

Managing Faculty Misconduct

One of the most challenging aspects of a supervisor's role is managing employee misconduct – those instances in which a faculty member intentionally or inadvertently violates state or federal law, University, College, or Department policies, or the standards of their discipline or profession. Managing such misconduct can be stressful and emotionally fraught for all parties, including the supervisor. The materials in this folder are designed to assist you, as a supervisor, in understanding and following our policies and procedures related to allegations of faculty misconduct. A clear understanding of the policies and procedures, as well as close adherence to our procedural requirements, will protect everyone involved and will promote a healthy, thriving culture at MSU Denver.

Minor Misconduct

Faculty Employment Handbook X.C.1 - Definition

Minor misconduct is behavior and conduct demonstrating neglect of academic responsibilities or a lapse in professional judgment or actions that does not violate the rights or well-being of others under the law.

Faculty Employment Handbook X.B.1.a. - Discipline

Minor disciplinary action includes, but is not limited to, written reprimands or temporary loss of Departmental privileges (for example, loss of access to discretionary resources for one semester.)

Major Misconduct

Faculty Employment Handbook X.C.1 - Definition

Major misconduct is behavior and conduct violating the law; serious violation of policy or ethics of an academic discipline; persistent and consistent failure to fulfill academic responsibilities; or a violation of the rights and well-being of others.

Faculty Employment Handbook X.B.1.b. - Discipline

Major disciplinary action includes, but is not limited to, mandated training/counseling, removal from certain types of service roles at School/College or University levels, reassignment, demotion in academic rank, reduction in salary, suspension, or termination.

Differentiating Between Minor and Major Misconduct

Responsible Party: Supervisor (Department Chair or Dean)

Upon receipt of Form 1 (included in this folder), the supervisor should first determine whether the alleged misconduct, if true, would constitute minor or major misconduct (Form 1, Section 2, Question 1).

Per the Faculty Employment Handbook, Section X, “Minor misconduct is behavior and conduct demonstrating neglect of academic responsibilities or a lapse in professional judgement or actions that does not violate the rights or well-being of others under the law.

Major misconduct is “behavior and conduct violating the law; serious violation of policy or ethics of an academic discipline; persistent and consistent failure to fulfill academic responsibilities; or a violation of the rights and well-being of others.”

Examples of types of behaviors that might constitute minor or major misconduct can be found in the Handbook, Section X.C.1. However, no list of examples can be exhaustive, so the supervisor will need to use judgement in making this determination. The supervisor may consult with other relevant parties (Dean, Office of Faculty Affairs staff, HR, etc.) to determine whether the alleged misconduct is minor or major.

To determine the level of alleged misconduct, the supervisor must consider not only the details of the specific allegation but also the respondent’s history of previous misconduct, if any (Form 1, Section 2, Question 2).

The supervisor must also assess whether the alleged misconduct involves the respondent’s responsibilities in the areas of Teaching, Scholarly Activities, or Service (Form 1, Section 2, Question 3).

In the Case of Minor Misconduct: First Incident of Minor Misconduct

Responsible Party: Supervisor (usually the Department Chair or Dean)

Upon becoming aware of potential minor misconduct and receipt of Form 1:

Step 1: The supervisor should speak with the respondent directly and should review any relevant information provided by the complainant or respondent.

Step 2: Following the review of relevant information, the supervisor will complete Form 1, Section 3, reporting the disposition of the case. Upon completion of Section 3, copies of Form 1 should be provided to both the complainant and the respondent.

Including in this folder is a template for the written warning. If a written warning is issued, a copy should be provided to the respondent and to the next-level supervisor (but not to the complainant). The respondent has the right to include a written response to the warning. In such cases, the written response should be kept on file with the written warning.

A written warning, if issued, should be provided to the respondent in a timely fashion. The Office of Faculty Affairs recommends that the written warning be provided to the respondent within seven calendar days of the supervisor’s meeting with the respondent.

In the Case of Minor Misconduct: Subsequent Incident of Minor Misconduct

Responsible Party: Supervisor (usually the Department Chair, Dean, or Provost)

The supervisor will complete Form 1, Section 2, as above.

