PURPOSE:

To provide an effective and equitable process for the issuance of employee discipline that is the result of misconduct and/or behavioral issues.

This policy supersedes the following policies:

- Administrative/Professional: Disciplinary/Professional Conduct, Policy No. B070, dated 02/01/2009
- Administrative/Professional: Grievance Procedure, Policy No. B100, dated 01/01/2007
- Clerical/Nursing/Technical/Service: Disciplinary/Professional Conduct, Policy No. B025, dated 02/01/2009
- Clerical/Nursing/Technical/Service: Grievance Procedure, Policy No. F005
- Research: Disciplinary/Professional Conduct, Policy No. B070, dated 02/01/2009
- Research: Grievance Procedure, Policy No. B100, dated 01/01/2007
- University of Miami Hospital: Disciplinary Actions – Procedures, Policy No. 1109, dated 12/2010.

POLICY:

It is the policy of the University to address employee misconduct and/or behavioral issues by administering the appropriate type of discipline sufficient to prevent a recurrence of such inappropriate behavior or misconduct. Furthermore, it is the University’s policy to issue any discipline deemed warranted in a fair and equitable manner. This policy shall not be considered or interpreted to create a progressive discipline process. The University reserves the right to determine the appropriate disciplinary action to be issued based upon the nature of the offense. This policy shall apply to all University employees, except University faculty and employees covered by a collective bargaining agreement with different discipline provisions.
PROCEDURE:

I. IDENTIFYING MISCONDUCT AND/OR BEHAVIORAL ISSUES

   A. ROLE OF SUPERVISOR

   It is the supervisor’s responsibility to promote a values and performance-based culture. To achieve this, supervisors must communicate expectations to subordinate employees, set goals and objectives that are well defined and measurable, plan and assign work, and establish standards and deadlines for accomplishing said work. Supervisors should regularly meet with employees to provide constructive feedback on job performance and to avoid or lessen the occurrence of misconduct and/or performance issues.

   B. INVESTIGATIONS

   Generally, employee misconduct and behavioral issues are most commonly observed by a supervisor. However, there are instances where such behavior is observed or discovered as a result of a third party (i.e., employees in another department; as a result of an investigation, etc.). In such cases, the employee’s supervisor must be advised of the behavior in question so that the matter can be reviewed and a determination made as to the appropriate disciplinary action to be administered. Such a determination may require an investigation to be performed by the employee’s supervisor or Human Resources.

   In cases where the employee’s presence at work may interfere with the investigation or pose a threat to other employees, the employee in question may be placed on administrative leave with pay pending the outcome of the investigation.

   C. EXAMPLES OF MISCONDUCT

   The following consists of examples of misconduct/behavioral issues which could result in disciplinary action, up to and including termination. These examples are not meant to be an exhaustive list of infractions. Other actions not specifically listed may also result in discipline, up to and including termination.

   • Excessive absenteeism, tardiness and/or unexcused absences.
   • Failure to comply with University’s policy, procedures, regulations and work rules or directives.
   • Insubordination or refusal to follow instructions of supervisor or department head.
   • Offensive or disruptive behavior, including threatening employees, students, patients, or visitors, using abusive or vulgar language, interfering with others in the performance of their duties, or acting in an immoral or indecent manner on the University’s premises, or while off the University’s premises in performance of job-related duties.
   • Disorderly conduct on the University’s premises, including but not limited to violence, fighting, horseplay or other action that endangers others or University property.
• Unauthorized use or negligence resulting in destruction, defacement, or misuse of University vehicles or property, or property of another person on University premises.

• Destruction, falsification, or omission of information on employment records, University records, or in connection with the employee’s duties.

• Loitering, loafing or sleeping during work hours, or while on University premises during a meal break, rest period, and before/after work shift.

• Illegal or immoral conduct on or off University premises or action which would bring unfavorable attention to the University and is inconsistent with the University's mission.

• Failure to disclose an arrest or conviction occurring after the date of hire.

• Unauthorized possession, use, copying, removal, access and/or disclosure of confidential information, trade secrets or other proprietary information (including information contained in personnel records).

• Unauthorized access or use of University computing, telephone/voice mail systems, hardware or software.

• Obtaining a leave of absence or other benefit under false pretenses.

• Failure to report to work upon expiration of an approved leave of absence.

• Concealing or having possession of any weapons, firearms, or explosives while on University premises.

• Use, consumption, possession, distribution, and/or sale of controlled substances and/or alcohol on the University’s premises or while operating the University's equipment; reporting for duty under the influence of alcohol and/or controlled substances, or otherwise violating the Drug Free Workplace Policy.

• Unauthorized removal of University property or theft of University property; or that of other employees, patients, visitors or students.

• Any willful act, careless act, or conduct detrimental to University operations or the safety and rights of other persons on University premises.

• Failing to pay personal traffic and parking citations obtained while operating a University vehicle.

• Unsatisfactory work performance.

• Failure to work assigned schedule.

• Failure to cooperate in an investigation conducted by or on behalf of the University.

• Unauthorized use, disclosure, viewing, or accessing of patient information and/or protected health information as defined in applicable state and federal laws, including the Health Insurance Portability and Accountability Act (“HIPAA”). Such violations of HIPAA include, but are not limited to the following:
- Accessing and disclosing patient information to an unauthorized third party;
- Gaining unauthorized access to patient information;
- Viewing of patient information without business necessity;
- Misappropriation of patient’s identity in connection to fraudulent activities;
- Discussion of patient information in a public area;
- Disclosure or sharing of passwords for employee profiles with access to protected health information, or the use of someone else’s password for a profile with access to protected health information;
- Storing patient information on a personal electronic device not managed or approved by the University for such use;
- Leaving computers or other portable devices with patient information unlocked or unattended;
- Transporting patient information in an unsecured manner;
- Failing to report a potential or known breach of HIPAA security and privacy;
- Negligence in mailing, faxing, or emailing patient information, resulting in the release of patient information to the wrong recipient;
- Negligence in accessing patient information.

