



**CITY OF CHESAPEAKE, VIRGINIA**

**NUMBER: 2.11**

**CITY DIRECTIVE**

**EFFECTIVE DATE: 12/22/2020**

**SUBJECT: DEPARTMENT OF HUMAN RESOURCES  
DISCIPLINARY POLICY**

**SUPERSEDES: 12/1/2005**

**I. PURPOSE**

To establish a disciplinary policy which provides supervisors with a fair and objective guide for determining the seriousness of an employee's unsatisfactory work performance or misconduct and selecting the appropriate disciplinary action to correct the unacceptable behavior.

Initiating the disciplinary process should not replace counseling. Supervisors should counsel employees in lieu of discipline whenever appropriate. Counseling may be in the form of a coaching or documented counseling. Employees may also avail themselves of professional counseling via the City's Employee Assistance Program.

**II. DEFINITIONS**

**Coaching** – Verbal and/or written guidance provided by a supervisor to an employee for the purpose of helping solve performance issues and improve work performance.

**Demotion** – The placement of an employee in a job classification with a lower pay grade due to a request by the employee, unsatisfactory job performance, or disciplinary action.

**Notice of Disciplinary Action (NDA)** – A written notification of discipline to an employee, issued after the employee has had an opportunity to respond to the NOI.

**Notice of Intent to Impose Disciplinary Action (NOI)** – A written notice to an employee that disciplinary action is being considered and which contains a statement of the reason(s) why discipline is being considered, the type of offense, and an explanation of the evidence supporting the charges.

**Progressive Discipline** – The process of using increasingly severe steps or measures when an employee fails to correct a problem after being given a reasonable opportunity to do so.

**Suspension** – Placing an employee, for disciplinary reasons, in a temporary status without duties and pay. A suspension is more severe than a written reprimand and is a step in the progressive disciplinary process.

**Termination** – Final step of progressive discipline, which can also be used when an employee’s behavior or performance is so egregious that the employee’s continued presence on the job could constitute negligence in regard to the City’s duties to the public and its employees.

**Verbal Reprimand** – A verbal reprimand shall be defined as a discussion between the supervisor and the employee in which the employee is advised and cautioned about unsatisfactory work performance or misconduct. Verbal reprimands are not grievable and will not be placed in the employee’s personnel file.

**Written Reprimand** – A written document, and a step in the progressive discipline process, to the employee from the supervisor where the employee is advised and cautioned about his/her unsatisfactory work performance or misconduct.

### III. APPLICABILITY

All City employees within departments/agencies that are under the direction of the City Manager shall be covered under this policy.

### IV. POLICY

The City of Chesapeake shall support the practice whereby all full-time and regular part-time employees shall be disciplined by the same process. Where appropriate, disciplinary actions of lesser severity than termination/dismissal shall be taken in an attempt to correct an employee’s unsatisfactory work performance or misconduct before termination/dismissal is initiated. A termination may be generally considered as appropriate only when a serious offense of the type outlined in this policy has occurred or when an employee’s unsatisfactory work performance or misconduct has continued in spite of progressive disciplinary efforts. Disciplinary action may take any of the following forms and is not necessarily restricted to the order set forth below:

- Written reprimand
- Suspension
- Demotion
- Termination

All disciplinary actions are appealable through the grievance procedure, City Directive 2.07, for those eligible to use the grievance procedure.

Unacceptable conduct has been divided into three types of offenses according to its seriousness. The severity of the discipline chosen by the supervisor must fit the seriousness of the offense. If there are mitigating circumstances, supervisors may reduce the discipline, but they must state their reasons for such action.

Procedural steps for imposing discipline are set out in the Disciplinary Guide. The failure of a supervisor to follow these procedural steps will not, by itself, make the discipline invalid or improper, but an employee may separately grieve a supervisor’s failure to follow appropriate

procedure, provided that such grievance is filed timely. The sole remedy for such grievance shall be correction of the procedural error.

**V. TYPES OF OFFENSES**

**A. GROUP I OFFENSES (Examples Only)**

Failure to uphold any of the City's CARE (Courteous, Attentive, Responsive, and Empowered) standards.

Incident of unsatisfactory attendance or tardiness.

Incident of abuse of City time.

Incident of obscene or abusive language.

A moving traffic violation while using City vehicle or while engaging in official business for the City.

Incident of inadequate or unsatisfactory job performance.

