request leave without pay.

Compensation

Your total compensation includes both your salary and the University's benefits package. In addition to salary, classified employees are eligible to receive several kinds of paid time off, group health insurance (with a state contribution to the premiums for full-time employees), state-supported membership in the Virginia Retirement System, life insurance, short- and long-term disability coverage (for VSDP participants) and others. Many of these benefits are explained in this Handbook. The University Department of Human Resources can give you detailed information.

Classified positions are assigned to approximately 300 roles (titles) within about 60 career groups and seven occupational families. Each role is assigned to one of nine pay bands. Both the employee and the job are assessed for pay purposes using specified factors. Various pay practices are used to establish your original salary and to guide the movement of your salary during your career. The University retains some latitude to develop its own salary administration plans within the broad framework set by DHRM policies.

The University does not guarantee any specific pay increases or any certain timetable for pay increases. The legislature and Governor may provide for general pay increases in some years. These typically are linked to the employee's satisfactory job performance.

Department of Human Resource Management provides information about compensation practices.

Performance Management and Evaluation

It is important to clearly understand what you will be expected to do in your job. One way to obtain this information is through the Employee Work Profile (EWP), a description of the work you will be assigned to do and the level of performance you are expected to achieve. You will receive an EWP shortly after you begin work, and it will be reviewed annually thereafter. The EWP may be revised as needed.

The EWP may also include a Development Plan that describes specific steps you should take to improve job-related competencies (behaviors, knowledge, and skills) during the coming performance evaluation period.

During an employee's probationary period, the supervisor prepares reports on the new employee's progress. Employees will also receive an annual performance review. You may also receive ongoing feedback concerning your performance during the performance cycle.

Your performance rating may affect your salary increases.

For further information on Performance Management, please see UHR policy at www.hrs.virginia.edu/Policies.html or DHRM policies at www.dhrm.virginia.gov.html.

Benefits and Programs

This list of benefits is not intended to be a complete description of all benefits. Benefit plan details are contained in separate documents which take precedence over any conflicting information in this handbook

Insurance Coverage and Income Replacement Programs

Group Life Insurance

All classified state employees are enrolled in the group life insurance plan administered by the Virginia Retirement System (VRS) at no cost to the employee. This plan provides life insurance and accidental death and dismemberment insurance during your employment.

The amount of your life insurance coverage for death from natural causes is your annual salary rounded to the next highest thousand, then doubled. The benefit for accidental death is double the natural death benefit.

Through a plan also administered by VRS, active insured employees may purchase optional life insurance for themselves, their spouses, and their minor children. Premiums are paid through payroll deduction. In some cases, some coverage may be continued into retirement. Your UHR Benefits Counselor can provide additional information on Optional Life Insurance.

Health Insurance

When an employee is hired, he or she has a specified length of time to decide whether to enroll in the University's health insurance program. Your UHR Benefits Counselor will let you know about important deadlines. The University's program includes hospitalization, medical, mental health, dental, surgical, prescription drug, and other coverage. An employee may choose membership for employee only, membership for employee and child, employee and spouse, or family membership for the employee and two or more dependents. The employee's portion of the premium is paid by payroll deduction. The University contributes a monthly amount toward the cost of this benefit for employees in full-time status. Part-time classified employees may participate in the University's group health insurance but do not receive a contribution to their premium costs.

Faculty & Employee Assistance Program

The Faculty and Employee Assistance Program (FEAP) offers help to faculty members, employees and their family members who need counseling and treatment referrals for alcohol and substance abuse problems and for various personal difficulties including legal, financial, and relationship concerns. The faculty member, employee or family member may seek these services directly, or a supervisor may encourage an employee to use FEAP resources because of employment issues that may be adversely affecting work performance. All services are provided under strict guidelines of confidentiality.

FEAP services are available for all classified employees enrolled in the University's health care plan and their covered family members. For additional information, ask a University Benefits Counselor or your insurance carrier for contact information.

Virginia Sickness and Disability Program (VSDP)

All classified employees hired on or after January 1, 1999, are enrolled in VSDP; many employees already working at that time have made the choice to join the program. The chief purpose of this program is to provide income replacement to employees when they are unable to work because of short-term (up to 125 workdays) or long-term illness or disability. The program also provides:

- return-to-work services,
- paid sick leave time of up to 80 hours per year, based on months of state service, to be used for the employee's own short occasions of sickness/injury or for personal doctor visits,
- paid leave time of up to 40 hours per year for other family and personal reasons, and
- a long-term care component.

Eligible employees may use up to 33% of their available sick leave balance for absences for family illness or disability that are covered by the Family and Medical Leave Act (FMLA).

Details about VSDP are available in the VSDP Employee Manual and under Benefits at the DHRM Compensation and Benefits Web Site.

Long-Term Care Insurance

The University of Virginia offers long-term care insurance to eligible classified employees, retirees, and certain family members under a contract awarded to a third-party vendor. Long-term care typically provides assistance when necessary to accomplish normal activities of daily living, such as eating, dressing, and getting in and out of bed. This is an optional benefit which you may choose to purchase through payroll deduction.

Workers' Compensation

If you incur a work-related injury or illness, you may be eligible for benefits under the Workers' Compensation Act. In addition, the University provides benefits to employees covered by the Virginia Personnel Act to replace lost income and to compensate for certain permanent losses to the body. Workers' Compensation benefits include a return-to-work program to help employees resume productive activity. Procedures and benefits may vary depending on whether you are in the Traditional Sick Leave program or in the Virginia Sickness and Disability Program (VSDP). University Human Resources can provide more detailed information.

It is important to report a work-related injury as soon as possible. The University's Workers Compensation Coordinator in University Human Resources can help you with this process.

Time-Off Benefits, Paid and Unpaid

The University provides paid leave time to employees for a variety of reasons. The various types of leave are outlined below. Refer to the specific policy for more detailed information. In general, all leave must be scheduled in advance and approved by your supervisor. Ask your supervisor about your department's policies and procedures for scheduling, taking, and reporting leave.

Annual Leave

Annual Leave is earned at the end of each completed pay period, at a rate set according to your total amount of state salaried service; new full-time employees start by earning four hours per pay period. Classified employees who work less than 100% but at least 50% accrue at a rate proportionate to the percentage worked.

You can carry accrued annual leave hours forward from one year to the next up to the carryover limits, which are also based on state service. When you separate from state service or experience certain other status changes, you will receive payment for unused annual leave, up to established payout limits. Annual Leave is available for personal uses such as vacation. Ask your supervisor ahead of time for approval to use this leave.

Sick Leave

Traditional Sick Leave is not available to employees hired on January 1, 1999, or later. Traditional Sick Leave is granted at the rate of five hours per completed pay period regardless of length of service

Eligible employees may use up to 33% of their available sick leave balance for absences for family illness or disability that are covered by FMLA.

VSDP Leave

VSDP Family and Personal Leave and VSDP Sick Leave amounts are granted to participants in the Virginia Sickness and Disability Program upon hire and at the beginning of the leave year, January 10. Hours remaining from the previous year do not carry over. Length of state service (shown in months) determines the amount of these types of leave. The VSDP Employee Manual provides further information.

Leave Sharing

Employees may donate annual leave hours they have accrued to help other employees who are eligible to receive the leave and who are experiencing Leave Without Pay. Employees covered by the Traditional Sick Leave policy may request to receive Leave Sharing donations when they are in a Leave Without Pay status because of their own personal illness or injury or because of the illness or injury of a family member for which the employee is using Family and Medical Leave (FMLA). Employees covered by the Virginia Sickness and Disability Program may request to receive Leave Sharing donations when they are in a Leave Without Pay status because of a *family member's* illness or injury for which the employee is using Family and Medical

Leave. The University continues to make its contribution to the health care premium for the time covered by FMLA leave.

If you want to donate leave or request to use donated leave, you should consult the University Human Resource office.

Family and Medical Leave Act

The University complies with the federal Family and Medical Leave Act (FMLA) in providing leave with or without pay to eligible employees for situations defined in that Act. State policies and procedures apply to many situations covered by FMLA. Because FMLA is a designation rather than a separate type of leave, an employee may also use other kinds of leave while in FMLA leave status. An eligible employee on FMLA leave continues to receive the University's contribution to health insurance, and FMLA provides reemployment rights to employees under certain conditions. Employees may use up to 33% of their available sick leave to cover absences for family illness or disability covered by FMLA. Family members may also take up to 26 workweeks of leave to care for a member of the armed forces who is undergoing medical treatment.

