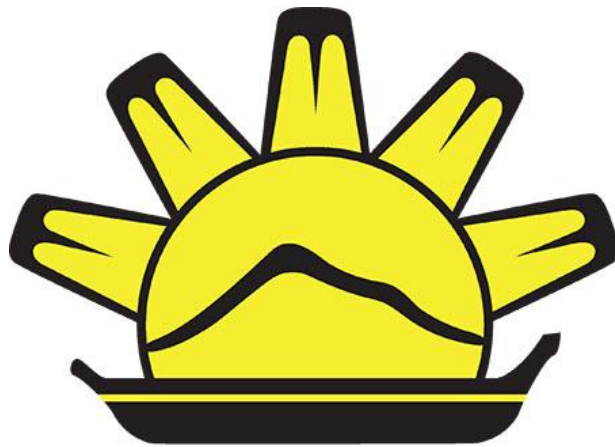


Statement of Policy and Procedure	
BCR #	2016-004
File Reference #	FAL-002
Issue/Effective Date	May 5, 2016

**Malahat Nation**

**Progressive Disciplinary and Dismissal  
Policy**

**Approved by Council on May 4, 2016**



**Malahat**

## **1. Policy**

It is Council's policy to use a progressive and participatory disciplinary approach for dealing with job related behavior that does not meet expected and communicated performance standards. The progressive and participatory process will be conducted to protect the privacy (where appropriate and possible) and the dignity of the employee at all times.

## **2. Purpose**

The Purpose of this policy is to set out a process to correct and deter unacceptable conduct, behaviour or performance as well as provide flexibility to Council to deal with wide range of circumstances in employees overcoming performance problems and failing that, use progressive discipline to fairly, with due process and with substantial documentation, terminate employment of employees, who are ineffective and or unwilling to improve.

## **3. Scope**

This policy applies to all employees of Malahat Nation.

## **4. Definitions**

**"officer"** – is the Chief Executive Officer, Director of Finance and any other employee of Malahat Nation designated by the Council as an officer.

**"immediate supervisor"** is an employee who has designated responsibility for managing and overseeing the work and development of other staff.

## **5. Responsibilities**

- (1) Council has final authority and responsibility for the dismissal and discipline of officers.
- (2) The Chief Executive Officer has final authority and responsibility for the dismissal of all employees (other than Officers).
- (3) The immediate supervisor has first responsibility for discipline for employees and officers.
- (4) In the event the immediate supervisor is unable to deal with the conduct, behaviour, or performance, the next level supervisor will assume the responsibility for discipline.

## **6. Procedures**

- (1) Employees will be informed of unacceptable conduct, behaviour, or performance and will be given opportunities for improvement and as necessary re-evaluated.

- (2) Council or the Chief Executive Officer may move to dismiss an employee if circumstances determine the event warrants dismissal even if the steps in the progressive discipline process have not occurred and may also immediately but temporarily suspend an employee with pay pending investigation before moving through the discipline process.
- (3) If an employee is felt to be in violation of the Malahat Nation's expected conduct, behaviour, or performance, the employee will be subject to the progressive discipline process.
- (4) All disciplinary actions will be documented and placed in the employee's personnel file.
- (5) A new disciplinary process will be created for each separate and distinct violation (not related to any prior violation) of the Malahat Nation's expected conduct, behaviour, or performance.

**The Progressive discipline procedures will be as follows:**

***Verbal Warning:***

- (1) The first violation by an employee will be addressed with a verbal warning.
- (2) The direct supervisor will initiate any verbal warnings in a private meeting with the employee
- (3) The employee will be given an explanation of when and how the behaviour or action took place and will be given an opportunity to explain the situation and their actions.
- (4) The employee will be informed that further disciplinary action, up to and including termination, will follow if unacceptable behaviour continues.
- (5) Documentation of the verbal warning will be kept in the employee's file and include the date of the warning and a summary of the discussion.

***Written Warning:***

- (1) Employee will be given a written warning regarding undesirable behaviour or action in the event that the behaviour or action had either been discussed in a previous verbal warning or the behaviour or action was serious in nature.
- (2) The employee will be given an explanation of when and how the behaviour or action took place and will be given an opportunity to explain the situation and their actions.
- (3) The employee will be informed that further disciplinary action, up to and including termination, will follow if unacceptable behaviour continues.
- (4) The employee will sign the document and will be provided with a copy of the written warning and another will be placed in the employee's personal file.
- (5) At the discretion of the Chief Executive Officer, a second written warning may be issued prior to proceeding to termination of employment.
- (6) After a period of one year from the date of the last violation, unless the violation was serious in nature, a new disciplinary process will be created for future violations of the Malahat Nation's expected conduct, behaviour, or performance.

***Suspension:***

- (1) Suspensions with pay may be used by the Chief Executive Officer, or in the case of officers, the Council, as a means to investigate undesirable conduct, behaviour, or performance of the employee.
- (2) In case of suspension, the employee will be called to a meeting with the Chief Executive Officer and the direct supervisor and given the opportunity to state their case. If the decision is made to impose a suspension, the employee will be given written documentation regarding the suspension in relation to undesirable conduct, behaviour, or performance.
- (3) The employee will be given a written notice of suspension which will include:
  - (a) The effective date of suspension;
  - (b) The duration of the suspension;
  - (c) The reason(s) for the suspension;
  - (d) That repetition of the behaviour or action will result in further disciplinary actions up to and including termination.
- (4) The Chief Executive Officer has discretion to suspend an employee where an investigation is being made into allegations of misconduct against that employee. During an investigation and if circumstance dictate, the Chief Executive Officer at any time can:
  - (a) Reverse the suspension and return the employee to his or her job;
  - (b) Change the nature of the suspension; or
  - (c) Take any other action appropriate to the situation.

***Termination:***

- (1) The Chief Executive Officer may, with just cause, terminate employment by providing a Notice of Termination that details the undesirable conduct, behaviour, or performance leading to and justifying the termination.
- (2) Just cause for immediate dismissal can include but is not limited to:
  - (a) Gross misconduct including violation of rules, harassment, carelessness or recklessness resulting in endangerment to self or others, disorderly conduct, theft, under the influence of alcohol or drugs while on the job, falsifying records etc.;
  - (b) Threats of violence where an employee threatens to or causes physical harm to another employee, client or to the members of Council;
  - (c) conviction of a serious criminal code offence;
  - (d) Unsuccessful progressive disciplinary attempts including verbal and written reprimands;
  - (e) Misrepresentation or falsification of information on application of employment; or
  - (f) Contravention of the employee's duties and obligations under Malahat Nation's Financial Administration Law including codes of conduct and conflicts of interest.

(3) Documentation should include information on the offence and previous disciplinary communications with the employee.

## **7. References and Related Authorities**

(1) FMB's Financial Management System Standards

(a) Standard 12.6.6 – Dismissal Policies

(2) FMB's Financial Administration Law Standards

(a) Standard 11.4.4 –HR Policies / Practices

(b) Standard 11.4.5 – Personnel Competence

(c) Standard 12.4 – Enforcement

## **8. Attachments**

None