

DISCIPLINE POLICY

I. PURPOSE

To provide a uniform and consistent policy for employee discipline and establish guidelines for management actions designed to correct the conduct of employees who have engaged in unacceptable behavior.

II. POLICY

Subject to the rights reserved in Section VIII, it is the policy of the City of Harlingen to use, when appropriate, positive measures and a process of progressive discipline to minimize and/or resolve employee performance or behavior problems before more serious actions must be taken.

III. POLICY GOAL

It is the goal of the disciplinary process to give employees, when appropriate, the opportunity to improve by identifying what specific actions they must take in order to meet behavior standards; and to ensure that disciplinary procedures are applied uniformly and consistently, in accordance with relevant facts, City policies, ordinances, and work rules.

IV. APPLICATION OF POLICY

1. Introductory Employees

This policy does not apply to introductory employees. An introductory employee may be discharged without right to re-

view or appeal unless otherwise required by law.

2. Regular Employees

Disciplinary situations involving employees who have completed their introductory period may be dealt with by progressive discipline.

V. PROHIBITED ACTIVITIES

Disciplinary action will be imposed for violations of City or Departmental policies and procedures, codes of conduct, rules and regulations, either written or verbal. In addition, acts which are not specifically addressed in policies and procedures, codes of conduct, and rules and regulations, yet may adversely affect the City or put the health and safety of fellow employees or citizens at risk, will also likely result in disciplinary action. It is impossible to list all the forms of behavior that are considered unacceptable in the workplace. The following are some examples of conduct that will likely result in disciplinary action, up to and including termination of employment:

- Theft or inappropriate removal or use of property not your own
- Falsification of timekeeping or other records, including employment application
- Working under the influence of alcohol or illegal drugs or abuse of legal drugs

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- Sexual or other unlawful harassment
- Excessive absenteeism or tardiness or absence without notice
- Breaks in excess of the allotted time allowed
- Violation of smoking policy
- Profanity or abusive language
- Violation of safety or health rules and failure to immediately report an on-the-job injury
- Coercion, intimidation, or threats against citizens, supervisors, coworkers, or City officials
- Making or publishing false, vicious, or malicious statements about the City, a coworker, or a supervisor
- Possession, distribution, sale, transfer, or use of alcohol, illicit drugs or illegal inhalants in the workplace, while on duty, or while operating City-owned equipment
- Interfering with work schedules or another employee's ability to work
- Misuse of City telephones, computers, mail systems, etc.
- Unauthorized disclosure of confidential information
- Violation of City or Departmental policies, codes of conduct, rules and procedures
- Failure to be considerate of coworkers, citizens or others
- Unsatisfactory performance or conduct
- Disruptive activity in the workplace
- Fighting, provoking or instigating a fight, or threatening violence in the workplace
- Conduct which results in waste or damage of coworkers', City or citizen-owned property
- Possession of weapons on City time, City premises, or while on City business (except for licensed peace officers and animal control officers required to carry a weapon as part of their job duties)
- Failure to timely return to work upon conclusion of authorized leave or disciplinary suspension
- Outside employment that conflicts with, or potentially conflicts with, City interests
- Insubordination or other disrespectful conduct
- Violation of local, state or federal laws
- Lying or willful omission of fact
- Failure or refusal to follow lawful orders
- Sleeping on the job (except for Fire Department personnel who are governed by applicable Fire Department Rules and Regulations)
- Dishonesty, including misrepresentation during hiring process

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VI. IMMEDIATE DISCIPLINE ACTION

Engaging in certain misconduct subjects an employee to immediate suspension and/or termination, rather than providing an opportunity for correction of behavior through progressive discipline.

VII. DISCIPLINARY STEPS

The following outlines the progressive discipline process. Depending on the circumstances of each individual case, disciplinary action may consist of one or more of the following:

A. INFORMAL DISCUSSION/COUNSELING

When a problem or behavior problem is first identified, the problem is discussed with the employee, along with the steps that need to be taken in an effort to resolve the problem.

