

KUNM VOLUNTEER PERFORMANCE MANAGEMENT PROCEDURE

Radio Board Policy and Procedures Committee

Review Version, January 28, 2009

1. General ¹

Volunteers play a valuable and critical role in helping KUNM fulfill its mission. Supervisors have a responsibility to train and support each volunteer in understanding requirements of his/her assignment and to assist them in improving performance. Volunteers should be treated with dignity and respect. Providing quality programs and services requires cooperation by volunteers and adherence to established policies, procedures, regulations, practices, and high standards of performance. In an effort to maximize the contribution of every volunteer, KUNM has adopted this policy on performance management.

KUNM encourages a supportive problem-solving approach to performance problems, but KUNM recognizes that misconduct and continued performance problems may require disciplinary action. KUNM² uses the progressive discipline process described herein, to address misconduct and continued performance problems. Progressive discipline is intended to be corrective, *not* punitive in nature. It is designed to provide volunteers with notice of deficiencies and an opportunity to improve. However, some violations of policies and procedures, or continued negative behavior or performance may be of such serious nature that severe discipline, including immediate suspension or discharge, may be appropriate. KUNM retains the right in accordance with applicable federal and state laws and Regents' policies to determine the methods, means, and personnel required to maintain efficient operations and the appropriate level of corrective or disciplinary actions in a given case.

2. Supervisor Responsibilities

Supervisors should seek to achieve a productive, effective work environment by ensuring that each volunteer's performance meets expectations. Supervisors should make appropriate efforts to ensure that volunteers understand the requirements and expectations

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² UNM General Counsel suggests changing to "KUNM endorses but does not require the use of progressive discipline." KUNM has already chosen to use progressive discipline, matching UNM policy for KUNM staff. Inserting Counsel's suggestion without identifying any alternative to progressive discipline defeats the purpose of written procedures.

of their assignment, and supervisors should address problems that may impact on performance in a timely, constructive, and corrective manner.

KUNM does not condone poor performance; however, it recognizes that good "coaching" can correct many performance deficiencies. Good performance management involves continuous feedback to volunteers. Supervisors should evaluate performance, identify shortcomings, and plan training needed to correct any weaknesses.

Supervisors should use a problem-solving approach to resolving performance problems. When a volunteer is not suited to a specific position, a supervisor may wish to consider a transfer to a different position, which may be better suited to the volunteer. A transfer may be appropriate when there is a comparable position open at the station and such a transfer is reasonably predicted to result in improved performance. When performance problems continue or volunteer misconduct is of a serious nature, disciplinary actions will be the most appropriate measure. The objective of the following corrective actions is not intended to be punitive, rather it seeks to return the volunteer to positive productive performance.

3. Progressive Discipline

KUNM uses³ progressive discipline, which provides a volunteer a reasonable opportunity to meet the requirements of their assignment, comply with station and University policies, procedures, practices, and regulations, and to improve individual performance.

Progressive discipline may not be appropriate in all instances and is not a bar to KUNM taking such action as may be deemed appropriate under the circumstances of a given case. For example, some violations listed in Section 4 are usually considered to be of such a serious nature that disciplinary action could lead directly to suspension or discharge. Progressive discipline actions include the use of oral warnings, written warnings, suspensions, and/or discharge. Discipline should be administered equitably, consistently, and progressively. Depending on the nature of the performance problem or misconduct, a supervisor may start progressive discipline at any appropriate point in the process. The following sections describe in detail the actions⁴ used in progressive discipline.

3.1. Oral Warning

The primary objective of oral warning(s) is to advise the volunteer that there is a performance problem and to tell the volunteer what he or she can do to restore

³ UNM General Counsel suggests revising to "KUNM prefers to use progressive discipline. See footnote 2.

⁴ UNM General Counsel suggests inserting the word "often". This document describes how progressive discipline is used at KUNM, so the addition is unnecessary without the deliberate choice to use a different performance management tool, as is the additional modifier suggested at the end of the sentence.

satisfactory performance. It is expected that most such discussions will result in improved performance. An oral warning should include:

- A description of the nature of the problem and allow the volunteer to explain any reason for the problem and suggest ways to correct the situation;
- A description of the policies or rules violated (if any);
- The specific actions to be taken by the volunteer *and/or* supervisor to correct the problem, including specific time frames, if appropriate;
- That further disciplinary action will occur should the problem persist; and
- That disciplinary action may be disputed according to the provisions of the KUNM Grievance Procedure.

The supervisor must state to the volunteer that this is an "oral warning." An oral warning is not ⁵documented in the volunteer's file, however, the supervisor shall maintain a record of any oral warnings given. The supervisor will normally refer to any previous oral warning if further disciplinary action is taken.⁶

3.2 Written Warning

A written warning provides the volunteer with a written explanation of the events leading to the warning, an explanation of any applicable rules, and any subsequent information that can help the volunteer improve the identified performance problem. The written warning must state that this is a "written warning" and that if the volunteer does not improve performance to a satisfactory level within the time frames listed more serious disciplinary action will take place. A written warning is documented in the volunteer's file. The written warning should include⁷:

- A description of the nature of the problem, including reference to any earlier oral warning(s);
- A citation of the policies or rules violated (if any);
- The specific action plan to be taken by the volunteer *and/or* supervisor to correct the problem, including specific time frames, if appropriate;
- A statement that further disciplinary action, up to and including discharge, could occur should the problem persist; and
- A statement that disciplinary action may be disputed according to the provisions of the KUNM Grievance Procedure.