Compensatory and Overtime Leave

Some employees may be eligible to earn paid leave for work performed overtime or during non-scheduled work times. The Fair Labor Standards Act (FLSA) governs application of these leave types for employees covered by the Act (non-exempt).

Civil and Work-Related Leave

The University grants employees paid time off for certain reasons related to court proceedings (including jury duty); for some kinds of service to official state councils, boards, etc; for some activities related to employee relations processes; and reasonable time to interview for state positions.

School Assistance and Volunteer Service Leave

As an employer, the University supports employees' responsibilities to their children and communities through Community Service Leave with up to 16 hours of paid leave per leave year. Parents are encouraged to participate in school activities through the high school level. All employees are encouraged to volunteer through community organizations to perform direct services in child development and to provide voluntary "hands-on" services as part of an organized community service project.

Military Leave

Employees who are members of the Commonwealth's militia (including National Guard) are granted paid military leave while providing military service when called forth by the Governor. Employees who serve in the National Guard, Naval Militia, or in a branch of the military reserve are entitled to as much as 15 days of paid military leave for federally funded training or active duty per federal fiscal year. Employees called for more than 15 days of active federal duty in a

federal fiscal year may use accrued leave balances in order to remain on the state payroll. Employees who exhaust their leave balances or who choose not to use them for military duty may be placed on Military Leave Without Pay

In compliance with federal requirements, employees are guaranteed reinstatement to their original position or a comparable position for up to five years of cumulative military service, with certain exemptions to the five-year cap. If you are a member of the National Guard or a military reserve unit, you may want to review your benefits under the Uniformed Services Employment and Reemployment Act (USERRA). Some state benefits continue for all or part of a term of military leave.

Emergency/Disaster Leave

Employees with specific, needed skills may receive up to 80 hours of paid leave to give requested assistance in officially-declared disaster areas, typically in cases of large-scale flood, fire, ice storm, or a similarly destructive natural event. These skills and training may or may not be related to the qualifications used in the employee's job. In addition, employees who are the *victims* of major disastrous events in officially declared disaster areas, such as destruction of their primary residence, are sometimes eligible for paid leave under this policy. Employees called to provide emergency service through active duty in the military or National Guard are covered by the Military Leave Policy.

Educational Leave and Educational Assistance

Employees may be allowed leave time to take courses related to their work. This may be with full, partial, or no pay, and/or tuition payment. Financial assistance for costs related to such courses is sometimes available from the University. Educational Assistance Agreements often include work obligations. Departments develop the details of their own policies in this area, so consult with the Department of University Human Resource and see the University's policies for further explanation of these programs.

Leave to Donate Bone Marrow or Organs

Employees may use up to 30 workdays in a calendar year to donate their bone marrow or an organ and to recover from the procedure.

Leave Without Pay

In certain situations, you may ask for or need to be placed in a Leave Without Pay (LWOP) status. This status preserves some benefits of employment and permits reinstatement of other benefits if you return to paid status. LWOP does not separate you from University service, and many benefits are not affected, especially if the period of LWOP is not long. In order to avoid unintentional LWOP, you should learn to manage your paid leave carefully. Employee-initiated LWOP must be approved by your supervisor.

Leave Without Pay may be Unconditional (reinstatement to the pre-leave position is guaranteed) or Conditional (reinstatement will occur only if the pre-leave position remains available).

Holidays

We realize that any one observed holiday may be less than ideal for certain areas where we expect customers to require our services. In those instances, essential University services should be maintained and compensatory leave awarded to those required to work. Employees who must work on a holiday should be given adequate advance notice for personal planning purposes. Questions regarding the provision of essential customer services should be directed to your respective vice president.

If the Governor grants any additional holiday time during the year, this time will be applied to employee leave balances as compensatory time (float time) and must be used within 12 months from the date awarded.

The following days are generally observed by the University as paid holidays for state employees:

New Year's Eve Day
New Year's Day
Martin Luther King Day
Spring Break Day
Memorial Day
Independence Day
Labor Day
Thanksgiving
Day after Thanksgiving
Christmas Eve
Christmas Day
Day after Christmas

Additional Holiday Information:

- Procedures and eligibility rules for administering holiday leave are posted at: <http://www.hrs.virginia.edu/hperules2004.html>.
- The University of Virginia's Health System administration will distribute holiday information pertaining to the Medical Center and Clinics.
- The University of Virginia's College at Wise administration will distribute information pertaining to the College at Wise.

Any questions concerning these holidays should be addressed to the UHR Leave Center at 4-1426/4-4404 or send an email to hrdept@virginia.edu.

Employee Service Awards and Outstanding Contribution Award Programs

Service Awards Program

If you make University employment your career, you may receive periodic Service Awards for your years of service. University Human Resources will have information about the University's program.

Outstanding Contribution Award Program

Each year the University will recognize publicly and express gratitude to certain non-faculty salaried employees whose service and contributions have far exceeded the usual and customary expectations of their positions. This program provides the opportunity for members of the University community to nominate employees who have made outstanding contributions. Nominees are restricted to satisfactory, non-probationary, salaried staff employees. Any member of the University community may make a nomination; however, employees may not nominate themselves.

The policy for Employee Service Awards and Outstanding Contribution Award Programs may be found at www.hrs.virginia.edu/Policies.html.

Employee Suggestion Program

The Employee Suggestion Program (ESP) was created to recognize and reward employees for ideas that improve the efficiency or effectiveness of state government. If you make a suggestion through ESP that saves time, money, or resources, or will improve productivity or safety, and that is outside of your ability to implement in the normal course of your job, you may be eligible for an award. If your suggestion is adopted, you may receive a certificate and either cash or paid leave time. The University's ESP Coordinator can give you more information about this program or you may go directly to the website at <http://esp.dhrm.virginia.gov/>.

Premium Conversion and the Reimbursement Account (Flexible Spending Accounts)

These programs are subject to regulations established by the Internal Revenue Service (IRS). You will find more detailed information from a UHR Benefits Counselor and at the Health Benefits web site.

Premium Conversion is a program that allows an employee to enjoy tax savings by having health insurance premiums deducted from salary before taxes are calculated. New employees who do not want this benefit must "opt out".

Employees are eligible to enroll in the medical and/or dependent care reimbursement program, which allows payment of certain out-of-pocket expenses with pre-tax dollars. Talk with a UHR Benefits Counselor about waiting periods or eligibility requirements.

Tax-Deferred Savings Program

The University of Virginia offers an optional savings program that allows employees to tax-defer income and invest for the future. The plans are available through TIAA-CREF, The Vanguard Group, and Fidelity Investments, and are open to all employees who can contribute the monthly minimum of \$25. The maximum amount that can be contributed on a tax-deferred basis is based on salary, prior contributions to all U.Va. retirement programs, and years of service, and therefore, varies for each individual. The University calculates this maximum amount and the employee signs a Salary Reduction Agreement (SRA) or Wage Reduction Agreement which specifies the authorized amount of the salary reduction. Three SRAs may be signed each calendar year. For more information contact the Benefits Division at (434) 924-4392 or email benefits@virginia.edu.

Matching Contribution Retirement Plan

The University of Virginia offers an employer-paid match to employee contributions to tax-deferred savings programs. To be eligible, employees must be participating in either the Virginia Retirement System, the Faculty Retirement Plan or the Medical Center Retirement Plan. Employee contributions will be matched at 50 percent up to a maximum as determined by the General Assembly. As of July 1, 2000, the monthly maximum is \$40. The minimum employee contribution is \$25. To enroll, employees must meet the eligibility requirement, participate in a tax-deferred savings account and open a Match Plan account with TIAA-CREF, Fidelity and Vanguard. For more information and account enrollment instructions contact:

Deferred Compensation Plan (DCP)

Through this program, you may direct a portion of your salary into an investment program by payroll deduction *before* state and federal taxes are applied. Typically, employees choose to receive the deferred income after retirement when they are likely to be in a lower tax bracket. A third-party administrator (TPA) manages the program, including the investments, and will help you select from a variety of investment options. Further information is available from this TPA and from the Virginia Retirement System, which administers the program. Your Benefits Counselor will be able to provide phone numbers for reaching them.

