

ADOPTED BY THE BOARD OF PUBLIC WORKS ON JUNE 20, 2007

TO ALL EMPLOYEES OF THE DEPARTMENT OF PUBLIC WORKS

SUBJECT: GUIDE TO EMPLOYEE DISCIPLINE

This Guide is consistent with the guidelines adopted and used by the Civil Service Commission in its review of disciplinary appeals. Departmental supervisors and managers are directed to use this Guide together with Departmental past practice, as a source for determining appropriate actions when recommending employee discipline.

Violence in the workplace is a major concern of the Board of Public Works. **The Board believes there is no excuse for one employee to assault or threaten another employee.** Every employee is entitled to a violence-free workplace.

Supervisors shall be held to a higher standard of accountability.

**DEPARTMENT OF PUBLIC WORKS****GUIDE TO EMPLOYEE DISCIPLINE**

This guide lists various offenses, and job performance or behavior standards which should be considered in determining whether an employee's actions constitute an offense subject to discipline. Not all possible offenses are listed; only those which are of greater significance and/or are most common. Various levels of corrective actions for first, second, and third offenses are also presented. These corrective actions are recommendations only and are offered for general reference. The appropriate action for a specific disciplinary case may be either more or less severe, depending on the circumstances of the case. For instance, management should exercise its discretion in recognizing that a single minor offense by a long-term employee with a good work record could be less severe than if committed by a relatively new employee with a poor work record. Progressive discipline requires that repeated offenses should normally carry more severe corrective actions than first offenses. A pattern of offenses after successive corrective actions should ultimately result in discharge.

An offense is considered a "first" offense the first time formal action is taken by the supervisor under the applicable section of this guide. An offense should be considered as a "second" or "third" offense only when it is of the same general nature (not necessarily identical) as the previous offense and the undesirable action has been pointed out to the employee previously. When a previous offense has occurred, the time elapsed between that offense and the current offense should be considered in determining the corrective action.

On some occasions, an employee may commit more than one kind of offense at the same time. Generally, the discipline imposed should not be determined by simply adding together the correct actions for each offense. In such cases, the appropriate corrective action should be selected from the range of actions applicable for the most serious offense and the severity of the disciplinary action should be determined after considering the less serious offenses.

Similarly, an employee may commit various kinds of offenses over a period of time. If the offenses are completely unrelated, they cannot be treated as second and/or third offenses. Nevertheless, all past offenses in the absence of any intervening pattern of good conduct are indicative of a pattern of unsatisfactory behavior and should be considered when determining an appropriate corrective action. Including a statement of "requiring excessive supervision" or "continued failure to observe commonly accepted levels of behavior" in the list of specific charges may be appropriate as a means of connecting unrelated types of offenses committed by a problem employee.

Employees in supervisory positions and those performing safety/security functions are generally expected to demonstrate a higher level of conscientiousness and integrity with respect to their employment. Accordingly, these employees may be subject to more severe levels of discipline for violations of behavior and/or performance standards because they are held to a higher standard of conduct.

**NOTE: FLSA exempt (salaried) employees can only be suspended without pay in increments of a full FLSA workweek (half of the biweekly pay) unless the suspension is a result of a violation of a safety rule of major significance.**

**A. MISCONDUCT, ON OR OFF THE JOB, SERIOUSLY REFLECTING ON CITY EMPLOYEES OR EMPLOYMENT**

Standard: Employees must perform their duties in a manner that earns and maintains the trust and respect of their supervisors, other employees, and the public.

<u>OFFENSE</u>	<u>SUGGESTED ACTIONS</u>		
	<u>FIRST OFFENSE</u>	<u>SECOND OFFENSE</u>	<u>THIRD OFFENSE</u>
1. Using official position or office for personal gain or advantage.	Written Notice to Discharge	10 days Suspension to Discharge	Discharge
2. Engaging in any activity which constitutes a conflict of interest.	Written Notice to 30 days Suspension	6 days Suspension to Discharge	Discharge
3. Accepting favors or gratuities for services required on the job.	Written Notice to Discharge	6 days Suspension to Discharge	Discharge
4. Disclosing confidential information.	1 day Suspension to Discharge	10 days Suspension to Discharge	Discharge
5. Misconduct, on or off the job, seriously reflecting on City employees or employment.	1 day Suspension to Discharge	10 days Suspension to Discharge	Discharge
6. Engaging in illegal behavior or conduct in conflict with job duties, on or off the job.	Written Notice to Discharge	10 days Suspension to Discharge	Discharge

**B. JOB PERFORMANCE BELOW STANDARD**

Standard: Employees must provide a high quality of service to the public and must consistently perform their duties effectively and efficiently.

