I. PURPOSE

To provide college-wide performance standards for full-time professional exempt contractual (PEC), professional exempt non-contractual (PENC) and support non-exempt (SNE) employees as well as an appeals process to address employee concerns relative to acts, omissions, regulations, or procedural matters, other than contractual matters or state-mandated regulations. All PEC, PENC and SNE employees are expected to become familiar with this procedure.

II. PERFORMANCE STANDARDS

A. Performance levels for PEC, PENC and SNE personnel are monitored by employee evaluation and assessment on a regular basis. Performance standards are established by the department, based upon the validated job descriptions established by Human Resources and the College-wide standards stated below.

Work rules apply to all PEC, PENC and SNE personnel. The administration of the performance standards and any action that may result from the administration of these standards are the responsibility of the Vice Provost of Human Resources or designee.

The College has a formal employee performance review program supported by supervisory assessment of job performance on a regular basis. This performance review program is designed to maintain individual performance. Performance review programs are designed to provide an accurate assessment of work habits that impact job efficiency. When corrective measures are necessary to improve performance, the supervisor shall consult with Employee
Relations to establish a performance improvement plan, initiate disciplinary procedures, warning the employee that immediate improvement is expected.

The College administration is committed to pursuing fair and objective means to correct and improve employee performance and applying disciplinary actions in an open, uniform, non-discriminatory manner.

Performance expectations must be explained to employees. This procedure provides the College’s expectations of performance and indicates the consequences for employees who do not meet those expectations.

The performance standards are published on the Miami Dade College Employee portal at www.mdc.edu/procedures. The notice shall advise the employee that he/she is required to comply with the standards of performance outlined herein and that failure to comply with these performance standards may result in disciplinary action, up to and including termination of employment. Each employee shall sign a statement acknowledging receipt of this notice and the statement shall be placed in the employee’s official personnel file.

B. Steps of Progressive Discipline:

1. When a situation occurs which requires corrective measures, prompt action is essential. The supervisor in consultation with an Employee Relations Officer will determine the type of action that will be taken according to the steps of progressive discipline, dependent upon the facts of the case.

   a. Verbal Counseling: This action should be taken to correct substandard performance when the rule(s) infraction is of a minor nature or is the first occurrence for the employee. Supervisors should be able to recognize a problem when it begins to develop and counsel the employee. Counseling should be constructive and done with a primary view toward helping the employee correct the performance area.

   b. Written Counseling: The action may follow repeated verbal counseling and officially references the incidents of verbal counseling, warning the employee of the increasing severity of the unwanted action.

   c. Written Reprimand: This action should be applied to repeated rule violations or violations sufficiently severe to warrant a written reprimand on the first offense.

   The reprimand should state that the employee may be subject to more severe disciplinary action up to and including termination of employment in the event of future violations. A copy of the reprimand should be provided to the employee and should be included in the employee's Human Resources file.

   d. Probation: Corrective measures may include a period of probation, not to exceed 90 days, with the approval of the Vice Provost of Human Resources or designee. If the employee’s performance during the designated probationary period does not improve, such will be documented and the employee will be recommended for termination of employment. If the employee’s performance improves during this period, he/she should be advised in writing and returned to regular work status. The notification
should indicate that future violation of any College policy or procedure may result in the termination of their employment.

e. Suspension Without Pay: This action, with the prior approval of the Vice Provost for Human Resources or designee is to be applied based on the severity or frequency of the violation and may be administered from one (1) to five (5) work days. The written suspension notice will advise the employee that any future infraction may result in further disciplinary action up to and including termination. Such action shall be documented in the employee's Human Resources file.

Investigative Suspension With Pay: Suspension in itself may not be a disciplinary action when clarification of an incident is required. It is the pause in active employment while investigation of the incident takes place. A typical, appropriate use of suspension with pay could be an investigative review of a fight between employees by the Office of Employee Relations (ER) or Equal Opportunity Programs/ADA (EOP/ADA). Final disciplinary action will be determined based on the findings of the investigation.

Only full-time employees may be placed on investigative suspension with pay. Dismissal of professional exempt contractual employees must be processed through petition to the Miami Dade College Board of Trustees in accordance with Rule 6A-14.0411(6) Florida Administrative Code.