The University supports employee participation in this plan by offering a Cash Match Program. Deferred Comp participants who sign up for Cash Match will receive a contribution to their accounts each pay period of an amount equal to one-half of the employee's own contribution, up to an established maximum. The maximum matching amount is set by the legislature.

Wellness Programs

CommonHealth is the state's wellness program for employees, families, and retirees offering a range of health-related activities and resources. CommonHealth benefits also include a special program for expectant parents, called Baby Benefits. Information about CommonHealth is available on the Web.

Retirement Benefits

Classified employees are covered by the state's defined-benefit retirement program. Upon retirement, the Virginia Retirement System (VRS) provides monthly retirement benefits for eligible, qualifying, classified employees, who may choose among a variety of retirement options. In addition, VRS administers other programs, including short-term and long-term disability programs (through the Virginia Sickness and Disability Program), life insurance, and deferred compensation. For more information, contact your Benefits Counselor or VRS.

Faculty & Staff Career Services

Faculty & Staff Career Services (FSCS) provides services to faculty members, classified and university employees and their management, and wage and temporary staff who are interested in career development support for themselves or for their employees. Individual sessions are available for career planning, educational guidance, job search topics such as CVs, resumes, interviews, dual career issues, etc., and creating EWP learning plans. FSCS also consults with faculty and managers on career related matters, provides custom workshops, and assists managers with the EWP learning plan process. FSCS services are confidential and available at no charge. For more information, contact UHR Faculty & Staff Career Services.

Equal Employment Opportunity (EEO)

The **Office of Equal Opportunity Programs (EOP)** is committed to eliminating discrimination and advancing equal access in all opportunities, programs, and facilities of the University in accordance with applicable federal laws, state laws and state and University policies. EOP enforces the University's non-discrimination obligation through the "Preventing and Addressing Discrimination and Harassment" policy (revised effective April 8, 2008) and the "Preventing and Addressing Retaliation" policy (adopted effective May 27, 2008). To read the full text of these policies and to learn more about EOP, please visit the following website: <http://www.virginia.edu/eop>.

A primary purpose of EOP is to resolve complaints of discrimination and harassment. Both informal and formal complaint procedures are available, and EOP can help you to determine which course of action to take. You may choose either or both procedures to follow. You are not required to follow the informal procedures before filing a formal complaint. A summary of both types of procedures follows. The full text of the procedures is available at <http://www.virginia.edu/eop/complaint.html>, or by requesting a copy of the "Complaint Procedures" from EOP.

Summary of EOP's Complaint Procedures:

I. Informal Procedures. Though not required, employees and students are encouraged to attempt initially to resolve complaints at the lowest level through the administrative structure of the employment unit or academic department. Supervisors or administrators, including faculty, always should contact EOP before attempting to resolve any complaints.

II. Formal Procedures. You may initiate formal complaint procedures by filing a complaint with EOP whether or not you have attempted resolution through informal procedures. A complaint may be filed with EOP by any Academic Division, Medical Center or College at Wise present or former employee, student, or applicant for admission or employment or any other participant in the University's programs or activities who believes that (s)he has been unlawfully discriminated against or harassed on the basis of age, color, disability, marital status, national or ethnic origin, political affiliation, race, religion, sex (including pregnancy), sexual orientation or veteran status, or who believes that (s)he has been retaliated against for complaining of discrimination or harassment or for assisting or participating in the complaint process. Complaints must be in writing and be filed with EOP within 300 days of the most recent alleged discriminatory, harassing and/or retaliatory act. The complaint form is available at http://www.virginia.edu/eop/pdfs/EOP_Compliant_Form.pdf, or by requesting a copy of the "Complaint Form" from EOP.

EOP Training:

EOP also is responsible for providing educational training programs to assist members of the University community in understanding discrimination, harassment and retaliation and how to address behaviors that violate University policy. **All members of management, faculty and supervisors are required to successfully complete the University's "Preventing and Addressing Discrimination, Harassment and Retaliation" training at least every two years.** EOP provides this training online as well as in-person; completion of either the online modules or the classroom course satisfies the requirement. Other employees and students also are encouraged to complete the training. The online modules and classroom schedule are available at <http://www.virginia.edu/eop/training.html>.

Please contact EOP if you need additional information. EOP has two office locations:

MAIN OFFICE:

Washington Hall, East Range

P.O. Box 400219

Charlottesville, VA 22904

Phone: (434) 924-3200

Fax: (434) 924-1313

TDD: (434) 982-4327

E-mail: UVAEOP@Virginia.edu

HEALTH SYSTEM OFFICE:

West Complex, Room #1221

P.O. Box 800581

Charlottesville, VA 22908

Phone: (434) 243-6368

Fax: (434) 243-6345

TDD: (434) 982-4327

E-mail: UVAEOP@Virginia.edu

Disciplinary Process

The Standards of Conduct policy provides guidance to employees and supervisors by outlining (1) standards of appropriate conduct; (2) behavior that is unacceptable; and (3) corrective actions that departments may take to address behavior and employment problems. The standards apply to full-time and part-time classified and non-probationary employees (generally, those covered by the Personnel Act). In addition, departments may refer to the Standards of Conduct in evaluating the behavior of employees not covered by the Personnel Act. The Standards of Conduct also explain procedures for imposing suspensions either during investigation of employee behavior or as part of the discipline.

The Standards of Conduct policy addresses workplace conduct or behavior and outlines a three-tier system based on the seriousness of the behavior and the University's corresponding response. While discipline or even termination may be required, the goal of the University is always for the employee to be a constructive, contributing member of the work force. Therefore, *progressive discipline* is recommended, so that minor and/or first offenses generally receive such corrective actions as counseling or low-level disciplinary action. Major and/or repeated offenses generally should result in more severe consequences, including an official Written Notice and, in the most serious cases, termination. The policy explains the importance of *due process* and how it is applied, especially when suspension, termination, disciplinary demotion, or disciplinary transfer may result. Due process gives the employee an opportunity to respond to the allegations before discipline is imposed.

Note that although the Standard of Conduct policy describes a variety of actions that may be addressed through the disciplinary process, the list of actions in the policy is not all-inclusive. Listed actions are intended as examples of the levels of severity of possible infractions.

Supervisors and managers should become familiar with the Standards of Conduct, and should review them carefully when applying any disciplinary action. In addition, contact should be made with University Faculty & Staff Employee Relations in University Human Resources prior to taking disciplinary action.

As with all workplace issues, you should call one of the counselors with University Faculty & Staff Employee Relations if you have questions or concerns about the Standards of Conduct, or about specific situations.

Non-probationary employees may challenge disciplinary actions through the Employee Grievance Procedure. Detailed information on these procedures is available from UHR Faculty & Staff Employee Relations.

A copy of the Standards of Conduct may be found at the end of this handbook beginning on page 25.

Employee Relations Issues

UHR Faculty & Staff Employee Relations is available to advise employees on work-related problems, use of the grievance procedure, and mediation. It also assists employees and managers in exploring options for resolving work-related conflicts.

As a classified employee, you will have access to the University's Grievance Procedure after you have completed your Probationary Period. This procedure allows you to bring your concerns to the attention of upper management. For example, you may believe that a policy was misapplied, or you received disciplinary action that you believe to be unfair.

If you are a probationary employee you may still utilize the services of Faculty & Staff Employee Relations as well as the Office of the University Ombudsman (ombuds@virginia.edu).

Before seeking dispute resolution through the Grievance Procedure, you may choose the less formal alternative of mediation. Mediation is a voluntary process whereby trained mediators work with the parties in strict confidentiality to resolve work-related conflicts. You may utilize this program by calling the University Faculty & Staff Employee Relations.

Civil and Work-Related Leave Policy provides for employees to use a reasonable amount of work time to pursue these remedies. Resolution step meetings, grievance hearings, and meetings with University Faculty and Staff Employee Relations counselors may generally be charged to Civil and Work-Related Leave.

