

CITY OF REDDING
Personnel Policies and Procedures Manual

Section: Miscellaneous Policies

Subject: Discipline Policy

Personnel Director: Smela Johnson

Date: 6-7-05

City Manager: Michael W. Lewis

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SECTIONS:

- 1.1 Discipline Policy
- 1.2 Exempt Employees
- 1.3 Causes for Discipline
- 1.4 Types of Discipline
- 1.5 Procedure for Initiating Discipline
- 1.6 Prediscipline Procedure
- 1.7 Implementation of Discipline
- 1.8 Notice of Discipline

1.1 DISCIPLINE POLICY.

In order to establish standards of conduct and work performance for Employees that are consistent with the efficient and effective delivery of public services, and to maintain the integrity of employment where public interest is vital, the City hereby sets forth those circumstances under which disciplinary action may be required and the procedures under which such actions may occur, which will afford Employees fair treatment and due process.

To ensure equitable processing of disciplinary actions, the Department Director shall be responsible for the proper handling of such matters, including the assurance that Employee rights are protected and that appropriate action is taken when circumstances warrant. Managers/Supervisors of the City who are responsible for recommending or implementing disciplinary action shall do so based on the procedures prescribed herein.

The provisions of any Memorandum of Understanding supercede this policy.

1.2 EXEMPT EMPLOYEES.

No discipline will be proposed or implemented on an Exempt Employee that would violate the Fair Labor Standards Act (FLSA). City Manager approval is required for any suspension of more than three (3) days.

1.3 CAUSES FOR DISCIPLINE.

The following may be causes for the City to initiate disciplinary action including Reprimand, Demotion, Reduction in pay, Suspension, or Termination of any Employee, pursuant to these rules and regulations. The causes cited below are examples and are listed to alert Employees to the more commonplace types of disciplinary issues. However, because human conduct is unpredictable, there may arise instances of unacceptable behavior not included in the list given below, in which the City may find it necessary and appropriate to initiate disciplinary action. In such cases, the rules governing discipline shall prevail as if the unlisted cause, issue or infraction were listed as follows:

A. Attendance

1. Improper, excessive, or unauthorized use or abuse of sick leave. An example of excessive use is a pattern of continual low or zero sick leave balance without a specific chronic or long-term illness or injury. An example of sick leave abuse is calling in sick leave when an employee is not actually sick.
2. Being absent without authorized leave;
3. Repeated tardiness to assigned workplace, or leaving assigned workplace without authorization.

B. Behavior

1. Willful or negligent violation of the personnel rules, regulations, and policies (including, but not limited to, the Employee Conduct and Honesty Policy), resolutions, and other related documents including departmental rules, regulations, standard operating procedures, and policies;
2. Insubordination (failure to carry out a direct order from a Supervisor, unless the order would cause a safety violation or a violation of law to occur);
3. Acceptance of gifts or gratuities in connection with or relating to the Employee's duties for personal gain or in exchange for favors;
4. Conduct that is unbecoming a City Employee that tends to discredit the City or City service, including the wearing of City-identified uniforms off duty into a public or private establishment the nature of which adversely reflects upon the City, or willful misrepresentation of the City;
5. Conviction of a crime, the nature of which reflects a possibility of serious consequences related to the continued assignment or employment of the Employee;
6. Dishonesty in verbally presenting information or falsifying information related to employment application, payroll, or any work related record or report;

7. Soliciting outside work for personal gain during the conduct of City business; engaging in outside employment for any business under contract by the City, indulging in any outside employment that adversely affects the Employee's City work performance; or engaging in unauthorized work outside employment;
8. Violation of City Policy - (Personnel Manual Page No. 17.50), Violence in the Workplace, including that policy's prohibition against use of certain speech toward the public or fellow employees;
9. Engaging in political activities while on duty;
10. Violation or neglect of safety rules or failure to comply with established safe practices, including the use of personal protective equipment provided by the City;
11. Failure to timely report involvement in an accident occurring while on duty, or involving City equipment, or giving false information on Incident Reports;
12. Theft;
13. Instigation of physical altercations, threats or harassment. This includes on-duty and off-duty incidents in which the Employee involved has been clearly identified as a City employee; for example, an Employee wearing a City shirt and driving a City vehicle gets into an altercation on the way home from work; (This excludes law enforcement employees responding to legitimate public concerns.)
14. Any act or conduct that is discriminatory or harassing in nature toward another person's race, color, ancestry, national origin, religious creed, sex, disability, age, marital status, medical condition, sexual preference, political affiliation, or membership or nonmembership in any organization;
15. Possession of weapons, as defined in the Workplace Violence Policy, while on duty or on City property. (This excludes the required weapons carried by Police and Fire personnel.)

