

Supplement to CD 2.11 - Disciplinary Policy

GUIDE TO DISCIPLINARY PROCESS AND PROCEDURE

The purpose of this guide is to provide supervisors with a fair and objective guideline for processing disciplinary actions after determining the seriousness of an employee's unsatisfactory work performance or misconduct.

I. INVESTIGATIONS

A. Questioning of Employees

Unless the nature or significance of the acts involved require otherwise, questioning of employees in regard to work-related conduct or performance should occur during the employees' normal work hours.

B. Alcohol and Drug Testing

The City is committed to having an alcohol and drug free workplace. Testing of employees for the presence of alcohol and/or drugs will be done consistent with the provisions of the City's Substance Abuse Policy Administrative Regulation 2.44.

C. Police Officers and Firefighters

Specific procedures for conducting investigations of police officers and firefighters are set out in state statutes. Supervisors in those departments should also consult those statutory provisions.

II. PROCEDURE BEFORE MAKING A FINAL DECISION ON DISCIPLINE

The Director of Human Resources or designated staff shall be responsible for review **prior** to implementation of all proposed disciplinary actions to ensure policy is being consistently applied and to determine if mitigating circumstances exist which would justify modified corrective action.

A. The following procedures must be followed before imposing a grievable disciplinary action upon a non-probationary full-time or part-time employee:

1. The employee must receive an oral and written Notice of Intent to Impose Disciplinary Action (NOI), with the employee's supervisor or other management representative attempting to meet with the employee and explain the charges.

2. The NOI must contain a statement of the reason(s) why discipline is being considered, the type of the offense, and an explanation of the evidence supporting the charges. It is not required that witnesses be present to give statements. Their evidence may be relayed to the employee by the supervisor or other management representative.
 3. The employee must have an opportunity to present an oral or written explanation prior to imposing disciplinary action. Even if the employee has been interviewed previously as part of the investigation, once the investigation has been completed and the charges and evidence are reviewed with the employee, the employee should be informed that he or she has the right to respond before a decision on discipline is made. The employee should be told that if he or she needs additional time to develop a response, including collecting documents or asking witnesses to provide information, the employee may have up to five (5) calendar days to do this. The employee does not have the right to have an attorney or other personal representative present when making this response.
- B. The above procedures are not required for probationary or seasonal/substitute employees. However, supervisors are encouraged to meet and talk with such employees before imposing disciplinary action.
- C. In the case of non-probationary firefighters and non-probationary police officers, state statutory provisions regarding the discipline of such employees should be consulted before discipline is imposed.
- D. These procedures shall in no way compromise or infringe upon the authority to immediately suspend an employee pending the outcome of investigations as provided for in Section VI, B of the Disciplinary Policy.
- E. The written NOI shall be hand-delivered to the employee or mailed by certified mail (return receipt requested). A copy of the notice shall be sent to the Director of Human Resources for inclusion in the employee's official personnel file.

III. NOTICE OF DISCIPLINARY ACTION

- A. All levels of discipline should be in written format. A Notice of Disciplinary Action (NDA) should have the following elements:
1. A statement of the reason(s) for the disciplinary action.

2. A statement of the employee's oral response and/or a copy or summary of the employee's written response.
 3. If the employee has received previous counseling or disciplinary action for this or a similar offense, a statement of the dates, the offense(s), and the action taken to correct the problem in the past.
 4. A statement of review of the employee's response along with other information gathered.
 5. A statement of what, if any, disciplinary action is to be taken.
 6. Where appropriate, a warning of what further disciplinary action could result if the situation is not corrected or other performance or conduct problems emerge.
 7. A statement of the employee's right to appeal (if any) in accordance with the City's Grievance Procedure. Police officers shall be informed of their rights to use either the City grievance procedure or the procedure afforded under the Law Enforcement Officers' Procedural Guarantees Act.
- B. If any notice of discipline fails to contain all of the elements required above, the employee's sole remedy shall be to make a request to the Director of Human Resources that the notice be modified.
- C. Supervisors and management representatives are encouraged to provide written notice to seasonal/substitute and probationary employees who are disciplined or terminated from employment, but notice is not required.