Miscellaneous Topics

Commonwealth of Virginia Campaign

The Commonwealth of Virginia Campaign is the voluntary employee charitable giving program that raises funds for numerous non-profit health and humanitarian organizations throughout the state, the nation, and the world. Contributions are tax deductible and can be made in lump sum or by payroll deduction. The University has a CVC Coordinator who can provide further information. This is the only charitable giving program authorized by the Commonwealth to operate within the state workplace including the University of Virginia.

Electronic Mail, Computer and Telephone Use

Many jobs provide access to computer equipment and the Internet so that employees can perform their work tasks. ITC Policies found at <http://www.itc.virginia.edu/policy/>, discuss many of the policies required of staff and contain general guidelines for use of these systems. In general, the equipment and systems should be used for business purposes. Personal use should be limited to minor occasions. Users should be aware that their system use may be monitored under certain approved conditions. Certain specified Internet uses, such as transmitting obscene, discriminatory, or fraudulent material, are strictly forbidden at all times.

Use of University equipment to download and/or view pornography is strictly forbidden and could result in disciplinary action up to and including termination. Depending on the type of pornography downloaded and/or viewed (for example, child pornography) legal action may also ensue.

Telephone use should follow a similar pattern. The telephone is provided so that employees can conduct University business. Personal use should be limited and does not include long distance calls. Lengthy or frequent personal phone calls may constitute an abuse of work time and may result in disciplinary action under the Standards of Conduct.

Gifts, Gratuities, and Rewards

As a classified employee, you are in a position of public trust. Therefore, you may not accept gifts, gratuities, favors, or rewards for any services you perform in connection with state employment other than from the University where you work. Likewise, it is unlawful for employees to solicit, offer, or accept money or any thing of value in exchange for appointment or selection to a position at a higher salary, or for special privilege with any state agency. Violation of this policy will be handled through the Standards of Conduct.

Intellectual Properties

While employed by the state, many employees work on projects or develop materials that also have worth outside of state government. The Code of Virginia and policies developed by institutions of higher education also address these matters.

Nepotism

The Code of Virginia prohibits (as a conflict of interests) supervision of an employee by a member of his or her immediate family. Immediate family includes the spouse and any other person residing in the same household as the employee who is a dependent of the employee or of whom the employee is a dependent.

Personal Appearance

As an employee of the University, you should come to work dressed and groomed appropriately for your working conditions. Your department may apply more specific requirements for dress and grooming based on their business needs.

Political Activity

University employees may not campaign for themselves or for anyone else during work hours, nor may they use University equipment or resources for political activities. Further, no employee is to be rewarded or discriminated against in any way for participating or not participating in political activity outside of the workday and work place. Before beginning any political activity outside the workplace, each employee should determine whether such activity violates the Virginia Conflict of Interest Act (Code of Virginia sections 2.2-3100 et seq.) or gives the appearance of violating the Act.

Privacy of Records

Your personnel record, maintained by University Human Resources, is the property of the University.

The Virginia Freedom of Information Act (Code of Virginia, 2.2-3700) provides that a classified employee may have access to information contained in his or her personnel records with the exception of reference letters and mental and medical records when the treating physician has indicated that a review of such records might be injurious to the employee's health. The contents of an employee's personnel file may be disclosed to third parties only as provided in the Virginia Freedom of Information Act, the Privacy Protection Act (Government Data Collection and Dissemination Practices Act, and DHRM policy 6.05 (Personnel Records Disclosure) and in accordance with state and federal law.

If you apply for credit of any kind that will require a credit check or other investigation, you may give written authorization to University Human Resources to release the needed information.

Rights of Employee to Contact Elected Officials

Classified employees shall not be prohibited or restricted in expressing their opinions to state or local elected officials on matters of public concern, nor shall they be subject to acts of retaliation because they have expressed such opinions. However, it is the employee's responsibility to make it clear that his/her opinions are personal and do not represent the position of the University of Virginia.

“Matters of public concern” refers to those matters of interest to the community as a whole, whether for social, political, or other reasons including discussions that disclose any (i) evidence of corruption, impropriety, or other malfeasance on the part of government officials; (ii) violations of law; or (iii) incidence of fraud, abuse, or gross mismanagement.

Smoking

The University of Virginia provides employees and students with a smoke-free environment in which to work.

Smoking is prohibited inside facilities owned or leased by the University and in University-owned vehicles, except in some family and faculty staff housing under certain conditions. It is also prohibited in any outside area adjacent to a facility whose configuration and/or other physical conditions allow smoke either to enter and affect the internal environment or to unduly affect the environment of those entering or exiting the facility.

It is the responsibility of all members of the University community to observe this policy and to ensure compliance with the policy by all visitors to the University.

Violation of University policies by employees is cause for disciplinary action.

STANDARDS OF CONDUCT

Application: All positions covered by the Virginia Personnel Act, including non-probationary full-time and part-time classified and restricted employees. Agencies may use this policy as a guide for evaluating the workplace conduct of employees who are not covered by the Virginia Personnel Act, such as wage employees, probationary employees and employees expressly excluded from the Act's coverage. (Official Written Notice forms may not be issued to these employees.)

POLICY

It is the policy of the Commonwealth to promote the well-being of its employees by maintaining high standards of work performance and professional conduct.

PURPOSE

The purpose of this policy is to set forth the Commonwealth's Standards of Conduct and the disciplinary process that agencies must utilize to address unacceptable behavior, conduct, and related employment problems in the workplace, or outside the workplace when conduct impacts an employee's ability to do his/her job and/or influences the agency's overall effectiveness.

It is the intent of this policy that agencies follow a course of progressive discipline that fairly and consistently addresses employee behavior, conduct, or performance that is incompatible with the state's Standards of Conduct for employees and/or related agency policies. Disciplinary actions must be founded on the principles of due process and will employ a range of corrective and disciplinary actions that are applied based on the nature and history of the misconduct or unacceptable performance. Corrective and disciplinary actions must be administered through a prompt and fair process as described in this policy's Administrative Procedures. The ultimate goal of this policy and its procedures is to help employees become fully contributing members of the organization. Conversely, this policy is also designed to enable agencies to fairly and effectively discipline and/or terminate employees whose conduct and/or performance does not improve or where the misconduct and/or unacceptable performance is of such a serious nature that a first offense warrants termination.

The Administrative Procedures for the consistent administration of this policy are attached.

EMPLOYEE STANDARDS OF CONDUCT

Employees covered by this policy are employed to fulfill certain duties and expectations that support the mission and values of their agencies and are expected to conduct themselves in a manner deserving of public trust. The following list is not all-inclusive but is intended to illustrate the minimum expectations for acceptable workplace conduct and performance.

Agencies have the authority to supplement this list as needed in a manner consistent with the needs of the organization and intent of this policy.

Employees who contribute to the success of an agency's mission:

- Report to work as scheduled and seek approval from their supervisors in advance for any changes to the established work schedule, including the use of leave and late or early arrivals and departures.
- Perform assigned duties and responsibilities with the highest degree of public trust.
- Devote full effort to job responsibilities during work hours.
- Maintain the qualifications, certification, licensure, and/or training requirements identified for their positions.
- Demonstrate respect for the agency and toward agency coworkers, supervisors, managers, subordinates, residential clients, students, and customers.
- Use state equipment, time, and resources judiciously and as authorized.
- Support efforts that ensure a safe and healthy work environment.
- Utilize leave and related employee benefits in the manner for which they were intended.
- Resolve work-related issues and disputes in a professional manner and through established business processes.
- Meet or exceed established job performance expectations.
- Make work-related decisions and/or take actions that are in the best interest of the agency.
- Comply with the letter and spirit of all state and agency policies and procedures, the Conflict of Interest Act, and Commonwealth laws and regulations.
- Report circumstances or concerns that may affect satisfactory work performance to management, including any inappropriate (fraudulent, illegal, unethical) activities of other employees.
- Obtain approval from supervisor prior to accepting outside employment.
- Obtain approval from supervisor prior to working overtime, if non-exempt from the Fair Labor Standards Act (FLSA).
- Work cooperatively to achieve work unit and agency goals and objectives.
- Conduct themselves at all times in a manner that supports the mission of their agency and the performance of their duties.