**B. GROUP II OFFENSES (Examples Only)**

Significant failure to uphold any of the City's CARE (Courteous, Attentive, Responsive, and Empowered) standards.

Violating safety rules where there is not a threat to life.

Failure to follow supervisor's instructions, perform assigned work, or otherwise comply with applicable established written policy.

Leaving the work site without permission during working hours.

Failure to report to work without proper notice to supervisor.

Unauthorized use or misuse of City property or records.

Unauthorized discussion or disclosure of information pertaining to an administrative investigation.

**C. GROUP III OFFENSES (Examples Only)**

Egregious or repeated failure to uphold any of the City's CARE (Courteous, Attentive, Responsive, and Empowered) standards.

Absence in excess of three (3) working days without appropriate notice or satisfactory explanation.

Use of alcohol or unlawful use or possession of controlled substances while working in an official capacity, on City premises, or operating City equipment.

Refusal to take an employment-related drug or alcohol test or confirmed positive test for drugs and/or alcohol.

Falsifying any records such as, but not limited to, vouchers, reports, insurance claims, time records, leave records, or other official City documents.

Willfully or negligently damaging or defacing City records or City or other persons' property.

Theft or unauthorized removal of City records or City or other persons' property.

Acts of physical violence or fighting.

Verbal threats, coercion, or any acts of violence directed toward persons associated with the City (to include employees, supervisors, citizens, visitors, etc.)

Engaging in sexual activities while on the job or on City property.

Violating safety rules where there is a threat of bodily harm.

Sleeping during working hours.

Making a material false statement on any forms associated with the job application process.

Making deliberate false or misleading statements in any City investigation or in the conduct of City business.

Participating in any kind of work slowdown, sit down, or similar concerted interference with City operations.

Unauthorized possession or use of firearms, dangerous weapons, or explosives.

Failure to meet applicable City Driving Standards.

Criminal convictions for acts of conduct occurring on or off the job which are plainly related to job performance or are of such a nature that to continue the employee in the assigned position could constitute negligence in regard to the department's duties to the public or to other City employees.

Failure to follow supervisors instructions when such failure poses critical problems to the operation of the department.

Operating a City vehicle with a revoked operator's permit.

Any act of discrimination or harassment.

## **VI. TYPES OF DISCIPLINARY ACTION**

### **A. WRITTEN REPRIMANDS**

1. Reprimands are given for Group I and Group II offenses which are less severe in nature but which require correction in the interest of maintaining a productive and well managed workforce.
2. Written reprimands will be placed in the official personnel file in the Department of Human Resources. Written reprimands may be issued prior to suspension, but are not required prior to suspension.
3. Written reprimands shall be cumulative in nature. After an employee receives three (3) written reprimands, the supervisor should consider suspending the employee if the reprimands occurred within a time-frame that, in the supervisor's discretion, is indicative of a continuing performance problem. Additional offenses after receiving three written reprimands will normally result in further progressive discipline.

### **B. SUSPENSION**

1. Standard Suspension
  - a. Suspensions are given for incidents and misconduct of a more serious nature, as listed in the Group II and Group III Offenses. Unsatisfactory work performance or misconduct that continues after discipline has been imposed is also normally considered to be in this category.
  - b. The length of suspensions may vary depending on the severity of the incident/misconduct. Suspensions for exempt employees suspensions shall be for a minimum of five (5) workdays in length in accordance with provisions of the Fair Labor Standards Act.
  - c. An additional offense following a suspension should normally result in termination.

## 2. Immediate Suspension

Nothing in this policy shall prevent the immediate suspension without pay of an employee whose continued presence on the job is deemed to be a substantial and immediate threat to the welfare of the employee's department or the public, or where such continued presence could constitute negligence in regard to the department's duties to the public or to other City employees. Such suspension may be imposed in any of the following situations with the prior approval of the affected Department Head and the Director of Human Resources. Where such suspension must be imposed at a time other than normal working hours, the Director of Human Resources shall be notified and consulted at the beginning of the next working day.

### a. Suspension Pending Court Action or Official Investigation

An immediate suspension shall be warranted where there is a criminal prosecution or official investigation involving alleged criminal violations that occur on or off the job and are plainly related to job performance or are of such a nature that to continue the employee in the assigned position could constitute negligence in regard to the department's duties to the public or to other City employees.