• Improper application for, misuse of, or converting a University benefit or privilege for personal gain of employee, or for the benefit of others ineligible to receive such a benefit or privilege.

• Failure to disclose a consensual relationship as required by University policy.

• Any action adversely affecting a license or other credentials necessary to perform the responsibilities of one’s position.

• Failure to comply with established safety and health rules and safe work procedures or engaging in any conduct that creates a safety hazard.

• Falsely stating claims of injury.

• Dishonesty, including but not limited to intentionally not providing full and truthful information when requested by management.

• Bringing, discharging, and/or possessing unauthorized firearms or other weapons while on the University’s premises, or on your person in the performance of job-related duties.

• Misappropriation of funds handled or received on behalf of the University.

• Failure to attend training, as directed

II. TYPE OF DISCIPLINARY ACTIONS

All employees are expected to meet the University’s standards of conduct and performance which encompass many factors including, but not limited to, attendance, punctuality, personal conduct, job proficiency and general compliance with the University’s policies, procedures, or directives issued by a supervisor. If an employee does not meet these standards, the University may take appropriate action in the form of disciplinary action and/or performance management. In the case of misconduct, disciplinary action may be taken based upon the facts and circumstances in question. The following constitute formalized disciplinary actions that may be taken to address misconduct and behavioral issues. The order in which the following actions are presented does not create, nor is it intended to create, a progressive discipline policy.
University explicitly reserves the right to determine the appropriate disciplinary action to be used based upon the nature of the offense.

A. WRITTEN WARNING

When the nature of the misconduct or behavior warrants the issuance of a written warning, the supervisor should discuss the conduct in question and present the written warning to the employee. The written warning must identify the problem and outline a course of corrective action within a specific time frame. The employee should clearly understand both the corrective action and the consequence if the problem is not corrected and continues to occur. The supervisor is required to meet with the employee when presenting the written warning in order to ensure that an explanation of the disciplinary action is provided.

B. SUSPENSION

A suspension is a form of disciplinary action that operates to remove an employee from duty for a defined period of time without pay. The period of suspension may generally range from 1 to 30 days, based upon the factual circumstances surrounding the conduct in question. Suspensions shall be confirmed in writing to the employee, and include the reason for the suspension, the date and time the suspension begins, and the date and time the employee is expected to return to work at the conclusion of the suspension. Additionally, the suspension should also set forth corrective action to be taken by the employee upon his/her return, and the consequence of continuing to engage in the misconduct.

If a suspension is for more than one (1) day, it shall occur on consecutive working days. A suspended employee is prohibited from making up time and/or wages which were lost as a result of the suspension. Failure to return to work upon the expiration of the suspension period shall constitute abandonment of the employee’s position with the University.

C. TERMINATION

Any employee whose conduct or performance violate the University’s policies, procedures, or work directives may be terminated immediately and without warning based upon the factual circumstances surrounding the conduct. It should also be noted that terminations based upon misconduct may serve as a bar to reemployment with the University in the future. Consult the University’s Eligibility for Rehire policy for more information on whether certain actions prohibit consideration of an employee for reemployment.

III. OTHER RELEVANT PROVISIONS

A. ADMINISTRATIVE LEAVE PENDING INVESTIGATION

In cases where the employee’s presence at work may interfere with the performance of an investigation or pose a threat to other employees, the employee in question may be placed on administrative leave with pay pending the outcome of the investigation. The Office of Workplace Equity and Performance shall be responsible for placing employees on administrative leave with pay when warranted.
B. MAINTENANCE OF RECORD; EMPLOYEE’S DISCIPLINARY HISTORY

A copy of any discipline issued and the employee's written rebuttal (if any) shall be placed in the employee's personnel file by the supervisor or applicable HR Manager, and uploaded into the University's Workday system. Disciplinary actions issued to an employee shall remain in the employee's personnel file for a period of three (3) years. Disciplinary actions older than three (3) years shall be removed from the employee's personnel file, and may not be used against the employee in connection with any future disciplinary action or other employment decision.

C. PRIOR REVIEW OF CERTAIN DISCIPLINE

Supervisors are required to present all proposed final warnings, suspensions, and terminations of an employee to Human Resources' Office of Workplace Equity and Performance for review and approval.

D. ACKNOWLEDGMENT OF CERTAIN DISCIPLINE

The employee should acknowledge receipt of the written warnings and suspensions, and may choose to submit a written rebuttal within three (3) business days of receiving the discipline. In the event an employee refuses to acknowledge receipt of a written warning or suspension, a witness is required to attest to the employee's receipt of the discipline and refusal to acknowledge same.

IV. APPEAL OF CERTAIN DISCIPLINARY ACTION

A. GENERALLY

Employees who have been terminated may choose to appeal by filing a Discipline Appeal Form with Human Resources’ Office of Workplace Equity and Performance within five (5) business days of the effective date of termination. The Office of Workplace Equity and Performance shall initially review the appeal to ensure its timeliness and relevancy. Timely and relevant appeals shall be transmitted to the Vice President of Human Resources, or designee, for review, and whose decision on the matter shall be final and binding.

B. APPEALS ALLEGING EMPLOYMENT DISCRIMINATION

In the event an appeal of termination raises issues of employment discrimination and/or alleged violations of federal, state and/or local labor and employment laws, the appeal shall be investigated by the Office of Workplace Equity and Performance in accordance with the University’s policy governing the treatment of such allegations, and shall not proceed as an appeal as provided for above.