

SOP #27 - GUIDELINES FOR DISCIPLINARY ACTIONS

1.01 BASIS FOR DISCIPLINARY ACTION. The tenure of every permanent employee shall be based on reasonable standards of personal conduct and job performance. Failure to meet such standards shall be grounds for appropriate disciplinary action, which shall be commensurate with the seriousness of the offense and with due consideration of the employee's prior performance record. Disciplinary action must be based upon reasonable cause. The following guidelines should be considered in taking disciplinary action such as suspension, demotion or dismissal:

1. The employee should have forewarning or foreknowledge of the possible or probable disciplinary consequences of his/her conduct;
2. A progressive discipline approach should be utilized;
3. The rule or order should be reasonably related to the orderly, efficient and safe operation of the department or City;
4. Before administering discipline, an effort should be made to discover whether the employee did in fact violate or disobey the disciplining authority's rule, standard or order;
5. The investigation of the situation should be conducted in a fair and objective manner;
6. The rule, order and penalty should be applied even handedly and without discrimination to all employees in comparable situations.
7. The degree of discipline proposed should be reasonably related to the seriousness of the employee's proven offense, the record of the employee's service with the City, and penalties imposed previously in the department and the City in comparable circumstances.

1.02 INVESTIGATIONS. Except in situations requiring immediate supervisorial action, when it is suspected that a violation of a behavior or performance standard has occurred which may require formal disciplinary action, a thorough and objective investigation should be conducted. The investigation should normally be initiated by the employee's immediate supervisor. The investigating supervisor should notify the Personnel Officer of the initiation. In special circumstances, the City Manager may appoint an investigating officer. The purpose of the investigation is to assure that the supervisor or designated investigator consider the relevant facts through:

1. Reviewing any written documentation available, including police reports and citizen complaints;

2. Interviewing supervisors, other employees or citizens who may have knowledge of the activity(ies).

If the investigation shows that a performance or conduct problem has occurred, actions in accordance with the Personnel Rules should be taken. However, if it is determined that performance or conduct problems did not occur, or that the allegation is lacking in any substance, a record of the incident should not be placed in the employee's file which might prejudice future actions.

1.03 EMPLOYEE CONDUCT REQUIRING IMMEDIATE ACTION.

1. When an employee is found to be in such mental or physical condition that he or she cannot perform his or her duties, or when the employee's behavior creates an immediate hazard to the employee, other employees, the public or the City, he or she shall be instructed to leave the job location under this section. Caution must be exercised to not jeopardize the safety of the employee or others in the means used to transport the employee. This type of action shall be taken by the highest level supervisor immediately available.
2. The employee shall be marked "temporarily suspended with or without pay" until, and if, further more permanent action can be taken.
3. The supervisor responsible for relieving the employee from his or her duties shall take the necessary steps to inform the department head and personnel officer as soon as possible of the action taken. The supervisor shall make a written record of the events that took place and transmit to the personnel officer, by written memorandum, the following information:
 - a. Name and class title of employee instructed to leave job location;
 - b. Employee's work unit and name of immediate supervisor;
 - c. Working hours of employee who was instructed to leave job location;
 - d. A description of the conduct which necessitated immediate removal.
4. As soon as it is practicable after the employee's removal - which should normally occur the same day - the supervisor shall make a full investigation. Upon completion of the investigation, the Department Head shall determine whether and when the employee shall return to work, if further disciplinary action is appropriate, and if the employee's status as temporarily suspended without pay should be altered retroactively, where the need for immediate action is not established or if no action was appropriate. As soon as is practicable after that decision is made, and whether or not the employee is to be further disciplined, the supervisor shall follow, with regard

to permanent employees, the procedure set out in section 1.04 ("Implementing the Disciplinary Action") with the goal of informing the employee of the reasons for the action and giving the employee the opportunity to respond.

1.04 IMPLEMENTING THE DISCIPLINARY ACTION

1. **ORAL REPRIMAND.** The oral warning defines the areas in which improvement is required, sets up goals leading to this improvement and informs the employee that failure to improve will result in more serious action. The supervisor should make note of the date, time and content of the warning, and it is suggested that he/she write a confirming memo to the employee. No record is placed in the employee's permanent personnel file unless subsequent action is necessary.
2. **WRITTEN REPRIMAND.** The warning should state, in writing, what occurred, the date and time of the event which is the cause of the reprimand, if applicable, what rule or policy provision has been broken or violated by the employee, and what the employee is directed to do to correct the situation. This warning is written in triplicate. Copies are kept by the supervisor, given to the employee, and sent to the personnel officer to be filed in the employee's personnel file. The employee should be advised of his/her right to respond to any facts in question, and the response shall be placed in the employee's personnel file.
3. **SUSPENSION.** An emergency suspension may be accomplished when a serious violation has occurred and it is considered in the best interest of the City to suspend the employee immediately. However, written notice and an opportunity to respond is still necessary in accordance with the provisions herein.

1.05 NOTICE OF SUSPENSION, DEMOTION, REDUCTION IN PAY OR DISMISSAL.

Prior to taking any disciplinary action against a permanent employee which could result in suspension, demotion, reduction in pay or dismissal, the supervisor or other appropriate manager shall notify the employee in writing of the following:

1. The proposed disciplinary action and the effective date;
2. A statement of the rule or regulation allegedly violated;
3. The specific facts and circumstances causing such alleged violation;
4. Attach records and documentation on which the proposed action is based;
5. The employee's right to respond orally or in writing, and to whom, where, and the date by which a response or request is required. If a meeting is requested the employee shall be advised of the place, date and time, and the employee's right to

have a representative of his/her choice present.

1.06 PROCEDURE

1. Failure of the employee to respond to the proposed action shall be presumed to be an intentional waiver of any and all objections to the procedural aspects of the discipline.
2. If the department head determines that he/she is so involved in the disciplinary proceedings that he/she cannot be impartial, the department head may designate the personnel officer to hear the employee's response. Upon timely written request by the employee, the personnel officer or his/her designee, in his/her discretion may hear the employee's response.
3. The hearing is not an evidentiary hearing but a response meeting at which the employee has an opportunity to rebut the charges against him/her or to state any mitigating circumstances. The department head will hear and consider the facts presented by the employee. The employee shall be entitled to representation, but shall not be entitled to present witnesses, unless the department head, or other person designated in section 1.10 (2), in his/her discretion, determines that the presentation of witnesses is necessary. Prior to presenting a response, any written materials, reports and documents upon which the disciplinary action is based, must have been made available to the employee.
4. In the event that the employee is unable to respond to the charges within the time permitted, and demonstrates the reasonableness of a continuance, the manager hearing the response may grant a continuance in his/her discretion.
5. Where applicable, the meeting may be continued to conduct further investigation, if the employee's version of the facts raises a substantial doubt as to the department's information supporting the need for the proposed action.
6. As soon as practicable after the employee has had an opportunity to present a response, the personnel officer shall cause to be served on the employee affected, by registered mail or personal delivery a statement signed by the department head indicating the department head's decision and, if the disciplinary action is to proceed, the specific charges against the employee, the nature and extent of the discipline, if any, and the time of commencement thereof. This statement shall clearly inform the employee that he/she has the right, within five working days after the receipt of this notice, to request a hearing on the charges by filing the request with the personnel officer. Such request shall set forth the grounds and basis of the appeal.

1.07 EFFECTIVE DATE OF DISCIPLINE.

The disciplinary action shall commence on the date and time noticed in the department head's statement to the employee, notwithstanding the fact that an appeal has been filed.