Upon completion of such court action or official investigation, the employee may be disciplined or removed or may be reinstated with full or partial back pay as the Department Head determines to be appropriate under the circumstances, provided that such action must be based on stated findings and must be consistent with the guidelines of this policy. The Department Head shall not be bound by the outcome of court action or official investigation but may refer to such outcome and findings made in making a final decision. ("Official investigation" shall be interpreted to include only those investigations conducted by Federal, State, or local government law enforcement agencies.)

At any time during the pendency of such investigations or proceedings, the employee may request in writing that the department proceed with an administrative investigation under the provisions, including the time limits, of 2(b) below. A decision not to charge or discipline an employee at the end of such investigation shall not preclude subsequent action based upon the findings made or action taken in the other investigations or proceedings. Furthermore, the subsequent findings of additional information in other investigations or proceedings may provide the basis for additional charges or discipline.

b. Suspension Pending Department Disciplinary Investigation

An immediate suspension may be imposed pending completion of a disciplinary investigation into misconduct or violation of established work rules, provided that before such a suspension is imposed the Department Head must find that the employee's continued presence on the job would present a substantial and immediate threat to the welfare of the department or the public, or that it could constitute negligence on the part of the City in regard to the department's duties to the public or to other City employees.

If the employee is cleared of any such alleged violations, the employee shall be reinstated and paid for this period of suspension. Where no finding of violation or decision on disciplinary action occurs within 15 working days, the employee shall be permitted to return to work pending a final decision.

If the Department Head decides disciplinary action involving suspension is warranted, the period of suspension pending completion of the investigation shall apply to the period of disciplinary suspension.

3. Suspension in Lieu of Dismissal

Where mitigating factors support a decision to retain an employee in spite of actions by that employee that would normally warrant dismissal, suspension for an extended time period may be imposed, provided that prior approval shall be obtained from the Director of Human Resources and that an explanation shall be given for such action in the notice that is provided to the employee. The length of suspension shall be commensurate with the seriousness of the conduct involved.

**C. DEMOTIONS**

1. Disciplinary demotions can occur as a step in the progressive discipline process or as an alternative to termination in Group II or Group III offenses. An employee's salary will be reduced as specified in the City's Pay Provisions Policy.
2. A demotion shall not be used as a disciplinary action if the employee involved cannot qualify for the lower-ranked position or if the demotion would require the displacement of another employee.

**D. TERMINATION**

A non-probationary employee's employment is terminated for acts and behavior of such a serious nature that a first occurrence should normally warrant termination, or for

unsatisfactory performance or misconduct of a less serious nature that continues after less severe discipline has been imposed for prior poor work performance or misconduct.

## **VII. MISCELLANEOUS PROVISIONS**

### **A. DEPARTMENT OF HUMAN RESOURCES RESPONSIBILITY**

The Director of Human Resources, or his/her designee, shall be responsible for the review of all corrective actions involving written reprimands, suspensions, demotions, and/or termination of employment to ensure the policy is being consistently applied and to determine if mitigating circumstances exist that would justify modified corrective action.

### **B. DEPARTMENT/AGENCY HEAD RESPONSIBILITY**

Management is responsible to assure that discipline is administered in a fair and consistent manner. Departments/Agencies may from time to time supplement this policy to meet their needs subject to the prior written approval of the Director of Human Resources. Department Heads must ensure that all employees receive a copy of this disciplinary policy and any approved supplements.

### **C. MITIGATING CIRCUMSTANCES**

Mitigating circumstances include those conditions related to a given offense that would serve to support a reduction of corrective action in the interest of fairness and objectivity. Mitigating circumstances may also include consideration of an employee's long service with a history of satisfactory work performance. Mitigating circumstances will not be applicable to employees with a confirmed positive drug test and/or an alcohol test of .04 or more.

### **D. NOT ALL INCLUSIVE**

The offenses listed in this policy are not intended to be all inclusive. Accordingly, conduct which in the judgment of the Department/Agency Head, although not listed, seriously undermines the effectiveness of the department's/agency's activities or the employee's performance should be treated consistent with the provisions of this policy. A record of such corrective actions must be filed with the Department of Human Resources.

### **E. RIGHT TO GRIEVE DISCIPLINARY ACTIONS**

Employees should refer to the City's Grievance Policy, City Directive 2.07, regarding grievance rights.

APPROVED AS TO FORM AND CONTENT:

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10/5/2020  
Date

APPROVED AND ADOPTED:

C. M. Price  
Christopher M. Price, City Manager

12-22-20  
Date

Attachment: Disciplinary Guide