⁵ University Counsel's suggested addition of the word "normally" is not included here to match the wording in UNM Policy 3215.

⁶ Improves clarity over UNM Policy 3215.

⁷ University Counsel suggests modifying to "A written, if one is issued, warning should include:" This is unnecessary because it is clear from the rest of the document that this step can be skipped if warranted by the severity of the performance issue.

3.3 Suspension

A suspension is a temporary involuntary separation from the volunteer's assignment at KUNM resulting from performance problems that have not been satisfactorily corrected through the use of oral and written warnings or for misconduct or serious violation of policy. Suspensions range from one (1) workday up to thirty (30) workdays, depending on the seriousness of the problem. The supervisor must⁸ comply with the notice requirements of Section 5 of these Procedures, and should inform the volunteer in writing that the suspension is a disciplinary action and that discharge could occur should the problem persist. A suspension requires approval, in advance, of KUNM's General Manager.⁹

3.4 Discharge

A discharge is a permanent involuntary separation of a volunteer from KUNM for disciplinary reasons. A discharge requires approval, in advance, of KUNM's General Manager and the Office of the Provost.¹⁰

4. Unacceptable Behavior

Unacceptable behavior is any behavior significant or substantial in nature relating to the volunteer's work that is inconsistent with the volunteer's obligation to KUNM. A list of examples of behavior, which when significant or substantial in nature, that is unacceptable is shown below for guidance only, and is not considered as an all inclusive list.

- Assault or battery on another person.
- Conviction of a felony or misdemeanor where the provisions of the Criminal Offender Employment Act apply, depending on the nature of the offense and the type of position.
- Creating a hostile working environment.
- Falsification (deliberate) or omission of information on employment applications or resumes, time cards/records, or other station records.
- Illegal drugs and alcohol - violation of the University's "Policy on Illegal Drugs and Alcohol."
- Incompetence.
- Inefficiency.
- Insubordination.

⁸ University General Counsel suggests modifying to "The supervisor should comply". The word must clarifies the supervisor's responsibilities in the process, so the change is not reflected here.

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- Intoxication on the premises..
- Misappropriation or personal use of KUNM funds, property, possessions, or resources.
- Misconduct
- Negligence.
- Performance that continues to be inadequate after reasonable time has been allowed to correct it.
- Sexual Harassment
- Theft or fraud.
- Uncooperative behavior.
- Confidentiality - violation of confidentiality or the release of confidential information.
- Violation of University policies.

5 Notice Requirements

5.1 Notice of Contemplated Action

To initiate a suspension or discharge of a volunteer, the supervisor must¹¹ obtain prior approval as described in Section 3 and serve the volunteer with written notice of the contemplated action. This notice must include *all* the following points:

- Cite the acts that the supervisor believes constitute unacceptable behavior. These may be any one (1) or more of the acts listed in Section 4 herein.
- Give a summary of the evidence against the volunteer.
- Specify the contemplated action.
- State that the volunteer has ten (10) calendar days from receipt of the notice to respond orally or in writing to the contemplated action.

5.2 Notices

Notices shall be in writing and should be served in person, if possible. At the time of service, the volunteer should be asked to sign an acknowledgement of receipt. If the volunteer declines, the supervisor shall so note for the record. If the notice cannot be served in person, the notice may be sent by certified mail with a return receipt requested. The notice must be properly stamped and addressed to the last address provided by the volunteer. Service of the notice is complete when the notice is hand delivered or deposited with the United States Postal Service by certified mail with a return receipt requested.

¹¹ In Section 5, University General Counsel suggests replacing “must” with “shall”. The impact of implementing this suggestion is unknown.

5.3 Computation of Time

Any time period defined by this procedure, does not include the day of the action from which the time period begins to run. If the last day of the time period falls on a Saturday, Sunday, or holiday, the last day of the time period shall be the next day of the normal work week (Monday – Friday).

5.4 Response to Notice of Contemplated Action

The volunteer or a representative of the volunteer's choosing may respond orally and/or in writing to the notice of contemplated action. The response is served to the supervisor who signed the notice. If the volunteer wishes to meet with the supervisor to respond to the notice of contemplated action, he or she must submit a written request for the meeting within five (5) work days from receipt of the notice, or the volunteer will be deemed to have waived the right to an oral response. As stated herein, the volunteer must respond orally and/or in writing within ten (10) calendar days from receipt of the notice. Any extension of time must be in writing and agreed upon by both the volunteer and the supervisor no later than the date of the deadline for response.

5.5 Notice of Final Action

After considering the volunteer's oral and/or written response, the supervisor shall decide on the final action and serve the volunteer with a written notice of final action. The notice of final action shall be within thirty (30) calendar days after receipt of the volunteer's response and include *all* the following points:

- The final action to be taken.
- The acts constituting unacceptable behavior, which shall only include allegations specified in the Notice of Contemplated Action.
- A summary of the evidence.
- A reply to the volunteer's response, if any.
- The effective date of any disciplinary action.