B. EMPLOYEE WARNING

If counseling fails to produce the desired changes, the employee receives verbal notice of unacceptable behavior, and a warning that future unacceptable behavior may result in further discipline. The warning includes:

- The employee's name
- The date of the warning
- The specific offense and date of occurrence.
- A specific statement of expected performance.
- Any explanation or other information that is necessary to make the warning effective.
- Name of Supervisor issuing warning.

- Notation whether employee warning is being given during the employee's introductory period.

C. WRITTEN REPRIMAND

If the problem which was the subject of a verbal warning persists or if the employee engages in other unacceptable conduct, the employee may receive a written reprimand. In addition, the employee will be advised that continuation of the problem may lead to suspension without pay for a stated period of time and/or termination. The employee is provided an opportunity to demonstrate the behavior is not likely to occur in the future. The written reprimand includes:

- The employee's name
- The date of the warning
- The specific offense and date of occurrence
- References to previous verbal and/or written warning(s)
- A specific statement and date of expected performance and/or changes of behavior.
- Any explanation or other significant information.
- The employee's signature acknowledging receipt, or notation of refusal to sign
- Notation whether reprimand is being given during the employee's introductory period.
- Consequences

Records of all disciplinary actions must be kept in an employee's official personnel file.

D. DECISION MAKING LEAVE

Decision-making leave with pay is a positive form of discipline that may be appropriate in some situations. It may be used alone, as an

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alternative to other types of discipline, or in combination with other forms of discipline. The purpose of decision-making leave with pay is to give employees time to decide if they wish to remain employed by the City, and if so, if they can and will correct their behavior. Decision-making leave with pay may only be used one time for the same employee and cannot exceed one day or one shift, as appropriate.

E. SUSPENSION OR INVOLUNTARY DEMOTION

If verbal and written warnings fail to bring about a change in conduct, the employee, following an informal opportunity to present the employee's side of the story, may be suspended without pay, or involuntarily demoted and informed in writing that further occurrences will likely lead to notice of intent to terminate.

- There may be an investigative suspension with pay pending the completion of the City's investigation. If warranted, the investigative suspension may be replaced by suspension pending a termination review by the Human Resources Director or designee.
- The employee shall sign the notice of suspension or involuntary demotion acknowledging receipt of the notice or the employee's refusal to sign shall be noted.
- If the City determines no misconduct occurred, the City may, in its sole discretion, make the employee whole by reimbursing for lost pay, if any, and returning the employee to work.

Exempt employees may only be suspended without pay in week-long increments (e.g., one week or three weeks), unless the suspension is for a serious violation of City or departmental safety rules.

F. TERMINATION

When unacceptable conduct is severe enough or continues after verbal warnings (s), written warnings(s) and suspension, the City will initiate termination.

Following a termination review by the Human Resources Director or designee, a recommendation shall be sent to the City Manager for final review and written approval.

All termination notices shall be hand delivered or sent certified mail.

VIII. RIGHTS RESERVED

The City may bypass any or all of the disciplinary steps and begin the disciplinary process at any level, depending upon the severity of the conduct, the employee's work performance and prior disciplinary history, frequency or combinations of infractions, the employee's length of service and any mitigating circumstances.

A. OPPORTUNITY TO RESPOND

Where disciplinary action includes suspension of one day or one shift (or more), a reduction of an employee's rate of pay, involuntary demotion and/or termination, the employee will be given an opportunity to respond to the allegations prior to disciplinary action being taken.

B. REVIEW BY HUMAN RESOURCES DIRECTOR

Any proposed disciplinary action in excess of a employee warning must be reviewed by the Human Resources Director prior to being

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given to the employee. This applies to both introductory and non-introductory employees.

C. AT WILL PROVISIONS

All employees of the City of Harlingen, except for those covered by Civil Service, are at will employees and have no expectation of continued employment, promotion or any other personnel benefit including but not limited to, sick leave, vacation leave, compensatory time, group health and life insurance except as required by federal and state law.

Employees who do not have a written, individual employment contract, signed by the City Manager and the affected employee, for a specific, fixed term of employment, are employed at will. This means that no individual supervisor has the authority to create an employment contract with an employee for any specified length of time. Either the employee or the City may terminate the employment relationship at any time, for any reason, without notice or cause.

