



Approved:

City of Riverside, California
Human Resources Policy and Procedure Manual

[Signature]
Human Resources Director

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City Manager

Number: III-1 Effective Date 11/2007

SUBJECT: DISCIPLINE

PURPOSE:

To establish basic causes for, determine types of, and provide guidelines concerning employee discipline and the disciplinary process.

DEFINITIONS:

Discipline - Action taken by the appointing authority or his/her designee to reinforce adherence to policies and procedures and correct conduct, behavior and/or performance which fall below acceptable standards and/or which violate rules, regulations, laws and policies; such action may penalize employees up to and including termination.

Progressive Discipline - The corrective process of applying penalties short of termination, or long-term demotion or suspension where conduct is of a less serious nature and the employee has not repeatedly engaged in such conduct. The nature of such discipline should be appropriate to the conduct and need not begin with the least serious disciplinary action. Acceptance of the principle of progressive discipline does not limit the City's authority to take appropriate action including termination, demotion or suspension for serious offenses which cannot and will not be condoned.

POLICY:

NOTE: Section 1, entitled "Disciplinary Situations," sets forth the standards applicable to all City employees; however, Sections 2-6 of the Discipline Policy do not apply to employees covered by the Public Safety Officers Procedural Bill of Rights Act, temporary, probationary or special class employees, or employees who are "at-will" (non-classified) employees either by City Charter, City Ordinance or other applicable law. FLSA Exempt employees shall not be subject to disciplinary pay docking for less than one week increments, except for violations of major safety rules.

1. Disciplinary Situations - The following are examples of performance or behavior that may result in disciplinary action. This listing is representative and does not exhaust all possible situations where disciplinary action may be required.
 - a. Dishonesty including, but not limited to, any deliberate falsification or misrepresentation, misleading or incorrect information in connection with the preparation of City records, such as employment applications, time cards or payroll records.

- b. Stealing, sabotage, willful damage, abuse or destruction of City property, tools or equipment, or the property or equipment of a supplier, customer or another employee, or failure to report any of the above, including removal of City property or the property of others without proper authorization.
- c. Use, possession, sale or being under the influence of alcohol or illegal drugs during assigned working hours or while on City property, or reporting to work under the influence of alcohol or illegal drugs.
- d. Unauthorized use, possession, conveyance or storage of any firearms, explosives, or other dangerous weapons.
- e. Insubordination, including actions involving a resistance to, or defiance of, or refusing to carry out a supervisor's/manager's lawful orders.
- f. The use of abusive or threatening language toward fellow employees, supervisors, suppliers, customers, or citizens.
- g. Fighting, coercing, interfering with, or threatening bodily injury to other employees, supervisors, suppliers, customers, or citizens.
- h. Unauthorized sleeping during assigned working hours.
- i. Causing damage to or loss of City property, or the property of others, through willfulness or carelessness.
- j. Leaving work location without first securing immediate supervisor's permission (restrooms excepted).
- k. Failure to observe City or Department working hour schedule(s), starting time(s), quitting time(s), rest and meal periods.
- l. Unsatisfactory or negligent job performance; inattention to duty; disruption in the workplace.
- m. The personal and/or inappropriate use of City material, time, personnel or equipment. Any action inconsistent with City or Departmental policies, practices and/or rules.
- n. Any act which endangers or tends to endanger the health, safety or the life of an employee or others, or interferes with the proper completion of work by the City or by other employees, including failure to obey City health and safety rules.
- o. Misuse or abuse of leaves of absence including, but not limited to, pattern and/or frequency of usage, or where it is reasonable to conclude that absences are not due to the reason(s) for which such leave is authorized. (Sick time used to care for a sick family member or registered domestic partner may not be counted against an employee¹ .)
- p. Unsafe operation of any motor vehicle or machinery on City property or while in the City's service.

¹ Labor Code Section 234.

- q. Smoking in restricted areas.
 - r. Distributing literature or soliciting on City property during working time without permission of the immediate supervisor.
 - s. Altering or tampering with any machine's safety device.
 - t. Signing another employee's time card or altering or defacing your own time card or that of another employee. Falsifying the actual hours worked on a time card.
 - u. Sexual harassment, or harassment for any reason, such as that based on race, color, religion, national origin, ancestry, age, marital status, pregnancy, sex, sexual orientation, veteran's status, or disability.
 - v. Job abandonment (workdays absent from duty without supervisory notification).
 - w. Illegal gambling on City time and/or on City property.
 - x. Excessive garnishments (3 or more in six months).
 - y. Act of physical violence and/or threatening language.
 - z. Violation of any law, statute or ordinance.
 - aa. Inappropriate use of the intranet, internet, or e-mail in accordance with City's Electronic Use Policy.
 - bb. Using City equipment and/or property for personal gain.
 - cc. Inappropriate attire.
 - dd. Taking City vehicles/equipment home for personal use.
 - ee. A suspension, revocation, cancellation or disqualification of a driver's license when a driver's license is required for the position.
 - ff. Failure to comply with the City's standards relative to drug and alcohol testing.
 - gg. Breach of confidential information
2. Types of Discipline - Disciplinary actions range from informal conversations to termination. An effective, reasoned system of disciplinary actions is based on the premise that the actions are to be corrective where appropriate, the actions are progressively more severe and the actions fit the nature of the problem. This last premise recognizes that the appropriate response to certain offenses need not be the disciplinary action listed as the first step in the progressive discipline process (i.e., counseling), but may be one of the more severe disciplinary actions listed below:
- a. Counseling - An informal discussion with an employee to clarify standards, evaluate strengths and weaknesses, or assist in clarifying and remedying a performance or behavior problem.