A statement that the volunteer may file a grievance in accordance with the KUNM Grievance Procedure within fifteen (15) working days of receipt of the Notice of Final Action.

KUNM Volunteer Performance Management Procedures Document Mark-Up Notes

On December 19, 2008, Dr. Holder approved a version of the KUNM Volunteer Performance Management Procedures. The document is for use only until the Radio Board Policy and Procedures Committee completes a further review of the comments received from University Counsel, KUNM staff and volunteers. These notes accompany a committee review version prepared on January 14, 2009, and are intended to be updated as the committee's review proceeds. The committee will likely issue a memo describing any recommended changes over the document currently in use. It is assumed that a committee-approved version of these notes will be included in the revision memo.

The mark-up was performed on the version of the document approved for use by Dr. Holder on December 19, 2008. This document discusses the differences between the approved document and the mark-up provided by University Counsel. It also notes any further revisions suggested by the Committee's ongoing review of relevant documents such as UNM Policy 3215. The goal is to improve clarity over Policy 3215 wherever possible while remaining as close to that document as possible.

Introduction Paragraph

University Counsel suggested the insertion of an introductory paragraph to the document. There are two concepts in the suggested introduction: a statement that the Volunteer Performance Management Procedure Document does not constitute a contract, and a statement that KUNM intends to adhere to these procedures, but KUNM reserves the right to depart from them. This paragraph is the root of most of the controversy surrounding the document. Both statements are unnecessary, and the paragraph suggested by the University Counsel does not appear in the Committee's mark-up.

The "not a contract" provision also appears as Item 1 in the KUNM Policy and Procedures document. The Volunteer Performance Management Procedures document is an attachment to the Policy and Procedures document. All volunteers and staff are required to sign the Policy and Procedures document. It follows that if the Policy and Procedures document is not a contract, neither are any of the documents referenced by the Policy and Procedures document. Because of its appearance in the Policy and Procedures, this is not a controversial issue. If it is absolutely necessary from a legal point of view, a "not a contract" (express or implied) statement could be added as a sixth section to the document.

KUNM has elected to use Progressive Discipline for volunteer performance management. This matches the UNM policy for KUNM staff. Based on that choice, the KUNM Volunteer Performance Management Procedure should clearly describe the implementation of progressive discipline at KUNM. It is beneficial to both volunteers and KUNM staff with supervisory responsibilities to establish clear procedures for performance management. If KUNM's management decides to implement a different performance management tool, that change should be communicated and the Volunteer

Performance Management Procedures amended. Stating that the station management reserves the right to depart from the procedures undercuts the procedures, making performance management difficult for KUNM Staff and confusing for the volunteers. It is difficult to see the benefit of the University Counsel's addition and easy to see the harm, so University Counsel's introductory paragraph is not included in the committee's recommended version of the document.

Throughout the remainder of the document, University Counsel suggests changes that would be consistent with the assertion that station management reserves the right to depart from the procedures. The Committee reviewed these suggestions and has elected to keep, reject or modify them based on the concept that progressive discipline is the procedure that will be used until the choice to use a different performance management tool is communicated to staff and volunteers.

Marked Up Document

In the accompanying mark-up version of the Volunteer Performance Management Procedures many of the University Counsel's suggestions are reflected because they improve the clarity of the document. Footnotes appear wherever the University Counsel's suggestions are not included that provide the justification for not making the change.

Similar to UNM Policy 3215, the Radio Board Policy and Procedures committee recommends that discharge (Section 3.4) require approval of both the KUNM General Manager and the Office of Provost. The Committee recognizes that a final appeal under KUNM's Grievance Procedure is also heard by the Provost or designee. The Committee anticipates that the final reviews of a discharge and a grievance on a related issue will be performed by different individuals within or designated by the Office of the Provost.

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1. General ¹

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- The specific actions to be taken by the volunteer *and/or* supervisor to correct the problem, including specific time frames, if appropriate;
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5.4 Response to Notice of Contemplated Action

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The volunteer or a representative of the volunteer's choosing may respond orally and/or in writing to the notice of contemplated action. The response is served to the supervisor who signed the notice. If the volunteer wishes to meet with the supervisor to respond to the notice of contemplated action, he or she must submit a written request for the meeting within five (5) work days from receipt of the notice, or the volunteer will be deemed to have waived the right to an oral response. As stated herein, the volunteer must respond orally and/or in writing within ten (10) calendar days from receipt of the notice. Any extension of time must be in writing and agreed upon by both the volunteer and the supervisor no later than the date of the deadline for response.

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- The acts constituting unacceptable behavior, which shall only include allegations specified in the Notice of Contemplated Action.
- A summary of the evidence.
- A reply to the volunteer's response, if any.
- The effective date of any disciplinary action.

A statement that the volunteer may file a grievance in accordance with the KUNM Grievance Procedure within fifteen (15) working days of receipt of the Notice of Final Action.