<u>OFFENSE</u>	<u>SUGGESTED ACTIONS</u>		
	<u>FIRST OFFENSE</u>	<u>SECOND OFFENSE</u>	<u>THIRD OFFENSE</u>
1. A violation of departmental/bureau rules.	Oral Warning to 5 days Suspension	6 days Suspension to Discharge	Discharge
2. Requiring excessive supervision or instruction in performance of duties after completion of training for the position.	Oral Warning or Written Notice	Written Notice to 5 days Suspension	6 days Suspension to Discharge
3. Misusing, or failing to use, delegated authority in the performance of duties.	Oral Warning to 5 days Suspension	6 days Suspension to Discharge	Discharge
4. Personal appearance and hygiene not appropriate for the job in terms of employing department's standards and job safety.	Oral Warning or Written Notice	Written Notice to 5 days Suspension	6 days Suspension to Discharge
5. Failure to perform work assignments adequately or promptly.	Oral Warning to Discharge	1 day Suspension to Discharge	Discharge
6. Failure to carry out supervisory responsibilities adequately.	1 day Suspension to Discharge	5 days Suspension to Discharge	Discharge

7. Failure to remain alert and responsive while on duty, for example: sleeping on the job.	Written Notice to Discharge	5 days Suspension to Discharge	10 days Suspension to Discharge
8. Failure to improve work performance to an overall level of competency after repeated counseling.	Oral Warning to Discharge	1 day Suspension to Discharge	Discharge
9. Failure to meet a condition of employment (e.g.: loss of license).	Discharge		

**C. ATTENDANCE AND TARDINESS**

Standard: Employees must report for work as scheduled, unless ill, injured, or involved in an emergency.

<u>OFFENSE</u>	<u>SUGGESTED ACTIONS</u>		
	<u>FIRST OFFENSE</u>	<u>SECOND OFFENSE</u>	<u>THIRD OFFENSE</u>
1. Unexcused, excessive or patterned absenteeism.	Written Notice to 5 days Suspension	6 days Suspension to Discharge	Discharge
2. Failure to follow established procedure for notification of inability to report for work.	Oral Warning or Written Notice	Written Notice to 5 days Suspension	6 days Suspension to Discharge
3. Leaving assigned work location without proper approval or appropriate reason.	Written Notice to Discharge	1 day Suspension to Discharge	10 days Suspension to Discharge
4. Frequent or unexcused tardiness.	Oral Warning or Written Notice	Written Notice to 10 days Suspension	10 days Suspension to Discharge
5. Absence without valid leave (continuous unexcused absence of at least two weeks)	Discharge		

**D. IMPROPER BEHAVIOR WITH SUPERVISORS, FELLOW EMPLOYEES, OR THE PUBLIC**

Standard: Employees must cooperate and work well with the public, supervisors and co-workers.

<u>OFFENSE</u>	<u>SUGGESTED ACTIONS</u>		
	<u>FIRST OFFENSE</u>	<u>SECOND OFFENSE</u>	<u>THIRD OFFENSE</u>
1. Refusal to perform reasonable work assignments or to cooperate with supervisors or management in the performance of duties (insubordination).	6 days Suspension to Discharge	Discharge	
2. Failure to cooperate with or using abusive language toward or making inappropriate statements to the public, supervisors, or co-workers.	Oral Warning to 5 days Suspension	Written Notice to Discharge	6 days Suspension to Discharge
3. Disrupting the work of other employees.	Oral Warning or Written Notice	Written Notice to 5 days Suspension	6 days Suspension to Discharge
4. Making threats (verbal or non-verbal) or engaging in a confrontation with the public, supervisors or co-workers. (See Note)	6 days Suspension to Discharge	Discharge	
5. Making false, vicious, or malicious statements about any employee, or City government or management.	Oral Warning to 30 days Suspension	6 days Suspension to Discharge	Discharge
6. Actions on the job or on City property intended to destroy property or to inflict bodily injury (whether or not the destruction or injury actually occurs).	Written Notice to Discharge	Discharge	

7. Failure to provide information related to work to supervisors or others requiring the information.	Written Notice to 10 days Suspension	6 – 30 days Suspension	Discharge
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Note: Employees who: (1) make threats or engage in confrontational behavior; (2) possess and/or use without authorization weapons on City property or on the job; or, (3) engage in actions on the job or on City property intended to destroy property or to inflict bodily injury represent a potential Workplace Violence threat. Such behavior must be brought to the attention of a supervisor and/or manager and steps taken to convene the employing department’s Workplace Violence Assessment team. Refer to the City’s Workplace Violence Policy for guidance in handling these matters.