Step 1: If the respondent has never received a written warning for the same or similar behavior, the supervisor should follow the steps in 3a. If the respondent has previously received a written warning for the same or similar behavior, the supervisor should proceed to Step 2.

Step 2: Following the review of relevant information, the supervisor will complete Form 1, Section 3, reporting the disposition of the case. Upon completion of Section 3, copies of Form 1 should be provided to both the complainant and the respondent.

Step 3: Following the review of relevant information, complete Form 1, Section 3, indicating that the allegations were reviewed and reporting the disposition of the case. Copies of Form 1 should be provided to both the complainant and the respondent.

In the Case of Incident of the Same or Similar Minor Misconduct

Responsible Party: Supervisor and next-level supervisor (Department Chair, Dean, or Provost)

After a supervisor has imposed a sanction for minor misconduct, any subsequent allegations of the same type of misconduct should be referred to the next-level supervisor for management. Such allegations should be treated as allegations of major misconduct.

Sanctions and Appeals for Minor Misconduct

Examples of potential sanctions for minor misconduct are listed in the Faculty Employment Handbook, Section X.E.3.c.

The supervisor will use Form 2 to notify the respondent of the proposed sanction. Form 2 should not be shared with the complainant.

The respondent will have five working days following receipt to submit a notice of appeal (see Form 3, including in this folder). If the respondent submits a notice of appeal, the supervisor will forward all relevant materials to the next-level supervisor. These materials include Form 2, any investigative reports or documents, and any written response to the allegations provided by the respondent.

Following exhaustion of the respondent's appeal options (if the sanction is upheld or modified), the supervisor will finalize and forward Form 2 to the Office of Faculty Affairs and to Human Resources for inclusion in the respondent's personnel file. In addition, if the misconduct involves the respondent's responsibilities in the areas of Teaching, Scholarly Activities, or Service, the supervisor will upload Form 2 to the respondent's Watermark file.

After the appeal process is completed, a final copy of Form 1 will be shared with the complainant, reporting the final disposition of the case.

In the Case of Major Misconduct

Upon determining that an allegation involves potential major misconduct:

Step 1: The supervisor will complete Form 1, Section 2.

Step 2: Notify the respondent and complainant that an allegation is being reviewed (a template for this notice is included in this folder).

Step 3: Consult with the next-level supervisor to determine if an investigation is warranted and to determine the appropriate supervisory level to manage the case. The supervisor must also determine whether the misconduct involves the faculty member's responsibilities in the areas of Teaching, Scholarly Activities, or Service.

Step 4: The supervisor will notify the respondent and complainant, within 5 days, that an investigation will be conducted or that the allegations have been dismissed (a template for this notice has been included in this folder).

Step 5: Upon conclusion of the investigation, the supervisor will meet with the respondent to review the results of the investigation. If sanctions will be imposed, the supervisor will complete Form 2, Sections 1-4 (included in this folder). The respondent will receive a copy of Form 2. Form 2 will not be shared with the complainant.

Step 6: The supervisor will also complete Form 1, Section 3, indicating that the allegations were reviewed and reporting the disposition of the case. A copy of Form 1 should be provided to the complainant.

Sanctions and Appeals for Major Misconduct

Examples of potential sanctions for minor misconduct are listed in the Faculty Employment Handbook, Section X.E.3.c.

The respondent will have five working days following receipt of Form 2 to submit a notice of appeal (see Form 4). If the respondent submits a notice of appeal, the supervisor will forward all relevant materials to the Disciplinary Appeals Committee. These materials include Form 2, any investigative reports or documents, and any written response to the allegations provided by the respondent.

Upon completing the appeal hearing, the DAC will submit their recommendations to the next level supervisor (Form 4, Section 3). The next-level supervisor will report their final decision on Form 4, Section 4.

Following exhaustion of the respondent's appeal options (if the sanction is upheld or modified), the supervisor will forward Form 2 to the Office of Faculty Affairs and to Human Resources for inclusion in the respondent's personnel file. In addition, if the misconduct involves the respondent's responsibilities in the areas of Teaching, Scholarly Activities, or Service, the supervisor will upload Form 2 to the respondent's Watermark file.

In the case of an appeal, a copy of Form 1 will be shared with the complainant, reporting the final disposition of the case.