Note: *Non-probationary law enforcement officers employed by the Department of State Police, the Virginia Marine Resources Commission, the Department of Game and Inland Fisheries, the Department of Alcoholic Beverage Control, and the Department of Motor Vehicles also have access to the procedural guidelines of Va. Code § 9.1-500 – 507 in cases of investigation of work-related matters that could lead to the dismissal, demotion, suspension or transfer for punitive reasons of a law-enforcement officer. (This Code section also applies to certain non-covered employees who are law enforcement officers employed by the Division of Capitol Police and the Virginia Port Authority.)*

AUTHORITY

The Director of the Department of Human Resource Management (DHRM) is responsible for the official interpretation of this policy pursuant to the authority provided § 2.2-1201 of the Code of Virginia. DHRM reserves the right to revise or eliminate this policy as necessary.

The Virginia Personnel Act, Code of Virginia § 2.2-2900 *et. seq.* specifies that agency heads shall be the appointing authorities of their respective agencies and shall establish methods of personnel administration within their agencies.

Agencies may supplement this policy to accommodate specific business needs. Supplemental policies must be consistent with the provisions of DHRM policy and must be communicated to all agency employees.

RELATED POLICIES

- 1.05 Alcohol and Other Drugs
- 1.25 Hours of Work
- 1.35 Emergency Closings
- 1.40 Performance Planning and Evaluation
- 1.70 Termination from State Service
- 1.75 Use of Internet and Electronic Communication Systems
- 1.80 Workplace Violence
- 2.30 Workplace Harassment
- 4.30 Leave Policies - General Provisions

ADMINISTRATIVE PROCEDURES

STANDARDS OF CONDUCT

Purpose

These procedures accompany the Standards of Conduct Policy 1.60 and are designed to assist agencies in the administration of the Commonwealth's disciplinary system.

A. General Principles

Corrective actions, whether informal or formal, must depend upon the nature, consequence(s), or potential consequence(s) of the employee's conduct or performance and the surrounding circumstances and mitigating factors, if any. Management should apply corrective actions consistently, while taking into consideration the specific circumstances of each individual case. Prior to taking any corrective action it is suggested that management consider the following:

- Whether the corrective action is consistent with state and agency standards of conduct.
- The nature, severity, and consequences of the offense.
- Whether the offense constitutes a violation of a policy, procedure, rule, or law.
- Previous counseling, whether informal or formal that addressed the same or similar misconduct or performance.
- Previous disciplinary actions that addressed the same or similar misconduct or performance.
- Whether the offense relates to the employee's job duties and the employee's ability to perform satisfactorily.
- How issues with similarly situated employees have been addressed.
- Mitigating factors that would compel a reduction in the disciplinary action to promote the interests of fairness and objectivity.
- If the corrective action is appropriate for a specific offense.

Before the need for, or in addition to corrective action, supervisors may refer employees to the *Employee Assistance Program (EAP)* or other professional assistance program (for employees who do not participate in the state's healthcare plan) as appropriate. Referral to the EAP or comparable program shall not be considered a substitute for any disciplinary action imposed for the commission of an offense.

Note: Referral to the EAP or comparable program *may be required* depending upon the nature of the behavior or misconduct. Agencies are advised to consult with their Assistant Attorney General prior to mandating participation.

B. Corrective and Disciplinary Actions

The Commonwealth's disciplinary system typically involves the use of increasingly significant measures to provide feedback to employees so that they may correct conduct or performance problems. It is designed to encourage employees to become fully contributing members of the organization and to enable agencies to fairly, and with reliable documentation, terminate employees who are unable or unwilling to improve their conduct and/or job performance.

I. Counseling

Counseling is *typically* the first level of corrective action but is not a required precursor to the issuance of Written Notices. Counseling may be an informal (verbal) or formal (written) communication which conveys that an employee's conduct or performance was improper and must be corrected. This level of corrective action would be appropriate for conduct and/or performance issues resulting in minimal impact to business operations, to the safety and well-being of others, or that involve minor infractions of policies or laws.

Counseling may be documented by a letter or memorandum, but not on the Written Notice form. Documentation regarding counseling should be retained in the supervisor's files, and not in the employee's personnel file, except as necessary to support subsequent formal disciplinary action.

Employees are not permitted to have legal representation in counseling sessions.

a. Informal (Verbal) Counseling

Counseling should consist of private discussions between employees and their supervisors regarding the desired course of action to improve the employees' performance and/or conduct, the supervisors' expectations for improvement, and what may occur if the performance or conduct is not corrected. The supervisor should explain that a summary of the conversation will be notated and may be placed in the supervisory file(s).

b. Formal (Written) Counseling

A written memorandum should be issued to emphasize the significance of relatively minor acts of misconduct or unacceptable performance when facts and discussions with the employee demonstrate that verbal counseling has not corrected the problem. It may also be issued as the initial means to address first instances of misconduct or unsatisfactory performance.

Formal counseling must be documented by a letter or memorandum, but not on the Written Notice form. A copy of the letter or memorandum must be given to the employee. Counseling documentation should be retained in the supervisors' files, not in employees' personnel files, except as necessary to support subsequent formal disciplinary action.

When conducting a formal counseling session in which a written memorandum will be issued the supervisor should meet privately with the employee to discuss the conduct or performance issues and the desired course of action for improvement, including the supervisors' expectations and what may occur if the performance or conduct is not corrected.

2. **Written Notices**

When counseling has failed to correct misconduct or performance problems, or when an employee commits a more serious offense, management should address the matter by issuing a Written Notice. A Written Notice may be accompanied by additional actions including suspension; a demotion or transfer with reduced responsibilities with a disciplinary salary action; a transfer to an equivalent position in a different work area; or termination, as described in Sub-Sections a, b, and c. Management should issue Written Notices as soon as reasonably possible after becoming aware of misconduct or unacceptable performance. (Refer to Section E. "Due Process" for procedural guidance.)

The Written Notice Form must include an advisory statement that an active Written Notice may affect the employee's overall annual performance evaluation rating.

To assist management in the assessment of the appropriate corrective action, offenses are organized into three groups according to the severity of the misconduct or behavior.

*Examples of offenses, by group, are presented in Attachment A. These examples are not all-inclusive, but are intended as examples of conduct for which specific disciplinary actions may be warranted. Accordingly, any offense **not specifically enumerated**, that in the judgment of agency heads or their designees undermines the effectiveness of agencies' activities, may be considered unacceptable and treated in a manner consistent with the provisions of this section.*

Note: Under certain circumstances an offense typically associated with one offense category may be elevated to a higher level offense. Agencies may consider any unique impact that a particular offense has on the agency and the fact that the potential consequences of the performance or misconduct substantially exceeded agency norms. Refer to Attachment A for specific guidance.

a. **Group I Offense**

Offenses in this category include acts of minor misconduct that require formal disciplinary action. This level is appropriate for repeated acts of minor misconduct or for first offenses that have a relatively minor impact on business operations but still require formal intervention.

- See attachment A for examples of Group I Offenses
- Active Life of Notice: Two years from its date of issuance to the employee.

- Suspension Options: No suspension for first offense, but a third active Group I Notice may result in a suspension of ten workdays (or a maximum of 80 hours for non-exempt employees). Refer to Section D. 1 for guidance on suspensions for exempt employees.
- Accumulation of four active Group I Offenses normally should result in termination unless there are mitigating circumstances.
- Absent mitigating circumstances, a repeat of the *same, active* Group I Offense should result in the issuance of a Group II Offense notice.

b. **Group II Offense:**

Offenses in this category include acts of misconduct of a more serious and/or repeat nature that require formal disciplinary action. This level is appropriate for offenses that significantly impact business operations and/or constitute neglect of duty, insubordination, the abuse of state resources, violations of policies, procedures, or laws.

- See attachment A for examples of Group II Offenses.
- Active Life of Notice: Three years from its date of issuance to the employee.
- Suspension Options: Suspension of up to 10 workdays (or maximum of 80 hours for non-exempt employees) for the first Group II Offense. Refer to Section D. 1 for guidance on suspensions for exempt employees.
- A second active Group II Notice normally should result in termination; however, when mitigating circumstances exist, an employee may be suspended for up to 30 workdays and/or demoted or transferred with reduced responsibilities and a disciplinary salary action; or transferred to an equivalent position in a different work area with no change in salary.
- A Group II Notice in addition to three active Group I Notices normally should result in termination, but suspension and or a demotion or transfer with reduced responsibilities and a disciplinary salary action; or transfer to an equivalent position in a different work area with no change in salary may be considered.

c. **Group III Offense:**

Offenses in this category include acts of misconduct of such a severe nature that a first occurrence normally should warrant termination. This level is appropriate for offenses that, for example, endanger others in the workplace, constitute illegal or unethical conduct; neglect of duty; disruption of the workplace; or other serious violations of policies, procedures, or laws.