**E. GAMBLING, DRUNKENNESS, OR USE OF LIQUOR OR NARCOTICS**

Standard: While at work, employees must not do anything which would impair their ability to perform their duties, or which would discredit the City and its employees.

<u>OFFENSE</u>	<b>SUGGESTED ACTIONS</b>		
	<u>FIRST OFFENSE</u>	<u>SECOND OFFENSE</u>	<u>THIRD OFFENSE</u>
1. Operating or conducting organized gambling for profit on the job, on City property, or using City equipment.	10 days Suspension to Discharge	Discharge	
2. Use of alcoholic beverages or controlled substances while on duty.	10 days Suspension to Discharge (See Note below)	Discharge (See Note below)	
3. Reporting for duty under the influence of drugs or alcohol which results in unfitness to work.	10 days Suspension to Discharge (See Note below)	Discharge (See Note below)	
4. Operating City vehicles or other equipment while under the influence of any alcoholic beverage, or any drug(s) or narcotic(s) which could impair operative capability.	20 days Suspension to Discharge	Discharge	
5. Illegally possessing or using drugs or narcotics on the job site or on City property.	10 days Suspension to Discharge	20 days Suspension to Discharge	
6. Positive drug or alcohol test resulting from a for-cause test administered under the provisions of the United States Department of Transportation Drug and Alcohol Testing Policy.	20 days Suspension to Discharge	Discharge	
7. Positive drug or alcohol test resulting from a random test administered under the provisions of the United States Department of Transportation Drug and Alcohol Testing Policy.	5 days Suspension to Discharge	20 days Suspension to Discharge	Discharge
8. Failure to maintain himself/herself in a fit and suitable condition for employment as evidence by a positive substance test (non-DOT).	5 days Suspension to Discharge	20 days Suspension to Discharge	Discharge

Note: The suggested action may be: (1) reduced in severity if the employee successfully participates in an alcoholism or drug abuse rehabilitation program; or (2) delayed during employee participation in the program, depending on progressive rehabilitation and improvement of job performance. The supervisor should make every effort to have the employee taken home safely and to ensure that the employee is released to the custody of another responsible person.

**F. SAFETY VIOLATIONS**

Standard: All employees must perform their duties in a safe manner.

<u>OFFENSE</u>	<u>SUGGESTED ACTIONS</u>		
	<u>FIRST OFFENSE</u>	<u>SECOND OFFENSE</u>	<u>THIRD OFFENSE</u>
1. Operating City equipment unsafely and/or without the required equipment.	Written Notice to 5 days Suspension	5 days Suspension to Discharge	Discharge
2. Causing or contributing to an accident by operating City equipment in an unsafe manner.	1 day Suspension to Discharge	6 days Suspension to Discharge	Discharge
3. Violating safety rules or practices which endanger the employee or others or damages City property or equipment.	Written Notice to 20 days Suspension	6 days Suspension to Discharge	Discharge
4. Playing tricks or jokes, or engaging in horseplay on the job which may lead to injury to employees or others, or damage to equipment or property.	Written Notice to 10 days Suspension	10 days Suspension to Discharge	Discharge
5. Creating unsanitary conditions.	Oral Warning to 5 days Suspension	6 days Suspension to Discharge	Discharge
6. Failure to carry out supervisory responsibility to ensure a safe work environment.	Written Notice to 5 days Suspension	5 days Suspension to Discharge	Discharge

**G. FRAUD, DISHONESTY, THEFT, OR FALSIFICATION OF RECORDS**

Standard: City employees must demonstrate personal integrity and honesty both in securing employment and in the performance of their duties.

<u>OFFENSE</u>	<u>SUGGESTED ACTIONS</u>		
	<u>FIRST OFFENSE</u>	<u>SECOND OFFENSE</u>	<u>THIRD OFFENSE</u>
1. Soliciting, accepting, or offering a bribe.	Discharge		
2. Theft of or aiding in the theft of cash, or City property or equipment, as established by proper investigation.	Discharge		
3. Intentionally destroying City equipment, property or records without proper authorization.	10 days Suspension to Discharge	Discharge	
4. Providing false information in connection with the employment application process.	Discharge		
5. Falsifying time reports, mileage reports, expense accounts or similar work oriented documents, falsely claiming sick or allowed pay, falsifying reasons for absence..	5 Days Suspension to Discharge	Discharge	
6. A finding of Workers' Compensation fraud as a result of a proper investigation.	Discharge		
7. Using City time, property or equipment without authorization.	Written Notice to Discharge	6 days Suspension to Discharge	Discharge
8. Unauthorized possession of City equipment or property.	1 day Suspension to Discharge	10 days Suspension to Discharge	Discharge
9. Unauthorized removal and/or use of City equipment or material in fabricating articles for private use.	Written Notice to Discharge	5 days Suspension to Discharge	Discharge