C. Work Performance.

1. Inefficiency, incompetence, or negligence in the performance of duties, including failure to perform assigned tasks following written or documented oral notice of the supervisor's previous observation of inefficiency, incompetence, or negligence;
2. Refusal or inability to improve substandard job performance in accordance with written or verbal direction after reasonable trial period;
3. Refusal to accept reasonable and proper assignment from an authorized Supervisor, as delineated in the job specification or duties related to those in the Employee's classification specification.

4. Intoxication:
 - a. Intoxication, or incapacity on duty due to the use of alcohol or drugs (including prescription drugs); or illegal possession or distribution of drugs, possession of alcoholic beverage(s) while on duty; (Except authorized possession by an under cover police officer.)
 - b. Driving under the influence of alcohol or drugs while on duty;
5. Careless, negligent, or improper use of City property, equipment or funds, including unauthorized removal, or use for private purpose, or use involving unreasonable damage or unreasonable risk of damage to property;
6. Unauthorized release of confidential information or official records for which the employee has been trained to recognize as such;
7. Suspension of driver's license where job duties require driving except where an Employee's classification specification requires the mere possession of a driver's license and driving duties are not critical to the performance of the Employee's typical duties as listed in said classification specification.

1.4 TYPES OF DISCIPLINE.

Depending on the nature and circumstance(s) of an incident, discipline shall be progressive and shall bear a reasonable relationship to the violation. However, the City reserves the right to start at any level, including termination, depending on the violation. All disciplinary issues involving loss of pay in excess of three (3) working days/shifts must be approved by the Department Director and the Personnel Director and the City Manager must be informed of such action. An Employee may request the presence of a union representative for any discipline listed below. Appeal of disciplinary actions involving loss of pay (Sections D through G) will begin at the Department Director level.

- A. **Counseling Memorandum.** A written counseling memorandum is used to clarify verbal agreements and possible behavior changes needed between a Supervisor and an Employee. This memorandum does not become a part of the Employee's permanent personnel file; however, it shall be considered relevant evidence in any hearing resulting from subsequent disciplinary action. The counseling memorandum is normally kept in the Supervisor's or Division file; it may also be codified in the next performance evaluation.
- B. **Oral Reprimand.** An oral statement (warning notice) that is recorded in writing by the Supervisor to an Employee, usually pointing out an unsatisfactory element of job performance, and is intended to be corrective or cautionary. An oral reprimand informally defines the area of needed improvement, sets up goals for the achievement of improvement, and informs the Employee that failure to improve may result in more serious actions.
 1. The oral reprimand shall be delivered confidentially and not in the presence of other persons, if at all possible. The Supervisor will record the date and content of the oral reprimand, but no record shall be placed in the Employee's permanent personnel file.

2. It shall be kept in the Supervisor's file and be considered relevant in any performance evaluation or as evidence in any hearing resulting from subsequent disciplinary action.
 3. The Employee receiving an oral reprimand shall be given the opportunity, at the time of the reprimand, to voice objections to the reprimand and/or offer evidence in writing in mitigation of the actions leading to the reprimand within five (5) working days.
- C. **Written Reprimand.** The written reprimand is normally issued by the Supervisor with approval of the Division Manager and the Director, if appropriate. The written reprimand shall be issued with the same parameters as B (1) and (2) above, except that a copy shall be placed in the Employee's permanent personnel file. Written reprimands are not subject to the grievance procedure as delineated in the bargaining units' Memorandums of Understanding and the Unrepresented Employee Benefit Policies, but a response may be attached prior to the reprimand being placed in the Employee's permanent personnel file. (Law enforcement officers have the right to appeal written reprimands.) After two and one-half (2 ½) years from the date of a written reprimand, the employee may request that the reprimand be removed from their personnel file. The request shall be directed to the Personnel Director who shall have the discretion regarding the granting of the request. Any denial of such a request must be in writing and must include reasons for such denial.
- D. **Salary Reduction.** A Division Manager may recommend to the Department Director that an Employee receive a salary decrease of one or more steps within the limits of the pay range established for a classification as a disciplinary measure, for a period of at least (1) pay period and not more than one (1) year. If performance is still below standard after one (1) year, the Employee may be subject to further discipline.
- E. **Suspension.** A Division Manager may recommend to the Department Director that an Employee be suspended without pay at any time for cause in accordance with due process up to the equivalent of three (3) consecutive work days and not more than once in a thirty (30)-day calendar period. The suspension shall be reported immediately to the Personnel Director. The Department Director must obtain approval from the City Manager, for suspensions in excess of three (3) consecutive days. Suspension without pay shall not exceed thirty (30) consecutive working days in a fiscal year. (Municipal Code Section 2.76.050 - Suspension)
1. **Short Term: Suspension Without Pay.** An Employee suspended for up to three (3) working days, shall be notified in writing by First Class mail to the Employee's last known address and in person, at least ten (10) working days prior to the effective date of the action.
 2. **Long Term: Suspension Without Pay.** An Employee suspended for four (4) to thirty (30) consecutive working days shall be notified in writing by First Class mail to the Employee's last known address and in person, at least ten (10) working days prior to the action.