- See attachment A for examples of Group III Offenses.
- Active Life of Notice: Four years from its date of issuance to the employee.

- Suspension Options: Suspension of up to 30 workdays (or maximum of 240 hours for non-exempt employees). Refer to Section D. 1 for guidance on suspensions for exempt employees.
- One Group III Offense normally should result in termination unless there are mitigating circumstances.

Note: *The active life of Written Notices as stated above are definite and may not be extended due to an employee's absence. Notices expire when an employee voluntarily or involuntarily separates provided that re-employment with the same or different agency occurs after a formal break in service and a new probationary period is required.*

3. Mitigating circumstances

- a. Agencies may reduce the level of a corrective action if there are mitigating circumstances, such as conditions that compel a reduction to promote the interests of fairness and objectivity, or based on an employee's otherwise satisfactory work performance.
- b. Mitigating circumstances for a Group III offense may support, as an alternative to termination, an employee's demotion or transfer to a position with reduced responsibilities *and* a disciplinary salary action with a minimum 5% reduction in salary; transfer to an equivalent position in a different work area; and/or suspension of up to 30 workdays.
- c. An employee who is issued a Written Notice that would normally warrant termination but who is not terminated due to mitigating circumstances should be notified that any subsequent Written Notice for any level offense during the active life of the Written Notice may result in termination.

C. Pre-disciplinary Leave with Pay

Pre-disciplinary Leave is *leave with pay* to be used when disciplinary action is being considered and the employee's removal from the workplace is necessary or prudent. There are two categories of Pre-Disciplinary Leave with Pay:

1. Immediate Removal from the Workplace for Disciplinary Reviews or Administrative Investigations

Management may immediately remove an employee from the workplace without providing advance notification when the employee's continued presence:

- may be harmful to the employee, other employees, clients, and/or patients;
- makes it impossible for the agency to conduct business;
- may hamper an internal agency investigation into the employee's alleged misconduct;
- may hamper an investigation being conducted by law enforcement ; or

- may constitute negligence in regard to the agency's duties to the public and/or other employees.
- a. An employee should be immediately advised of the reason for his/her removal from the workplace. As soon as possible after an employee's removal from the work area for reasons stated above, management must provide the employee with written notification of the intended corrective action and a summary or description of the evidence of the offense for which the corrective action is being contemplated, and when applicable, that an administrative investigation of the employee's conduct is underway. Employees must be provided a reasonable opportunity to respond before taking any formal corrective action.
 - b. Employees may be placed on pre-disciplinary leave in order to conduct a disciplinary review or administrative investigation for up to fifteen workdays (maximum of 120 hours for non-exempt employees). If the disciplinary review or administrative investigation is not completed within fifteen workdays the agency must (1) impose disciplinary action in accordance with this policy; (2) permit the employee to return to work pending the outcome of the review or investigation; or (3) extend pre-disciplinary leave with pay for a specified period of time as determined by the agency head.
 - c. Written notification of pre-disciplinary leave with pay pending a disciplinary review or agency administrative investigation should be by memorandum, not by the Written Notice form.

2. Removal from the Workplace for Alleged Criminal Conduct

Management may also immediately remove an employee from the workplace without providing advance notification when he/she is under investigation for alleged criminal conduct that is related to the nature of his/her job or to the agency's mission. Management should consider the employee's ability to perform his/her assigned responsibilities and if the employee's continued presence:

- may constitute negligence in regard to the agency's duties to the public and/or other employees.
 - may be harmful to the employee, other employees, clients, students, or patients;
 - makes it impossible for the agency to conduct business;
 - may hamper the investigation by law enforcement.
- a. An employee who is placed on pre-disciplinary leave with pay because of alleged criminal conduct that impacts the employee's ability to do his/her job or represents a risk to the agency shall be continued on leave with pay until either (a) the employee is formally charged with a criminal offense by authorities or entities outside of the employer agency, such as by arrest or indictment, or (b) the criminal investigation is concluded without any formal charges being made.
 - b. Any employee who is formally charged with a criminal offense (that is related to the nature of his/her job or to the agency's mission) by outside authorities shall be

immediately suspended without pay for a period not to exceed ninety (90) calendar days. *(Agencies have the option to allow employees to charge accrued annual, overtime, compensatory, or family personal leave to this period of suspension provided that the employee has sufficient leave balances.)*

- c. If, at the conclusion of the 90 day period there has been no resolution of the criminal charge, the employee will be placed on or returned to pre-disciplinary leave with pay until the charge has been resolved. If the criminal investigation is concluded without any formal charges being made, or if the charge is resolved without the employee being convicted of it, the employer shall return the employee to active status. Any accrued annual leave applied to the period of suspension without pay shall be reinstated.
- d. Regardless of the status of any criminal investigation or process, the agency may determine at any time to institute disciplinary charges against the employee under the Standards of Conduct, up to and including termination, based upon the facts or evidence of conduct that prompted the criminal investigation or process.

D. Disciplinary Suspensions

All disciplinary suspensions are without pay. Employees on suspension normally shall not be allowed on the agency's premises, nor shall they be allowed to work except to fulfill previously scheduled court obligations or to file and process a grievance or Equal Employment complaint.

Suspensions resulting from a Written Notice, or an accumulation of Notices, and the maximum periods of suspension are described in Section B. 2, Formal Written Notices, and in Attachment A for each level of Written Notice.

1. Suspension of Employees Exempt from the Fair Labor Standards Act

Exempt employees' salaries may not be reduced as the result of a suspension except as described in this section. Exempt employees should be reimbursed promptly for any disciplinary salary reductions that are non-compliant.

- a. Disciplinary suspension of an exempt employee for an infraction of a safety rule of major significance may be applied for less than a full workday or workweek. Safety rules of major significance are defined as provisions intended to prevent serious danger to the workplace or to other employees, such as prohibiting smoking in explosives plants, oil refineries, and coal mines.
- b. If an exempt employee is suspended for misconduct the suspension shall be not less than a full workday. Suspensions of more than one workday must be in multiples of full workdays, e.g., a three-day (24 hour) suspension for an employee assigned to 8-hour workdays, or a three-day (30 hour) suspension for an employee assigned to 10-hour workdays. If it becomes necessary to remove an exempt employee from the workplace for a partial workday due to the employee's misconduct, the employee must be paid for that partial day's absence.

- c. If an exempt employee is suspended for disciplinary reasons related to the employee's unsatisfactory attendance or performance issues (non-conduct related) the suspension shall be not less than a full workweek. Suspensions of more than one workweek will be in multiples of full workweeks, e.g., a three-week (120-hour) suspension. An employee may not be permitted to serve a suspension related to attendance or performance other than in whole workweek segments. Less serious violations in these areas should be addressed by other means of discipline, reserving suspension for the most serious or repeated violations.
- d. If an exempt employee is suspended pending the outcome of a criminal investigation, the employee must be paid for any partial workweek suspensions. Full workweeks of suspension are unpaid.

Although probationary employees are not covered by this policy, the FLSA rules for suspension do apply.

2. Pay and Benefits During Suspension

The provisions regarding compensation and benefits set forth below apply to disciplinary suspensions without pay.

- a. Performance increases and annual leave accrual
 - Employees' eligibility for performance increases may be affected by the time on suspension in accordance with Policy 1.40, Performance Planning and Evaluation.
 - Suspensions exceeding 14 calendar days shall affect an employee's length of service for purposes of annual leave accrual.

- b. Annual and "traditional" sick leave accrual

An employee on suspension will not accrue annual or "traditional" sick leave, except that:

- if a suspension extends into a second pay period, accrual of annual and sick leave shall resume in the second pay period unless the period of suspension exceeds 15 calendar days; and
 - if a suspension extends into a third pay period, accrual of annual and sick leave shall resume in the third pay period unless the period of suspension exceeds 31 calendar days, and so on.
- c. VSDP (Virginia Sickness and Disability Program) benefits
 - Employees who are suspended may not access their VSDP benefits during the period of suspension.