Employees may also be reassigned to different responsibilities and/or work locations during an investigation in lieu of suspension at the discretion of the Campus President/Vice Provost or designee in consultation with the Vice Provost of Human Resources or designee.

f. Termination of Employment: This action should only be taken as a result of serious rule violations, and unsuccessful probation. Discharged employees may be advised in writing of the reasons for their termination. The official notice of termination will be issued by the Area Head with a copy forwarded to the Vice Provost of Human Resources or designee, and documented in the employee’s Human Resources file. Termination requires the approval of the Vice Provost, Division of Human Resources or designee.

Dismissal of professional exempt contractual employees must be processed through petition to the Miami Dade College Board of Trustees in accordance with Rule 6A-14.0411(6) Florida Administrative Code.

2. The sequence of disciplinary actions designed to correct a given behavioral pattern should be reasonably spaced to allow the employee to take corrective action. For disciplinary documentation, once the problem is corrected, the employee must be notified by memorandum, signed by the Area Head or designee. This memorandum is attached to the appropriate notice of disciplinary action documentation on file in Human Resources. Beginning with written counseling, employees have the option of bringing an observer to any subsequent disciplinary action meetings. The observer may only be a College full-time employee. The observer’s role is to witness the actions and conversations of such meetings.
C. Standards of Conduct/Work Rules: To provide an orderly and reasonable approach to the supervision of employees, the College has established in writing, rules and guidelines, and policies and procedures for employees which serve as minimal standards of performance.

1. Summarized below are representative offenses that may lead to verbal counseling, official written reprimand, probation, suspension and/or possible termination:
   a. Willful violations or disregard for safety; fire, traffic or parking violations.
   b. Smoking at a time or place where smoking is not authorized.
   c. Wasting work time or being out of the work area without permission.
   d. Solicitation of employees on College premises for membership in, or donations for, organizations without the specific approval of the College President.
   e. Posting of notices, circulation or distribution of literature or articles of any kind on College premises without the specific approval of the College President or designee.
   f. Acts that disrupt or interfere with the administration or functions of the College.
   g. Repeated tardiness or absenteeism; absences without reasonable cause and failure to notify the College of absence within one (1) hour of the start of the scheduled work period. An employee may be docked for a fractional part of a day, in 30-minute increments, for tardiness. (See Procedure 2651: Pay For Non-Exempt Employees).
   h. Failure to inform the supervisor when leaving a work station.
   i. Repeatedly leaving the work station for excessively long periods.
   j. Negligence: failure to exercise due care and reasonable diligence in the performance of job duties; careless use of College property, unsatisfactory production or incompetence.
   k. Threats, pressure or physical action against another employee or group of employees.
   l. Refusal to maintain standards of dress, personal grooming or cleanliness which are deemed reasonable and safe for the position held.
   m. Charging personal telephone toll calls to the College's account.
   n. Failure to report an on-the-job personal injury or damage to College property.
   o. Loafing during assigned duty hours. The first offense will result in a three (3) day suspension. A second offense may result in termination.
p. Willful violation or disregard of State Statutes, State Board of Education Rules or College policies and procedures.

q. Conduct unbecoming a College employee, including a failure to be courteous, considerate, respectful to students, the public or other employees.

2. Summary Termination: The following are representative causes for immediate termination of employment. They are not listed in order of severity.

a. Theft and pilferage: Unauthorized removal or possession of property belonging to or in the care of the College.

b. Committing acts of violence: Fighting or improper or immoral conduct on College premises.

c. Insubordination: Refusal to perform work as directed or willful neglect of duty.

d. Sleeping during assigned work hours: This violation will normally result in termination. Mitigating circumstances such as illness, medication or oversleeping the lunch period may, at the discretion of the supervisor, result in a three (3) day suspension without pay for first offenders with a satisfactory work record. Second offenders will be terminated.

e. Gambling or conducting other games of chance on College premises.

f. Possession or use of intoxicants or illegal drugs or other illegal substances on College premises.

g. Loaning or permitting the duplication of College keys (metal, electronic or otherwise) or any means of access to College facilities provided to employees by the College.

h. Possession of firearms, weapons of any kind or explosive materials on College premises.

i. Conduct outside the College of a criminal, dishonest or immoral nature; habitual use of intoxicants; drug addiction; moral turpitude or conduct likely to reflect unfavorably upon the College.

j. Manipulation of computer data banks by providing false input causing additions, deletions, changes, omissions or removal of computer data.

k. Falsification of time cards or time sheets or other methods used to track time and attendance.

l. Falsification of personnel, medical or other records; omission of pertinent facts or giving false testimony.

m. Improper or unauthorized use of College property or equipment.

n. Use of official position for personal gain or personal advantage. This is
considered a conflict of interest by the College (College Policy II-23: Conflict of Interest and Code of Ethics for College Employees).