IX. FELONIES AND MISDEMEANORS

Employees must immediately notify their supervisor and/or their Department Director if they are arrested, charged, indicted, convicted, receive deferred adjudication, or plead nolo contendere to any misdemeanor or felony; provided, however, employees who do not drive as part of their job duties with the City are not required to report minor traffic violations. An employee arrested, charged or indicted for a felony or misdemeanor, or accused of official misconduct or other serious criminal violation, may be placed on administrative leave (with or without pay) until the charge, indictment or information is dismissed or fully

adjudicated without trial, and, if tried, until the trial and appeal (if any) are completed and all related administrative matters are concluded. Such a determination will be made by the appropriate Department Director and the City Manager. An employee on administrative leave may be reinstated to the position held before being placed on administrative leave (if available) if the indictment or information is dismissed, the employee is acquitted, or the conviction is reversed on appeal.

The City reserves the right to conduct criminal checks on employees at any time, to determine if an employee has been arrested, convicted or has otherwise disposed of a criminal charge. In the event an employee has failed to report an arrest, conviction, deferred adjudication or other disposition of a criminal matter, as required in this Section, the employee may be subject to disciplinary action up to and including discharge.

X. NO RIGHT OF APPEAL

There shall be no appeal of suspension, involuntary demotion or termination and the decision of the Manager is final.

XI. APPENDICES

- A. Employee Warning
- B. Written Reprimand
- C. Suspension

WRITTEN REPRIMAND

TO: (Employee's Name and Title)

FROM: (Supervisor's Name and Title)

DATE:

SUBJECT: Written Reprimand

Note to Supervisor---- check one:
Is employee on initial introductory period? ___Yes ___No

You are hereby notified that you are being reprimanded as a result of the following:

Reason For Action:

CHARGE: Violation of (specify written law, rule, regulation, policy, procedure, etc.)

SPECIFICATION: (Facts)

You shall refrain from further misconduct of this nature. Any recurrence in the future, or any other conduct that is a violation of City policies and procedures or not in the City's best interest will likely result in disciplinary action taken against you up to and including termination as outlined in Section 216 of the Personnel Policy.

Supervisor's Signature

Date

I acknowledge receipt of this memorandum.

Employee's Signature

Date

cc: Human Resources-Personnel File

EMPLOYEE WARNING

TO: (Employee's Name and Title)

FROM: (Supervisor's Name and Title)

DATE:

SUBJECT: Employee Warning

Note to Supervisor---- check one:
Is employee on initial introductory period? <input type="checkbox"/> Yes <input type="checkbox"/> No

You are hereby notified that you are receiving a verbal notice of unacceptable behavior as a result of the following:

Reason For Action:

CHARGE: Violation of (specify written law, rule, regulation, policy, procedure, etc.)

SPECIFICATION: (Facts)

You shall refrain from further misconduct of this nature. Any recurrence in the future, or any other conduct that is a violation of City policies and procedures or not in the City's best interest will likely result in disciplinary action taken against you up to and including termination as outlined in Section 216 of the Personnel Policy.

Supervisor's Signature

Date

I acknowledge receipt of this memorandum.

Employee's Signature

Date

cc: Human Resources-Personnel File

APPENDIX A

04/07/04

SUSPENSION

TO: (Employee's Name and Title)

Note to Supervisor---- check one:
Is employee on initial introductory period: ___Yes ___No

FROM: (Supervisor's Name and Title)

DATE:

SUBJECT: Suspension

You are hereby notified that you are being suspended without pay for (indicate number of working days) beginning on (date) thru (date). You are to report back to your assigned duties, as scheduled on (date).

Reason For Action:

CHARGE: Violation of (specify written law, rule, regulation, policy, procedure, etc.)

SPECIFICATION: (Facts)

You shall refrain from further misconduct of this nature. Any recurrence in the future, or any other conduct that is a violation of City policies and procedures or not in the City's best interest will likely result in disciplinary action taken against you up to and including termination as outlined in Section 216 of the Personnel Policy.

Manager's Signature

Date

I acknowledge receipt of this memorandum.

Employee's Signature

Date

cc: Human Resources-Personnel File