

	<p><b>Title:</b> Performance Counseling Policy</p> <p><b>Number:</b> 304</p> <p><b>Effective:</b> December 17, 2020</p> <p><b>Cancel:</b> Resolution No. 2016-32</p> <p><b>Prepared by:</b> LeeAnn McNulty, Administrative Services Manager</p> <p><b>Approved by:</b> Authority Board Resolution No. 2020-38</p>
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**POL-304 PERFORMANCE COUNSELING POLICY**

This policy applies to all Mason Transit Authority (MTA) employees.

**1.0 Purpose**

MTA is obligated to provide the highest quality of service to its customers. In order to accomplish this, it is necessary to expect an acceptable level of performance from employees when fulfilling the requirements of the agency’s rules, policies, and procedures. Because we expect employees to adhere to the rules, policies, and procedures, we strive to provide necessary training and assistance to aid in successfully fulfilling the job requirements. When an employee’s performance fails to meet expectations, the agency will generally take appropriate action to assist the employee to return their performance to an acceptable level.

MTA’s Performance Counseling Policy is designed to provide a structured corrective action process to improve and prevent a recurrence of undesirable employee behavior and performance issues. It has been designed to be consistent with MTA’s values, human resources best practices and employment laws.

Nothing in this policy is intended to create a contract of employment between any employee and MTA. The relationship between MTA and its non-represented employees is "at will," and thus may be terminated by either MTA or the employee at any time and for any reason. No representative of MTA, except the General Manager through a written contract, has any authority to enter into any agreement for employment for any specified period of time, or to make any agreement contrary to the above statements.

MTA uses an approach that emphasizes the opportunity for the employee and the supervisor to resolve performance problems through discussion and coaching, while recognizing that acceptable performance is the goal the employee must achieve. This approach utilizes the Report of Performance Counseling Form.

**2.0 Performance Counseling & Definitions**

Outlined below is the process of MTA’s Performance Counseling Policy. MTA reserves the right to combine or skip levels depending on the facts of each situation and the



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nature of the offense. The level of disciplinary intervention may also vary. Some of the factors that will be considered are whether the offense is repeated, despite coaching, counseling or training, the employee’s work record, and the impact the conduct and performance issues have on the agency. The Performance Counsel Policy is designed to address performance issues through five levels depending on the severity of the issue:

- 1. Counseling and Verbal Warning** – Creates an opportunity for the immediate supervisor to schedule a meeting with an employee or immediately bring attention to the existing performance, conduct or attendance issue. The supervisor should discuss with the employee the nature of the problem or the violation of company policies and procedures. The supervisor is expected to clearly describe expectations and what the employee must do to improve performance or resolve the problem.

Within five business days of this meeting, the supervisor will prepare written documentation of the meeting. The employee will be asked to sign this document to demonstrate his or her understanding of the issues and the corrective action. The Counseling and Verbal Warning will be placed in the employee’s Working File for future reference and will accompany the Written Warning if further action is required. The Counseling and Verbal Warning will be removed from the Working File after one year if no further disciplinary actions occur.

- 2. Written Warning** – Although MTA hopes that the employee will promptly correct any performance, conduct or attendance issues that were identified in the Counseling and Verbal Warning, MTA recognizes that this may not always occur. The Written Warning involves more formal documentation of the performance, conduct or attendance issues and consequences.

During the Written Warning, the immediate supervisor and manager or Administrative Services Manager will meet with the employee to review any additional incidents or information about the performance, conduct or attendance issues as well as any prior relevant corrective action plans. Management will outline the consequences for the employee of his or her continued failure to meet performance or conduct expectations.

A formal Coaching / Training or Performance Improvement Plan requiring the employee’s immediate and sustained corrective action will be issued within five days



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of the meeting. A warning outlining that the employee may be subject to additional discipline up to and including termination if immediate and sustained corrective action is not taken may also be included in the Written Warning.

- 3. Decision-Making Leave** – In cases where suspension seems too harsh, but the Written Warning has not been effective, a Decision-Making Leave can be invoked. This is up to a one-day, paid administrative day, for self-reflection to state how the employee will turn the bad behavior or performance around.
- 4. Suspension** – There may be performance, conduct or safety incidents so problematic and harmful that the most effective action may be the temporary removal of the employee from the workplace. When immediate action is necessary to ensure the safety of the employee and others, the immediate supervisor may suspend the employee pending the results of an investigation.

Suspensions that are recommended as part of the normal progression of this Performance Counseling Policy will be reviewed by the Administrative Services Manager, who will provide notification to the General Manager.

Depending on the seriousness of the infraction, the employee may be suspended without pay in full-day increments consistent with federal, state and local wage-and-hour employment laws. Non-exempt/hourly employees may not substitute or use an accrued paid vacation or sick day in lieu of the unpaid suspension. Due to Fair Labor Standards Act (FLSA) compliance issues, unpaid suspension of salaried/exempt employees is reserved for serious workplace safety or conduct issues. HR will provide guidance so that the discipline is administered without jeopardizing the FLSA exemption status.

- 5. Discharge** – The last and most serious step in progressive discipline is termination. However, if the offense is so severe all steps may be waived. For example, a probationary employee may be discharged without going through all of the steps. Other severe offenses include, but are not limited to, intoxication or drug abuse while on duty, sexual harassment, fights, etc. Paid administrative leave may be provided while an investigation is being conducted. The Administrative Services Manager will review all discharges and provide notification to the General Manager prior to the discharge.



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The program is generally administered progressively through the five stages described earlier unless individual circumstances merit otherwise. Such circumstances include cases where the violation is of such a serious nature that a written reminder, decision-making leave, suspension, or discharge is justifiable, even if on a first offense. This policy does not change the “at will” employee’s status.

A copy of the written warning, decision-making leave and suspension shall be placed within the employee's personnel file and will not be considered for disciplinary action beyond one (1) year from date of the warning, provided there is no additional disciplinary action within that period. If the employee is absent from work for a period greater than thirty (30) days, the one (1) year period shall be extended in proportion to the amount of time the employee remained absent from work.

In all cases of discharge, demotion or other discipline, the employee involved shall be notified, in writing, of the action and the reason for such action. Before imposition of discharge, demotion, or unpaid suspension, MTA will provide advance notice of the intended disciplinary action.

If the employee is in a union, the employee shall have the right to have a Union Steward present at formal disciplinary action, upon request, as stated in the union contracts.