III. PROCEDURE

PEC, PENC and SNE employees having an appeal and wishing to discuss acts, omissions, regulations, or procedural matters (other than contractual matters or State-mandated regulations) should discuss their concerns with an appropriate College official, as more fully described below.

A. All complaints must be in writing and on the “Complaint Form”, which may be obtained from the Office of Employee Relations (ER) or Equal Opportunity Programs/ADA (EOP/ADA) as appropriate or from the College’s website (www.mdc.edu). Appeals must be filed in a timely manner within 30 work days after the occurrence of the most recent alleged act. At the discretion of the Office of ER/EOP/ADA, the date may be extended due to extenuating circumstances.

B. The complaint should include the appellant’s name and signature; describe the act omission, procedural matter or regulation complained of; identify the person or persons purportedly responsible (the “Respondent”); and indicate the date(s) or approximate date(s) on which the act or acts occurred. The complaint should also include names, addresses, and phone numbers of potential witnesses; the effect the alleged acts have had on the appellant; appellant's desired resolution; and any other information the appellant believes is relevant.

C. Informal Resolution of Complaint:

Appellants are encouraged, where appropriate, to attempt initially to resolve complaints by informal resolution. The informal resolution process is an attempt to resolve complaints quickly and to the satisfaction of all parties, while protecting confidentiality to the extent authorized by law. The Office of ER/EOP/ADA will be available to provide assistance to the employment unit or academic department in order to resolve the complaint. If the complaint cannot be resolved through the informal resolution process, a formal complaint may be filed as outlined in this procedure.

The informal resolution process shall be handled by the following offices:

1. The Office of the Campus President, Vice Provost, College Provost or designee (collectively referred to in this procedure as the “Area Head”) or the Office of ER/EOP/ADA.

No later than ten (10) work days after the filing of the complaint, the appropriate office, as referred to above, will meet separately with the appellant and respondent to determine the factual allegations on which the complaint is based and to discuss the complaint procedures. If it is determined that the complaint is suitable for informal resolution, that option will be discussed and offered to the appellant and the respondent, who will be given five (5) work days to decide whether to proceed with informal resolution. The complaint will be advanced to formal level review if the complaint is deemed by the appropriate office to be unsuitable for informal resolution, or if either party declines to participate in, to make a decision regarding informal resolution or elects to terminate the informal process within ten (10) work days of notification to the Office of ER/EOP/ADA.
Generally, the Area Head or Office of ER/EOP/ADA will not involve any person other than the appellant and respondent in that informal resolution process, except as it may be necessary to consult with appropriate College officials regarding College policies and procedures. Informal resolution should be completed no later than thirty (30) days after the appellant and the respondent have agreed to this process.

If the complaint is successfully resolved, each party will sign a "Memorandum of Understanding", prepared by the Area Head or Office of ER/EOP/ADA, which describes fully the agreed-upon terms. A copy of the complaint and the “Memorandum of Understanding” will be available to the appellant, the respondent and the appropriate Area Head as defined in this procedure.

If the Office of ER/EOP/ADA concludes that the appellant’s allegations are substantiated, the report will recommend that a directive be issued to stop the practice or action, if it is ongoing; recommend disciplinary or other corrective action against the respondent and others; and, if appropriate, recommend provisions for the appellant, such as reinstatement, hiring, reassignment, promotion, training, back pay, or other compensation or benefits. If the Office of ER/EOP/ADA concludes that the appellant’s allegations are not substantiated, the report may suggest other avenues, both internal and external, for the appellant should he/she wish to pursue the matter and, if appropriate, recommend reasonable steps to restore the reputation of the respondent.

Copies of the report will be provided to the appellant, the respondent, and the Campus President, Vice Provost, Vice Provost of Human Resources, and College Provosts as appropriate. Confidentiality of the investigation shall be maintained to the extent authorized by law.