- Employees who are terminated for disciplinary reasons are not eligible to receive VSDP benefits.

d. Health insurance

- A suspended employee's health insurance coverage continues until the end of the month in which the suspension began, except that there shall be no break in coverage if the employee is reinstated in time to work half of the workdays in the following month.
- If the length of the period of suspension results in a break in health insurance coverage, the suspended employee must be notified that he/she may retain his or her group insurance coverage for up to 12 months by paying the monthly insurance premiums (both the employee's and state's contribution) in advance and in accordance with state guidelines. This 12 month extension runs concurrently with the 18 months granted under the Extended Coverage provisions of the health benefits plan.

e. Life insurance

- Life insurance coverage may continue for up to 24 months, with the agency making the full contribution.

3. Pay and Benefits upon Reinstatement

a. Reinstatement from Suspension

- If an agency reinstates a suspended employee with back pay for any period of the suspension, unless directed otherwise in the hearing officer's decision, health benefits must be made effective retroactive to the date of reinstatement. The agency shall make appropriate refund(s) to the employee for the State portion of any health insurance premiums that he or she paid to continue coverage during the suspension.
- If an agency reinstates a suspended employee without back pay, there shall be no reimbursement for any portion of health insurance premiums that he or she paid to continue coverage.

b. Reinstatement from Termination

- If an agency reinstates a terminated employee with back pay, unless otherwise directed in the hearing officer's decision, health benefits must be made effective retroactive to the date of termination.

Note:

Suspended and terminated employees may have purchased individual health insurance coverage or acquired coverage through a spouse's health benefits plan. Agencies should inquire about such coverage when discussing back pay and benefits with these employees.

If the hearing officer does not grant back benefits because the employee was enrolled in other coverage during the period of suspension or termination, the employee must provide proof of the other coverage.

E. Due Process

Prior to the issuance of any Written Notices, demotions, transfers with disciplinary salary actions, suspensions or terminations, Agency Human Resource Directors or their designees should review the documentation for the recommended actions to determine if the action is appropriate for the offense; if a referral to the employee assistance program is advisable; and what the final recommendation for corrective action should be.

1. Advance Notice of Discipline to Employees

Prior to the issuance of Written Notices, disciplinary suspensions, demotions, transfers with disciplinary salary actions, and terminations employees must be given oral or written notification of the offense, an explanation of the agency's evidence in support of the charge, and a reasonable opportunity to respond.

2. Employee Response and “Reasonable Opportunity to Respond”

Employees must be given a reasonable opportunity to respond after receiving notification of pre-disciplinary or disciplinary actions. *Normally*, a 24 hour period is a sufficient period of time, however, a “reasonable opportunity to respond” should not be based solely on the quantity of time provided but also on the nature of the offense, which may or may not require more or less time to refute or mitigate the charge.

F. Use of Grievance Procedure

1. Classified, non-probationary employees may challenge corrective or disciplinary actions through the Employee Grievance Procedure, and may direct questions regarding this procedure to the Department of Employment Dispute Resolution.

Note: *Employees hired after July 1, 2006 under the Higher Education Restructuring Act are not covered by the Virginia Personnel Act, but do have access to the State Grievance Procedure.*

2. Hearing Officer's Authority

- a. General authority
A hearing officer may uphold, reduce or rescind corrective or disciplinary actions taken by an agency so long as the officer's decision is consistent with written policy.
- b. Reinstatement by a *hearing officer*
When a hearing officer orders an employee's reinstatement from suspension or termination the hearing officer may order:

- full, partial, or no back pay; and/or
 - a reduction in the employee's disciplinary record such that termination no longer could take place (e.g., the employee has only three Group I Written Notices or one Group II Written Notice). The officer must reinstate the employee with full back pay (minus an appropriate disciplinary suspension, if he/she wishes).
 - credit for annual and sick leave that the employee did not accrue during the period of discharge and/or suspension.
- c. Interim earnings
A hearing officer's award of back pay shall be offset by any interim earnings that the employee received during the period of separation, including unemployment compensation received from the Virginia Employment Commission.
- d. Repayment of health insurance premiums
- If a *hearing officer* orders reinstatement with back pay for any period of suspension or from termination the employee shall receive reimbursement for any health insurance premiums that he or she paid during the period that would have been paid by the agency.
 - If a *hearing officer* orders reinstatement without back pay, the employee shall not receive reimbursement for any portion of the health insurance premiums that he or she paid during the separation.
 - Hearing officers have the authority to exclude back benefits for health insurance coverage if the employee was enrolled in other coverage during a period of suspension or termination and awarding back benefits would present undue financial hardship to the employee. The employee must provide proof of the other coverage.

G. Records Management

1. Agencies must update payroll and/or PMIS records immediately upon issuance of a Written Notice, upon placing employees on pre-disciplinary leave or disciplinary suspension, and upon subsequent demotions or transfers with disciplinary salary actions, terminations, or reinstatements.
 - a. The active periods for Written Notices are definite and may not be extended due to an employee's absence.
 - b. Written Notices that are no longer active shall not be considered in an employee's accumulation of Written Notices; *however, an inactive notice may be considered in determining the appropriate disciplinary action if the conduct or behavior is repeated. For example, misconduct which if a "first" offense would normally be addressed through counseling may warrant a Written Notice when the employee has an inactive Notice on file for the same misconduct.*

- c. Written Notices shall be kept in employees' agency personnel files, including those that are no longer active.

Exception: A Written Notice must be removed from an employee's personnel file if the agency modifies or vacates its disciplinary action. If, through the grievance procedure, it is determined that the Written Notice issued was not justified, the hearing officer may direct its removal from the employee's personnel file. Such notices shall not be destroyed but shall be retained in a grievance file or separate confidential file and shall not be considered in relation to any future disciplinary or other personnel action.

H. Removal Due to Circumstances which Prevent Employees from Performing their Jobs

1. Inability to meet working conditions

An employee unable to meet the working conditions of his or her employment due to circumstances such as those listed below may be removed under this section. Reasons include:

- loss of driver's license that is required for performance of the job;
- incarceration for an extended period;
- failure to obtain license or certification required for the job;
- loss of license or certification required for the job;
- inability to perform the essential functions of the job after reasonable accommodation (if required) has been considered;
- failure to successfully pass an agency's background investigation; or
- conviction of a misdemeanor crime of domestic violence for employees whose jobs require: (a) carrying a firearm; or (b) authorization to carry a firearm.

Prior to such removal, the appointing authority and/or Human Resource Office shall gather full documentation supporting such action and notify the employee, verbally or in writing, of the reasons for such a removal, giving the employee a reasonable opportunity to respond to the charges. Final notification of removal should be via memorandum or letter, not by a Written Notice form.

Employees may challenge removals through the Employee Grievance Procedure, and may direct questions regarding this procedure to the Department of Employment Dispute Resolution.

Agencies may, based on mitigating circumstances, demote or transfer and reduce the employee's duties with a minimum 5% reduction in salary, or transfer them to an equivalent position without a reduction in salary as an alternative to termination.

I. Terminations

Refer to Policy 1.70, Termination/Separation from State Service for additional information on the disposition of leave and other benefits upon separation from state service.

Glossary

Corrective action

Any intervening informal or formal counseling action taken by management to address employment problems, such as unacceptable performance, behavior, or misconduct.

Counseling

Counseling may be an informal or formal intervention that consists of a discussion between an employee and his or her supervisor regarding problems with the employee's work performance, behavior, and/or conduct. Formal counseling discussions must be documented in a written memorandum. Counseling that is related to work performance may be included in an interim performance evaluation as described in Policy 1.40, Performance Planning and Evaluation.

Criminal Charge

An arrest or indictment by authorities or entities outside of the employer agency against an employee for the commission of a criminal offense.

Criminal Offense

Criminal Offenses include felonies and misdemeanors as defined in the statutes of the United States, the Commonwealth of Virginia, other sovereign states, and other city and county governments. Criminal offenses shall not include traffic or other charges that are specifically differentiated and exempted from statutory criminal offenses; however, DUI or other formal charges which impact an employee's ability to drive a vehicle or could result in incarceration if convicted shall be considered criminal charges.

