


Date: February 6, 2023

To: Department Directors

From: Daniella Levine Cava
Mayor 

Subject: Administrative Order 7- 47: Standardization of Disciplinary Action

I am pleased to transmit the attached Administrative Order (AO) (Attachment 1) establishing policy/procedures to formulate the standardization of disciplinary action with collective bargaining units. The AO further formalizes the policies and procedures described in the attached sample document (Memorandum of Understanding) (Attachment 2).

This policy/procedure was created with the input of County departments who actively conduct disciplinary action, to formulate best practices. These best practices were then vetted by the collective bargaining agents and received approval. This AO applies to employees of certified bargaining agents that expressly enter into a Memorandum of Understanding (MOU) to consent to the implementation of this policy for discipline administered after the MOU is executed. However, this AO is not applicable to bargaining unit members that are sworn personnel whose discipline is governed by Florida State Statutes and/or current departmental policies.

Each department shall establish and standardize the levels of discipline based on their operational needs. Any employee may be reprimanded, suspended, reduced in grade or dismissed by the head of his/her department, or designee as approved in Administrative Order 7-16 Administration and Delegation of Authority to Discipline, for any good and sufficient reason which will promote the efficiency of the County service. Department Directors, or their designees as authorized by Administrative Order 7-3 Disciplinary Action, shall have the authority to deviate from their established standard levels of discipline, but must detail in writing the reasons for doing so.

Disciplinary action is a tool to correct employee behavior and performance issues and is to be issued for just cause. It is to be done in a fair and objective manner and not to embarrass the employee. This AO is intended to establish a greater transparency and consistency in the issuance of discipline to employees. I believe these developed guidelines represent a collaborative effort between the County and the Unions to enhance the effectiveness and efficiency of all County departments.

For additional guidance, please refer to the attached sample MOU. Should you have any questions, please do not hesitate to contact Tyrone W, Williams, Division Director, Labor Relations and Employee Records, Human Resources Department, at 305-375-4171.

Thank you for your continued support as we administer these new guidelines that will create transparency and consistency in the issuance of discipline to employees.

Attachments

- c: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners
Geri Bonzon-Keenan, County Attorney
Gerald K. Sanchez, First Assistant County Attorney
Jess M. McCarty Executive Assistance County Attorney
Office of the Mayor Senior Staff
Melanie McLean, HR Deputy Director
Tyrone W. Williams, HR Division Director
HR Labor Relations Staff
Department Personnel Representatives

Administrative Order



Administrative Order No.: 7-47

Title: STANDARDIZATION OF DISCIPLINARY ACTION

Ordered:

Effective:

AUTHORITY:

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

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

–APPLICABILITY OF THIS ORDER:

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

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

PURPOSE:

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

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

- Except as specifically provided in this policy, all disciplinary matters shall be processed in accordance with the provisions of Administrative Order 7-3 Disciplinary Action, Administrative Order 7-16 Administration and Delegation of Authority to Discipline, the Personnel Rules for the Classified Service for Classified Service employees, and the applicable Collective Bargaining Agreement.
- Each department shall establish and standardize the levels of discipline based on their operational needs. Any employee may be reprimanded, suspended, reduced in grade or dismissed by the head of his department, or designee as approved in Administrative Order

7-16, for any good and sufficient reason which will promote the efficiency of the County service. Department Directors, or their designees as authorized by Administrative Order 7-3, shall have the authority to deviate from their established standard levels of discipline, but must detail in writing the reasons for doing so. Nothing herein shall preclude the Department from considering or setting forth additional grounds to support its decision during the appeal or grievance process.