D. Formal Complaint Process:

If it is determined by the coordinating office that informal resolution is not appropriate, or it is not agreed to by both parties or it is unsuccessful, ER/EOP/ADA will conduct an investigation. As a condition of employment, employees of the College are required to cooperate with these types of investigations by providing truthful and complete information. It is the College's expectation that the employee will answer all questions and provide any knowledge he or she possesses that may be helpful to the inquiry. Employees, who refuse to answer questions related to their employment, are subject to discipline, up to and including termination of employment. The investigation will include, but not be limited to:

1. Interviews with material persons who may have relevant information;

2. Reviewing relevant files and records such as personnel files, departmental and/or unit files, and others;

3. Comparing the treatment of complainant to that of others similarly situated in the department or unit; and

4. Reviewing applicable procedures policies and practices.

The investigation shall be concluded within forty-five (45) work days of its inception, and ER/EOP/ADA shall issue a written report making findings of fact and any appropriate
recommendations as to whether or not a policy violation is substantiated or has been substantiated. Copies of the report will be provided to the complainant, the respondent, and the Campus President/District Vice Provost, Vice Provost of Human Resources and the College Provost. Confidentiality of the investigation shall be maintained to the extent authorized by law.

If ER/EOP/ADA concludes that the complainant’s allegations are substantiated, the report will recommend that a directive be issued to stop the violating practice, if it is ongoing; recommend disciplinary or other corrective action against the respondent and others; and, if appropriate, recommend provisions for the complainant, such as reinstatement, hiring, reassignment, promotion, training, back pay, or other compensation or benefits.

The College Provost will make a determination, upon review of the ER/EOP/ADA report, in consultation with the appropriate Dean, the Vice Provost for the Division of Human Resources, and any other appropriate Department head; and upon consideration of any other relevant information, including aggravating or mitigating circumstances, whether disciplinary action is warranted under the circumstances. If the College Provost determines that disciplinary action should be initiated, then, consistent with due process requirements, the alleged perpetrator will be notified of such determination, in accordance with applicable Florida Board of Education and College policies and procedures, collective bargaining agreements and the Code of Student Conduct. All appropriate disciplinary procedures as provided for therein will be followed. Regardless of whether formal disciplinary action is initiated, the College may take such informal corrective action as may be appropriate under the circumstances.

If ER/EOP/ADA concludes that the complainant’s allegations are not substantiated, the report may suggest other avenues, both internal and external, for the complainant should he or she wish to pursue the matter and, if appropriate, recommend reasonable steps to restore the reputation of the respondent.

ER/EOP/ADA will notify the complainant and the respondent of the results of the investigation and subsequent disciplinary or other corrective action taken, if any, to the extent allowed by law. ER/EOP/ADA will also notify the respondent of the results of the investigation when no policy violation is found and no further action planned.

E. Other Provisions:

1. Serious rule infractions (Section "C (2)" Standards of Conduct) or documented disciplinary actions that are timely and of a repetitive nature (Section “C (1)” Standards of Conduct resulting in termination shall not be subject to this Grievance Procedure.

2. Newly hired employees may not use this grievance process until after they have completed their initial 90-day probationary period.

3. Shift assignments, reduction-in-force actions, transfers, annual performance reviews, annual contract renewal or non-renewal. The College President’s Recognition of Excellence Award decisions and such rights of the College to direct the work force shall not be subject to the Grievance Procedure.
An employee who disagrees with any component of his/her performance review or disciplinary action may submit a rebuttal to their supervisor within five (5) workdays. The employee’s rebuttal shall be attached to the performance review or disciplinary action document and will be placed in the employee’s Human Resources file.

The College, at its sole discretion, may elect to proceed or may elect to stay disciplinary action while other agency proceedings, either civil or criminal in nature, are pending. College disciplinary action will not be subject to challenge on the grounds that criminal charges involving the same incident have been dismissed or reduced.

4. The College prohibits retaliation against employees who file complaints or who participate in the resolution of complaints.

5. This procedure does not eliminate other College policies authorizing individual employees to seek relief through established administrative channels to the College President; however, the aggrieved employee may select only one internal process for the purpose of resolving any one complaint.

The employee’s use of this procedure may be terminated at any level, if the complaint has been mutually resolved, or, if the employee concurrently seeks relief through sources external to the College. If the complaint is resolved internally or externally, the matter shall be closed.

It is to be expressly understood that this complaint procedure is separate from and does not in any way amend to abrogate the policies relating to contractual matters established by the College under Florida Statutes or Florida State Board of Education Regulations.