



Subject: Disciplinary Policy
Effective Date: 10/18/2016
Department: Human Resources
Revised Date: [Policy Revised Date]

Revision: 2
Policy Number: HRM-322
Rescinded Date: [Policy Rescinded Date]

To All City Employees:

I. Purpose

The purpose of this policy is to ensure that all employees follow the necessary rules, regulations, policies and guidelines applicable to their performance and behavior as they work to serve the Durham community. The policy is designed to secure the rights and safety of all City employees and to provide working guidelines to assure equitable and business like department and performance that effectively serves the community.

II. Policy

Each situation is unique and the City reserves the right to treat violations of its rules, regulations, policies, guidelines or other performance expectations on an individual basis without creating a binding precedent for other cases which may arise in the future. Examples set forth in this policy are intended to serve as guidelines and are not all-inclusive.

This policy sets forth a minimum range of penalties which might apply for specific offenses; however, a more severe penalty may be issued than the one stated in this policy if sound discretion requires it.

The City utilizes a progressive disciplinary policy for performance of duty issues. It also reserves the right to determine the level of discipline for personal conduct issues without use of progressive disciplinary principles..

While department managers and supervisors may issue disciplinary actions, Department Directors are accountable for all disciplinary actions taken in their departments; this does not mean that Department Directors are required to issue all of the discipline or participate in pre-disciplinary hearings. Timely investigation and fair resolution of issues is expected.

III. Definitions

Coaching/Counseling- An informal documented discussion between the employee and supervisor. A coaching and counseling is not considered a disciplinary action, as it can often be used to highlight and reinforce positive behavior or performance. When used to adjust negative behavior or performance, the coaching and counseling should include issue identification and action steps. Please refer to the Performance Management Guidelines for more information about the coaching process.

Demotion- Reassignment to a lower rank or position classification. Demotions can be voluntary or involuntary.

Employee Notice Form (ENF)- The formal notice that documents written reprimands, demotion, suspension and termination disciplinary actions

Excessive Absenteeism- Three (3) or more unexcused absences in any ninety (90) day period.

Gross Misconduct- Objectionable action that is willful and deliberate. May include wanton disregard for the safety of others; deliberate acts of violence or hostility; attempts to financially defraud the City; and dishonesty through falsification of documents or other forms of misrepresentation.

HR Connect- The City of Durham Human Resources department's customer service unit; offering a broad range of services and information to City of Durham employees. HR Connect can answer your questions; contact them first at 919-560-4214 or email HRConnect@durhamnc.gov.

Insubordination- willful refusal by an employee to follow a job directive or refusal to accept a reasonable and proper assignment for an authorized supervisor.

Job Abandonment- Occurs when an employee fails to show up at work for three (3) consecutive days without notifying their supervisor (no call, no show) or not having been approved for time off. Job abandonment is considered a resignation.

MUNIS- The enterprise resource planning (ERP) system used by the City of Durham.

Personnel Action Form (PAF)- Form used to process personnel actions in MUNIS.

Pre-disciplinary Conference Notice Form- Provides notice of the date, time, location, and proposed disciplinary action that is being considered by the department.

Pre-disciplinary Conference- Conference between the department management and the employee, where the management informs the employee of potential disciplinary action and the employee has an opportunity to present their case as to why the department should not issue proposed discipline.

Support Person- A current City of Durham employee who observes the pre-disciplinary conference while providing moral support to the employee who may receive disciplinary action.

Suspension- The temporary removal from duty without pay for a performance related or behavior issue.

Technical Review- A process where the Human Resources department reviews disciplinary actions proposed by the Department. This review is done prior to any issuance of discipline to the employee by the department.

Termination – Dismissal of an employee due to recurring disciplinary offenses or a single offense involving a serious job performance-related or behavior issue.

Unexcused Absence- Absence that is not discussed and approved in advance by the supervisor according to established policy.

Written reprimand – Written documentation (VIA the ENF) to the employee from the supervisor where the employee is advised and cautioned about unsatisfactory work performance or misconduct.

IV. Procedure

Disciplinary Action Procedures

A. Administrative Leave

If an employee is charged with serious performance issues or is being investigated for possible serious misconduct that in either case would not allow him/her to perform his/her City job without question/reproach, then the employee may be placed on administrative leave after consultation with Human Resources. Administrative leave is not a routine step prior to the issuance of discipline. Please refer to the Administrative Leave policy, HRM-606, for guidance.