Interim evaluation: A performance evaluation completed during the performance cycle to document and assess an employee's progress toward achieving the performance plan. If agencies desire to use a form for this purpose, they may use the form provided with Policy 1.40, Performance Planning and Evaluation, or develop their own forms. Interim Performance Evaluations are not considered "official" documents and are retained in the supervisor's confidential file for use in constructing the annual performance evaluation. Counseling, particularly when related to work performance, may be part of an interim evaluation.

Disciplinary action

A formal action taken in response to unacceptable performance or misconduct. Disciplinary actions include the issuance of Written Notices; suspensions; demotions; transfers; disciplinary salary actions; and terminations.

Disciplinary Demotion

Management initiated assignment of an employee to the same or a different position in the same or lower Pay Band with less job responsibilities that must result in a minimum of a 5% reduction in base salary. In no case may an employee's salary exceed the maximum of the pay band following a disciplinary salary action.

Disciplinary Review

A process that involves reviewing the facts and circumstances surrounding misconduct or unacceptable performance in order to determine if disciplinary action is warranted.

Disciplinary Salary Action

Employees may be retained in their current positions and have their duties reduced, be demoted, or transferred to positions in the same or lower pay band *with less job responsibilities* in lieu of termination. The employee's salary in each case must be reduced by at least 5%. In no case may an employee's salary

exceed the maximum of the pay band following a disciplinary salary action. (*Agencies have the authority to transfer employees to equivalent positions as part of the disciplinary process without a reduction in salary.*)

Due Process

Prior to any pre-disciplinary or disciplinary actions employees must be given oral or written notification of an offense, an explanation of the agency's evidence in support of the charge, and a reasonable opportunity to respond. Agencies must provide a clear and descriptive explanation of the offense in a manner that ensures that the employee understands the facts presented and will be able to present mitigating factors or denial of the charge.

Pre-disciplinary Leave

Pre-disciplinary Leave is leave *with pay* to be used when disciplinary action is being considered and the employee's removal from the workplace is necessary or prudent because: their continued presence may be harmful to the employee, other employees, clients, and/or patients; makes it impossible for the agency to conduct business; may hamper an internal agency investigation into their alleged misconduct; may hamper an investigation being conducted by law enforcement; or may constitute negligence in regard to the agency's duties to the public and/or other employees.

Progressive Discipline

A system of increasingly significant measures that are utilized to provide feedback to employees so that they can correct conduct or performance problems. It is most successful when provided in a way that helps an employee become a fully contributing member of the organization. Progressive discipline also enables agencies to fairly, and with reliable documentation, terminate an employee who is unable or unwilling to improve his/her workplace conduct and/or job performance.

Reasonable Opportunity to Respond

Employees must be given a reasonable opportunity to respond after receiving notification of pre-disciplinary or disciplinary action. Normally, a twenty-four hour period is sufficient, however a "reasonable opportunity to respond" should not be based solely on the quantity of time provided but also on the nature of the offense, which may or may not require time to refute or mitigate the charge.

Standards of Conduct

Positive expectations for work performance, conduct, and behavior.

Suspension

An employee's absence from work, without pay, that an agency imposes as a part of a disciplinary action.

Unacceptable Conduct/Misconduct

Employee conduct or behavior that is inconsistent with state or agency standards for which specific corrective or disciplinary action is warranted.

Workday

For purposes of suspensions without pay, workday is defined as 8 hours for non-exempt employees. For exempt employees a workday is comprised of the hours scheduled to work on a normal day.

Workweek

A fixed period of seven consecutive 24-hour periods which is established by the employer for each employee. It may begin on any day of the week and at any hour of the day; it need not coincide with the calendar week. Full-time employees normally work a five-day, 40-hour schedule during a workweek.

Attachment A: Examples of Offenses Grouped by Level

Level of Offense	Types of Offenses <u>Not intended to be all inclusive.</u>	Normal Disciplinary Action*	Active Life from Issuance Date	Effects of Accumulated Offenses
Group I	<p>This level of offense generally includes offenses that have a relatively minor impact on agency business operations but still require management intervention.</p> <p><u>Examples:</u> Tardiness; poor attendance; abuse of state time; use of obscene language; disruptive behavior; conviction of a <u>minor</u> moving traffic violation while using a state-owned or public use vehicle; unsatisfactory work performance.</p>	<p><u>First Offense:</u> Typically, counseling is appropriate although an agency has the discretion to issue a Group I Written Notice.</p> <p><u>For Repeated Violations of the Same Offense:</u> An agency may issue a Group II Written Notice (and suspend without pay for up to ten workdays) if the employee has an active Group I Written Notice for the same offense in his/her personnel file.</p>	2 Years	<p>Upon accumulation of three active Group I Written Notices an agency should normally suspend the employee for at least five workdays but may not exceed ten workdays.</p> <p>The fourth active Group I Written Notice normally results in discharge. In lieu of discharge, the agency may: (1) suspend without pay for up to 30 workdays, and/or (2) demote or transfer with disciplinary salary action.</p>
Group II	<p>This level generally includes acts of misconduct of a more serious nature that significantly impact agency operations.</p> <p><u>Examples:</u> Failure to follow supervisor's instructions or comply with written policy; violation of a safety rule or rules (where no threat of bodily harm exists), leaving work without permission, failure to report to work without proper notice; unauthorized use or misuse of state property; refusal to work overtime.</p>	<p><u>First Offense:</u> Group II Written Notice. In addition to the Group II Notice, the agency has the option of suspending the employee without pay for up to ten workdays.</p> <p><u>Second Offense:</u> Discharge. In lieu of discharge, the agency may: (1) suspend without pay for up to 30 workdays, and/or (2) demote or transfer with disciplinary salary action.</p>	3 Years	<p>The second Group II or a Group II in addition to three active Group I Written Notices normally results in discharge. In lieu of discharge, the agency may: (1) suspend without pay for up to 30 workdays, and/or (2) demote or transfer with disciplinary salary action.</p>
Group III	<p>This level generally includes acts of misconduct of a most serious nature that severely impact agency operations.</p> <p><u>Examples:</u> Absence in excess of three workdays without authorization; falsification of records and/or any misuse or unauthorized use of state records; willfully or recklessly damaging state records/property; theft or unauthorized removal of state records/property; abuse or</p>	<p><u>First Offense:</u> Written Notice and discharge. In lieu of discharge, the agency may: (1) suspend without pay for up to 30 workdays, and/or (2) demote or transfer with disciplinary salary action.</p>	4 Years	<p>If the employee is not discharged upon the issuance of the Group III Written Notice, the employee should be advised that <u>any</u> subsequent Written Notice during the active life of the Written Notice may result in discharge.</p>

	neglect of clients; gambling on state property or during work hours; physical violence; threatening others; violating safety rules (where threat of bodily harm exists); sleeping during work hours, participating in work slowdown; unauthorized possession of weapons; criminal convictions for illegal conduct occurring on or off the job that clearly are related to job performance or are of such a nature that to continue employees in their positions could constitute negligence in regard to agencies' duties to the public or to other state employees.			
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*Note that in certain extreme circumstances, an offense listed as a Group II Notice may constitute a Group III offense. Agencies may consider any unique impact that a particular offense has on the agency. (For instance, the potential consequences of a security officer leaving a duty post without permission are likely considerably more serious than if a typical office worker leaves the worksite without permission.) Similarly, in rare circumstances, a Group I may constitute a Group II where the agency can show that a particular offense had an unusual and truly material adverse impact on the agency. Should any such elevated disciplinary action be challenged through the grievance procedure, management will be required to establish its legitimate, material business reason(s) for elevating the discipline above the levels set forth in the table above.

Also, an agency may always mitigate discipline if circumstances compel a reduction in the level to promote the interests of fairness and objectivity. However, management should be mindful to treat similarly situated employees in a like manner.

Finally, violations of Policies 1.05, *Alcohol and Other Drugs*, 2.30, *Workplace Harassment*, or 2.05, *Equal Employment Opportunity*, may, depending on the nature of the offense, constitute a Group I, II, or III offense.