- In order for counseling or discipline to be effective in changing an employee's behavior, it must be presented in a timely manner. By establishing the following time frames, employees will be properly and timely placed on notice of their deficiencies to improve workforce performance and effectiveness.
 - Records of Counseling should be presented to an employee within 30 calendar days from the date when the supervisor or management becomes aware of the violation(s).
 - Disciplinary Action Reports should be presented to an employee within 90 calendar days from the date when the supervisor or management becomes aware of the violation(s). The 90 days shall be tolled for the following reasons:
 1. The employee is on approved leave;
 2. A state of emergency declared by the Mayor/Governor;
 3. The employee is incapacitated and/or otherwise unavailable;
 4. The employee's representative is unavailable;
 5. An ongoing criminal, Ethics and/or Office of the Inspector General investigation.
 6. Or different established time frames via the MOU between the Union and the Department.
- The determination of whether tolling is applicable and the time frame for tolling is solely within the discretion of County management and is not subject to challenge in any administrative proceeding. A counseling or discipline issued after the 30-day or 90-day time frame does not prohibit the issuance or administration of counseling or discipline and shall not be subject to challenge in accordance with Section 2-47 of the County Code hearings or in arbitration, but will require a written justification explaining the reasons for the delay. The delay for a Written Reprimand or a Suspension must be approved by the Department Director or approved designee, and for a Demotion or Dismissal must be approved by the department's respective Mayor's Chief before being issued to an employee. An employee will be provided a copy of the departmental justification for the delay at the presentation of the Record of Counseling or Disciplinary Action Report.
- Before administering discipline, management should consider whether either a verbal counseling or a Record of Counseling are appropriate to achieve compliance. For employee violations or conduct that warrants progressive levels of departmental discipline (e.g. absenteeism), the administering of discipline will progress in the following manner:
 - Written Reprimand
 - Written Reprimand
 - Ten (10) Day Suspension (DAR)
 - Twenty (20) Day Suspension (DAR)
 - Demotion or Dismissal (DAR)

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

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

**MEMORANDUM OF UNDERSTANDING
BETWEEN
MIAMI-DADE COUNTY
AND
UNION**

STANDARDIZED DISCIPLINE

THIS MEMORANDUM OF UNDERSTANDING (MOU) memorializes an understanding reached on December ____, 2022, between Miami-Dade County (County), and the UNION; hereinafter referred to as "the parties" to effectuate the Standardized Discipline.

WHEREAS, Administrative Order (AO) ----- of Miami-Dade County is to establish greater transparency and consistency in the issuance of discipline; and

WHEREAS, the intent of discipline is to correct the behavior and inefficient work performance of employees;

WHEREAS, Miami-Dade County ----- department in the administering of discipline must do so in an objective and unbiased manner;

NOW THEREFORE, bargaining unit employees of UNION; expressly adopt this standardization and shall be governed by the following:

- All disciplinary matters shall be in accordance with the provisions of AO ____, Administrative Order No. 7-3 and 7-16, Personnel Rules and the Collective Bargaining Agreement.
- Department shall establish and standardize the levels of discipline based on their operational needs. Department Directors have the authority to deviate from their established standard levels of discipline but must detail in writing the mitigating or aggravating objective factors for doing so.
- In order for discipline to be effective, in changing an employee's behavior and not just being punitive in nature, it must be presented in a timely manner. By establishing these times frames supervisors will be able to properly institute the parameters of the work place and employees will be properly and timely placed on notice of their deficiencies.
 - Records of Counseling should be presented to an employee within **30 calendar days** from the date the supervisor/management become aware of the violation(s).
 - Disciplinary Action Reports (DAR) should be presented to an employee within **90 calendar days** from the date the supervisor/management become aware of the violation(s). The 90 days shall be tolled for the following reasons:
 1. The employee is on approved leave;
 2. A state of emergency is declared by the Mayor/Governor;
 3. Employee is incapacitated and/or otherwise unavailable;
 4. The employee's representative is unavailable;
 5. An ongoing criminal, Ethics and/or Office of the Inspector General investigation.

A violation of the 30 days or 90 days time frames does not prohibit the issuance and/or administration of discipline, but will require a written justification from the

Department Director as to the reasons for the delay. The delay must be approved by the department's respective Chief prior to the issuance to an employee. An employee will be provided a copy of the departmental justification for the delay at the presentation of the Record of Counseling or Disciplinary Action Report.

- The administering of discipline for employee's violations for those eligible levels of departmental progressive discipline, will progress in the following manner:
 - Verbal Counseling
 - Record of Counseling
 - Written Reprimand
 - Written Reprimand
 - Ten (10) Day Suspension (DAR)
 - Twenty (20) Day Suspension (DAR)
 - Demotion or Dismissal (DAR)

Note: All disciplines are not subject to the above progression for the administering of discipline and based on the severity and/or nature of the employee's violation discipline may be implemented up to and including termination.

This document may be modified upon written agreement of the President of UNION; Miami-Dade County Chief of Operations and the Division Director of the Labor Relations and Employee Records of the Human Resources Department.

IN WITNESS WHEREOF, the undersigned agree to the terms and conditions specified in this day ____ of December, 2022.

For UNION

For Miami-Dade County

_____, President

_____, Chief _____

_____, Department Director

Tyrone W. Williams, HR Division Director