3. **Emergency Suspension: With Pay.** Under certain circumstances, it may be necessary to immediately restrict an Employee from performing duties at the work site. Such circumstances involve potential danger to the Employee, co-workers, or the public, or the Employee's inability to discharge assigned duties satisfactorily. Because of the need for immediate action, the decision to suspend an Employee is typically the responsibility of the Supervisor. Because any emergency suspension is undertaken prior to granting the Employee due process, the emergency suspension will be with pay. In these situations, the following procedure shall be followed:
 - a. The Supervisor taking the action to suspend an Employee will immediately notify the Division Manager and prepare a written statement of the action taken, including the reasons for such action.
 - b. The Division Manager shall notify the Director of the action and schedule a conference with the Personnel Director for the purpose of evaluating and preparing the statement of charges and documenting supporting evidence.
 - c. As soon as possible after the initial action, but not later than five (5) working days, the Division Manager through the Director shall prepare a written notification to the affected Employee.
4. In no event shall the use of paid time be allowed during a period of Suspension Without Pay. For example, should a paid holiday occur during a period of Suspension Without Pay, the employee will not be paid for such holiday, thus maintaining the length of the Suspension as that which was previously prescribed.

- F. **Disciplinary Demotion.** A Division Manager may recommend to the Department Director that the Employee be moved from one Classification to a Classification of work having lower responsibilities, skills, performance requirements and a lower rate of pay. No Employee shall be demoted to a position for which the minimum qualifications are not possessed.
- G. **Termination.** A Division Manager may recommend to the Department Director, the termination of a Regular Employee from City service for cause. Probationary Employees may be terminated at any time without cause. The approval of the City Manager is required.
- H. Upon notice, employees have the right to inspect any files containing information regarding their employment.

1.5 PROCEDURE FOR INITIATING DISCIPLINE.

The Supervisor contemplating disciplinary action consisting of salary Reduction, Disciplinary Demotion, Suspension or Termination against an Employee shall consult with the Division Manager, the Department Director and the Personnel Director, to determine the appropriateness, type and process for initiating discipline. The purpose of such conference is to evaluate the cause(s), charge(s), supporting evidence and, where appropriate, the recommendation to the City Manager. The result of such conference may be the decision to abandon, modify or continue the proposed disciplinary action. Supervisors/Managers may impose counseling memorandums, oral reprimands, and written reprimands. Department Directors may suspend without pay, reduce pay, demote, or terminate an Employee. (See suspension limits in Section 1.4[E].)

1.6 PREDISCIPLINE PROCEDURE.

Regular Employees subject to discipline other than counseling, oral or written reprimands, are entitled to prior notice of the intention to discipline and an opportunity to be heard.

- A. The person recommending that discipline be imposed shall give written notice to the affected Employee of the proposed action at least ten (10) working days (five [5] for three [3] days or less) prior to proposed date of implementation of discipline, except as outlined in Section 1.4(E)(3) above. Such notice shall, at a minimum contain:
1. A statement of the discipline proposed and its effective date(s).
 2. A statement of the reasons for imposing it and a description of the particular performance issues or personnel rule(s) or regulation(s) violated.
 3. Any supporting material or documentation and a statement of the Employee's right to review all relevant documents and materials.
 4. A statement of the Employee's right to respond orally or in writing to the specific person who will determine whether or not to impose the discipline within ten (10) calendar days.
 5. A statement of the Employee's right to have a Union Representative at any disciplinary meetings.
- B. The person to whom the recommendation to discipline is made (normally either the Division Manager or the Director) shall review the recommendation and any materials, documents or arguments submitted on behalf of the affected Employee in determining whether to impose discipline as recommended.

1.7 IMPLEMENTATION OF DISCIPLINE.

Following any pre-disciplinary procedure required above, the person imposing discipline shall serve the affected Employee with a written notice of the imposition of discipline. Such notice shall, at a minimum be delivered within ten (10) calendar days of any pre-disciplinary appeal by the Employee and contain:

- A. A statement of the discipline and its effective date;
- B. A statement of the reasons for imposing it and the particular personnel rule(s) or regulation(s) violated;
- C. Copies of any supporting material or documentation and a statement of the Employee's right to review all relevant documents and materials;
- D. A statement of the Employee's right to appeal the imposition of the discipline including a deadline to respond. Attach a copy of the Grievance Procedure from the appropriate Memorandum of Understanding.

1.8 NOTICE OF DISCIPLINE.

Service of any notice upon Employees required by this chapter shall be deemed to have been made upon personal presentation (signature and date denoting delivery of Notice of Discipline required when presented in person) and by mail; postage prepaid, in the U.S. mail, addressed to the Employee at the last address the Employee has on file with the Personnel Office of the City, return receipt required.