- b. Oral Reprimand - A verbal warning that specified performance or behavior must be improved.
 - c. Written Reprimand - Written notice that further disciplinary action shall be taken unless specified performance or certain behavior improves.
 - d. Suspension - The temporary removal of an employee from duty without pay. (Note: FLSA exempt employees shall not be subject to disciplinary pay docking for less than one week increments, except for violations of major safety rules.)
 - e. Reduction in Pay - The temporary reduction in pay of an employee's rate of pay.
 - f. Demotion - The removal of an employee from a presently assigned classification to a lower paying classification. (Note: This definition does not apply to assignment changes, reorganizations, or reductions in force [bumping] even where a pay differential is involved.)
 - g. Termination - The permanent removal of an employee from City service.
3. Pre-Discipline (Skelly) Process - The pre-discipline process normally shall apply in all cases where the disciplinary action involves employee property rights (i.e., loss or reduction of pay, suspension without pay, demotion, or termination). The following shall be required to fulfill due process rights and minimize risk of error in the decision to apply disciplinary action:
- (Note: Any proposed disciplinary action involving loss of pay and/or benefits must be reviewed by the Human Resources Department and the City Attorney's Office prior to issuing the "Notice of Intent" to the employee.)
- a. Notice of Proposed Action - The employee shall receive a written notice of the proposed disciplinary action.
 - b. Reason(s) for the Proposed Action - The employee shall be given the reason(s) for the proposed disciplinary action.
 - c. Materials Supporting Proposed Action - The employee shall be given a copy of, or be provided access to, written materials, reports, and documents, if any, upon which the action is based.
 - d. Right to Respond - The employee shall be accorded the right to respond, either orally or in writing, or both, either in person or through a representative, within a reasonable time period (10 working days in most instances), and to a level of management who can effectively and impartially recommend that the proposed disciplinary action be taken or not taken.
 - e. Notice of Determination - The employee shall receive a written notice of discipline, giving the original allegation(s), the determination as to the charges, the level of disciplinary action to be received, any final admonition(s), as applicable, and appeal rights. The employee shall be notified if no disciplinary action is to be taken.
4. Immediate Discipline - Employees may be immediately relieved from duty when, through their own actions, they have created situations wherein they may not

reasonably be expected to perform competently, or where their continued presence poses a threat to their own health or safety and/or the health and/or safety of others. Such conditions include, but are not limited to:

- a. Reporting to work intoxicated or in a physical or mental state that impairs performance
- b. Assaultive behavior or insubordination where immediate suspension is necessary to restore and/or maintain order and discipline.
- c. Blatant sexual harassment or harassment for any reason, such as that based on race, color, religion, national origin, ancestry, age marital status, pregnancy, sex, sexual orientation, veteran's status, or disability.

In such emergency conditions, the pre-disciplinary process should be initiated as soon as possible but need not occur prior to the imposing of some disciplinary action, and, at the discretion of the department head, such employee may be allowed to return to work at any time pending the pre-disciplinary process.

5. Employee Right to Representation - Any time an employee is to be disciplined (written reprimand, Skelly meeting, grievance meeting) or to be interviewed concerning a matter which the employee has reason to believe may lead to discipline, he/she has the right to representation. It is the employee's responsibility to request this representation, and any failure to request such shall constitute a waiver to representation at that stage.
6. Time Limits on Imposing Discipline - If disciplinary action is to be taken, it should generally be imposed within sixty (60) days of the act, occurrence or omission on which the action is to be based. The sixty-day time frame shall generally begin from the time the City gains knowledge, or should have gained knowledge, of the act, occurrence or omission. If for some legitimate reason the City cannot take action within sixty days, the City must present evidence at time of disciplinary action which shows the City was diligently pursuing an investigation of the act, occurrence or omission.

* NOTE: The section entitled "Disciplinary Situations" sets forth standards applicable to all City employees; however, the Discipline Policy itself does not apply to employees covered by the Police Officer's Bill of Rights, temporary, probationary or special class employees, or employees (e.g. department heads) who are "at-will" (non-classified) employees either by City Charter or other applicable law.

7. Corrective Approach to Discipline - Performance Evaluations - The following is an adjunct to the corrective approach to discipline. Rather than discipline per se the following is designed to avoid rewarding less than acceptable performance.

Improvement Required or Unsatisfactory Performance Evaluations - Notice that conduct or performance must be improved if the employee expects to be retained. These ratings may result in:

- 1) extension of a probationary period
- 2) reinstatement of a probationary period
- 3) loss of a merit step increase

Such ratings may, along with prior discipline, be utilized in evaluating the appropriate discipline to be applied to subsequent misconduct or incompetence.