10. Failure to exercise proper supervisory oversight to protect City assets.	Written Notice to Discharge	5 days Suspension to Discharge	Discharge
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**H. DISCRIMINATION/HARASSMENT**

Standard: City employees are expected to comply with Federal and State laws and regulations and City policies, including applicable mayoral directives, ensuring equal employment opportunity and a discrimination/harassment-free workplace. City employees are expected to demonstrate sensitivity to and respect for individual and personal differences when working with other employees and the public. Actions that create a hostile, offensive, threatening or intimidating work environment will not be tolerated.

<u>OFFENSE</u>	<u>SUGGESTED ACTIONS</u>		
	<u>FIRST OFFENSE</u>	<u>SECOND OFFENSE</u>	<u>THIRD OFFENSE</u>
1. Failure to comply with City policies on equal employment opportunity, including but not limited to, the recruitment, selection, promotion, training, or disciplining of employees.	Oral Warning to Discharge	Discharge	
2. Demonstrating insensitivity to others by making derogatory comments, epithets, jokes, teasing, remarks, or slurs or making suggestive gestures or displaying images or written material that derogatorily depict or demean people.	5 days Suspension to Discharge	Discharge	
3. Retaliating against an employee for filing a discrimination complaint, for participating in a discrimination complaint investigation, or for opposing discriminatory actions.	5 days Suspension to Discharge	Discharge	
4. Supervisory Standard: Failure to maintain a harassment-free workplace for subordinates; failure to foster a discrimination-free workplace by one's own individual actions or failure to act; or allowing subordinates to retaliate against an employee for filing a discrimination complaint, for participating in a discrimination complaint investigation, or for opposing discriminatory actions.	5 days Suspension to Discharge	Discharge	

**I. SEXUAL HARASSMENT**

Standard: City policy and Federal and State law prohibit sexual harassment in the workplace. Supervisors are required to ensure and maintain a working environment free of sexual harassment, intimidation, and coercion. City employees are expected to conduct themselves in a manner that fosters a workplace environment which is free from conduct that is hostile, offensive, threatening, or intimidating, or that interferes with an individual's work performance. Some of these violations, if proved, may also constitute crimes under local and/or state law. Departments should take appropriate measures to report such actions and to advise their employees about reporting such actions that have occurred on City property or involving City employees.

<u>OFFENSE</u>	<u>SUGGESTED ACTIONS</u>		
	<u>FIRST OFFENSE</u>	<u>SECOND OFFENSE</u>	<u>THIRD OFFENSE</u>
1. Sexual Favors: Implicit or explicit coercive pressure for sexual favors	20 days Suspension to Discharge	Discharge	
2. Physical:	Discharge		
a. Any physical conduct or act of a sexual nature, involving the use of force or the threat of force.			
b. Unwelcome physical contact in sexual areas, including but not limited to breasts, buttocks, or genitalia.	20 days Suspension to Discharge	Discharge	
c. Unwelcome touching, rubbing, or any type of physical contact and/or conduct toward other employees, which is sexually suggestive.	1 day Suspension to Discharge	Discharge	
3. Verbal: Demonstrating insensitivity to others by making derogatory comments, epithets, jokes, teasing, remarks, slurs, or questions of a sexual nature	Oral Warning to 20 days Suspension	Discharge	
4. Visual: Demonstrating insensitivity to others through non-verbal actions, such as making sexually suggestive gestures; displaying sexually explicit objects, pictures, cartoons, or posters; leering; unwanted letters, gifts, and/or materials of a sexual nature	Oral Warning to 20 days Suspension	Discharge	
5. Hostile Work Environment: Repeated, unwelcome, unwanted actions as described in #1, #2, #3, and/or #4 which create or could lead to a hostile, offensive, threatening, or intimidating work environment	10 days Suspension to Discharge	Discharge	
6. Retaliation: Retaliating against an employee for filing a sexual harassment complaint, for participating in a sexual harassment complaint investigation, or for opposing discriminatory actions	10 days Suspension to Discharge	Discharge	
7. Supervisory Standard: Failure to take appropriate action to correct and eliminate sexual harassment from the workplace; failure to foster a discrimination free workplace by personal actions or conduct; or allowing subordinates to retaliate against an employee for filing a sexual harassment complaint, for participating in a sexual harassment complaint investigation, or for opposing discriminatory actions	20 days Suspension to Discharge	Discharge	