B. Investigations

When a supervisor becomes aware of a situation that may involve disciplinary action, the department should consult with Human Resources to determine if the investigation falls under HRM 708. If the situation to be investigated falls within the provisions of HRM 708, the investigation will be completed by Human Resources. Otherwise, the investigation should be completed by the department or instances involving fraud, waste, or abuse, the matter should be referred to Audit Services for investigation. Investigative procedures shall include but are not limited to the following:

- Determine and document pertinent facts by interviewing employees and other parties involved.
- Consult pertinent rules, standards, policies and procedures.
- Provide a notice of investigation to the employee within 24 hours of starting the investigation.
- Examine results of the relevant performance issue or alleged behavior.
- Consult with the Police Department if criminal activity is suspected.
- Conclude the investigation and document investigation findings as soon as possible.

Disciplinary action based on the results of an investigation must occur within 10 calendar days following the end of the investigation.

C. Technical Review

A technical review is a review of proposed disciplinary actions by Human Resources to monitor consistency in application of discipline, monitor disciplinary trends, and ensure disciplinary action aligns with City of Durham policy.

A technical review precedes any issuance of discipline to the employee. The Department will complete the Technical Review form and provide supporting documentation for the proposed disciplinary action. If the technical review is received by 12 noon then the review is returned to the department by close of business (5pm). If the technical review is received after 12 noon then the technical review is returned to the department by 12 noon on the next business day. The technical review does not usurp the employee's appeal or grievance rights.

D. Written Reprimand

A written reprimand can be given to an employee to document a particular performance related issue or behavior. Documentation of the written reprimand should be supplied to the employee using the Employee Notice Form (ENF). The ENF should also be maintained in the departmental file and copied to Human Resources for addition to the official personnel file. Departments are also required to document the written reprimand in MUNIS (see the Action Entry section below).

Within 10 calendar days of receiving a written reprimand, an employee may submit a statement of disagreement/rebuttal to his or her supervisor with a copy to Human Resources to accompany the written reprimand in his or her personnel file.

A written reprimand can be removed from an employee's official personnel file after three (3) years if no other disciplinary actions were issued during the three-year time frame and if no disciplinary actions or investigations are pending at the time of the removal request. The employee must request removal of a written reprimand by contacting HR Connect.

E. Pre-disciplinary Conference

A pre-disciplinary conference is required for the following disciplinary actions:

- Demotions
- Suspensions
- Terminations

The employee must be notified that a pre-disciplinary conference is required using the Pre-disciplinary Conference Notice Form. The Pre-disciplinary notice form must contain the date, time, and location of the conference. The notice must also specify the proposed level of discipline and provide detailed specifics about the accusations or charges against the employee and the factual basis for the disciplinary action.

The employee may request to waive the pre-disciplinary conference by completing the appropriate section of the Pre-disciplinary Conference Notice Form. The employee may have a support person present in the pre-disciplinary conference. No attorney shall represent either side at the pre-disciplinary conference.

Once the employee is noticed via the Pre-disciplinary Conference Notice Form, the conference can occur as soon as possible but no earlier than three (3) business days from the date of notice. For sworn police and fire personnel, the 3 business days should be the schedule equivalent for those shifts. Failure of the employee to attend the pre-

disciplinary conference after receipt of notice will not stop the disciplinary process. In such situations, management, in consultation with Human Resources, may proceed with disciplinary action without additional input from the employee or, due to extenuating circumstances, may reschedule the conference.

During the pre-disciplinary conference, the employee is expected to provide his or her own version of the facts surrounding the accusation(s). The supervisor is expected to consider the employee's contributions when making a final decision about discipline. After thoughtful consideration, the supervisor is expected to take such actions as is deemed appropriate and provide to the employee an ENF stating the outcome of the pre-disciplinary conference, including the associated documentation, within three (3) business days of the pre-disciplinary conference.

The supervisor's documentation of the pre-disciplinary conference must include, at a minimum, a summary of the proceedings, the date, time and location of the conference, persons in attendance, a description of any documentation presented and a summary of the statements made by the supervisor and the employee.

F. Suspensions

A Department Director may suspend an employee without pay for up to five (5) working days. Prior to the effective date of the suspension, a pre-disciplinary conference must be held and the employee must be given an opportunity to respond to the proposed suspension.

If the suspension is to occur, the employee must be given an ENF which must indicate the effective date(s) of suspension (see Pre-Disciplinary Conference section above). A copy of the ENF must be sent to Human Resources attached to a Personnel Action Form (PAF).

If the Department decides to suspend an employee for longer than 5 working days, approval must be obtained from the Deputy City Manager.

An employee may be eligible to file a grievance due to a suspension action. Please refer to HRM-323 for details about the grievance process.

G. Demotions

A Department Director may demote an employee in pay grade and decrease the employee's salary and job responsibilities, as appropriate, for such a time as is necessary to correct deficiencies in job performance, job behaviors or job qualifications if there is a

suitable position in the department. If the option exists, the employee may be downgraded within the same position.

Pay will be decreased to 5% below the employee's current pay or greater than 5% if necessary to bring the employee's salary within the demoted pay grade. At no point will the employee's salary be above the maximum of the demoted pay grade.

Prior to the effective date of the demotion, a pre-disciplinary conference must be held and the employee must be given an opportunity to respond to the proposed demotion. If the demotion is to occur, the employee must be given an ENF which must indicate the effective date of the demotion, new salary, and required duties (see Pre-Disciplinary Conference section above). A copy of the ENF must be sent to Human Resources attached to a PAF.

An employee may be eligible to file a grievance due to a demotion action. Please refer to HRM-323 for details about the grievance process.

H. Terminations

A Department Director may terminate an employee. Prior to the effective date of the termination, a pre-disciplinary conference must be held and the employee must be given an opportunity to respond to the proposed termination action. If the termination is to occur, the employee must be given an ENF which must indicate the effective date of termination (see Pre-Disciplinary Conference section above). A copy of the ENF must be sent to Human Resources attached to a PAF.

An employee may be eligible to file a grievance due to a termination action. Please refer to HRM-323 for details about the grievance process.

I. Action Entry

Written reprimands, suspensions, demotions and termination actions must be entered into MUNIS by the employee's department within 3 business days of the effective date of the action so that pay can be deducted appropriately. The department must notify payroll of any termination as soon as it is known. Although written reprimands have no impact on an employee's pay, they still require a personnel action for tracking purposes.

V. Other

The City Manager is the final authority with regard to this policy. The City Manager's decision is the final administrative decision for the organization.

VI. Attachments

[http://codinet/apps/citypolicy/Lists/PolicyRequests/Attachments/291/Notice of Investigation.pdf](http://codinet/apps/citypolicy/Lists/PolicyRequests/Attachments/291/Notice%20of%20Investigation.pdf);[http://codinet/apps/citypolicy/Lists/PolicyRequests/Attachments/291/Pre Disc Notice.pdf](http://codinet/apps/citypolicy/Lists/PolicyRequests/Attachments/291/Pre%20Disc%20Notice.pdf);[http://codinet/apps/citypolicy/Lists/PolicyRequests/Attachments/291/Flow Charts - Discipline Process.pdf](http://codinet/apps/citypolicy/Lists/PolicyRequests/Attachments/291/Flow%20Charts%20-%20Discipline%20Process.pdf);[http://codinet/apps/citypolicy/Lists/PolicyRequests/Attachments/291/Minimum Disciplinary Guidelines-16.pdf](http://codinet/apps/citypolicy/Lists/PolicyRequests/Attachments/291/Mini%20mum%20Disciplinary%20Guidelines-16.pdf);[http://codinet/apps/citypolicy/Lists/PolicyRequests/Attachments/291/Employee Notice Form-16.pdf](http://codinet/apps/citypolicy/Lists/PolicyRequests/Attachments/291/Employee%20Notice%20Form-16.pdf);[http://codinet/apps/citypolicy/Lists/PolicyRequests/Attachments/291/Predisc Guidelines.pdf](http://codinet/apps/citypolicy/Lists/PolicyRequests/Attachments/291/Predisc%20Guidelines.pdf);

Notice of Investigation.pdf

Pre Disc Notice.pdf

Flow Charts - Discipline Process.pdf

Minimum Disciplinary Guidelines-16.pdf

Employee Notice Form-16.pdf

Predisc Guidelines.pdf