

# MANUAL OF PERSONNEL RULES, PRACTICES,

## AND PROCEDURES

SECTION: 1.00

Personal Conduct and Standards of Employment
SUBJECT: 1.40

SUPI	ERS	EDES:
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NEW EFFECTIVE DATE:

November 11, 2005

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**Discipline Policy** 

APPROVED BY CITY MANAGER:

Cynthro Hunk

- I. Employees engaging in unacceptable behavior on or off the job or unsatisfactory work performance shall be subject to the provisions of this policy. Disciplinary action should be corrective in nature, progressive where possible, and shall be in compliance with due process rights. This policy shall not alter the employer-employee relationship between the City of Pasadena and at-will employees (including, but not limited to, MASH employees, temporary employees, and City Service Workers). This policy shall not apply to contract workers who are not City employees. Disciplinary issues regarding contract workers shall be handled between the department with whom the worker is contracted and the vendor supplying the worker.
  - A. Discipline shall be for cause and shall include the following: oral and written warnings, suspension, demotion and discharge.
  - B. Causes for Disciplinary Action
    - 1. Disregard of the Personal Conduct and Standards of Employment provisions specified in this Manual.
    - 2. Violation of any rules, regulations, policies and practices specified in this Manual.
    - 3. Conviction of any felony, or conviction of any misdemeanor involving turpitude, or violation of any statute, law or official regulation, rule or order, or commission of any act which compromises the public trust necessary for employment with the City of Pasadena, or which is of such a nature that it causes discredit to the City or the person's employment.
    - 4. Insubordination, or insubordinate conduct.
    - 5. Retaliation against any other City employee or member of the public who reports, discloses, divulges or otherwise brings to the attention of appropriate authority any facts or information relative to alleged violation of any law, ordinance, or the City of Pasadena Manual of Personnel Rules, Practices & Procedures, occurring on the job or related thereto.

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Carelessness or negligence that:

- endangers or threatens the health or safety of any person; a.
- b. unnecessarily damages or exposes to damage any public or private property, or
- compromises the quantity or quality of the City's service. c.
- 6. Incompetence or inefficiency in the performance of duties, or lack of full performance in job duties.
- 7. Excessive or unauthorized absences or tardiness, or being away from the work area without prior authorization.
- 8. Sleeping during working hours, except as authorized, or other inexcusable neglect of duty.
- 10. Discourteous, uncooperative, offensive or harassing conduct, verbal or physical, towards fellow employees, supervisors or the public during working hours or on City premises.
- 11. Being under the influence of, or possession, consumption or use of any illegal controlled substance while on duty or off duty.
- 12. Habitual or intemperate use of alcohol, drugs or narcotics (whether or not by prescription), which may negatively impact or impair the employee's ability to perform the job, or being under the influence of, or unauthorized possession of alcohol on City-owned property, in any City-owned vehicle, or on any job site.
- 13. Unauthorized possession of or use of weapons on City property, during working hours, or while acting in the capacity of a City employee.
- 14. Soliciting or accepting, in the course of employment, directly or indirectly for the employee's personal use, any gift, gratuity, favor, promise of future benefit, discount not available to all public employees, entertainment, loan, or other things of value, from any person or entity doing business with the City, such as, but not limited to, vendors, contractors, developers, agents, attorneys or others. If an individual employee or a department receives a perishable gift (such as food, flowers, etc.), such perishable gift shall be shared with all employees of the department, or the division to which it was delivered. In no event shall an individual employee restrict access to such perishable gifts to other employees.

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All non-perishable gifts, except those of insignificant value (such as small commemorative items like paperweights, pins, pens, etc.) of under approximately \$10.00, shall be returned to the donor unless the employee or department receives the City Manager's authorization to keep the gift for the benefit of the City or department.

- 15. Misuse, unauthorized use or removal of City-owned material, equipment or property.
- 16. Multiple garnishments, levies, or liens against an employee's salary. Levies may be cause for disciplinary suspension, transfer, demotion or discharge for an employee assigned to perform financial, auditing or cash-handling tasks, or when the underlying reason for the levy is indicative of off duty conduct inconsistent with the employee's public agency employment.
- 17. Knowingly making false statements or attempting any deception or fraud in obtaining employment, promotion, Worker's Compensation benefits, or in reporting time worked (time card fraud), or in reporting the employee's ability or inability to work, or in obtaining or attempting to obtain any other benefit.
- 18. Making any false, incomplete or misleading statement or attempting any deception in response to questioning during any Departmental investigation into allegations of wrongdoing by any City employee; or failing to cooperate in any investigation or proceeding resulting from a complaint filed by any employee or member of the public alleging wrongdoing by any employee of the City of Pasadena. Failure to cooperate shall include failing to disclose the existence of facts or documents within the person's knowledge or possession, or destroying documents or other things relevant to the investigation or proceeding, or failing to make oneself available to testify at any hearing or proceeding which is conducted during business hours of the City, or refusing to answer questions posed while being questioned during any investigation or while testifying in any proceeding, or otherwise attempting to hinder, frustrate, or obstruct any investigation or proceeding being conducting by the City of Pasadena. An employee being questioned about his or her knowledge relative to any allegation of violating this provision may request a representative of his or her choosing present during such questioning.
- 19. Engaging in outside employment while receiving Worker's Compensation or sick leave, unless approved by the Department Head.
- 20. Engaging in any outside employment or enterprise that may be incompatible with the employee's City employment or detrimental to the efficiency of their City

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work. Failure to obey an order from the department head or the City Manager to terminate or desist from such outside employment or enterprise may result in dismissal.

- 21. Advocating, or being a member of any organization which advocates the overthrow of the Government of the United States or of the State of California by force or violence or other unlawful means.
- 22. Improper political activity.
  - a. No officer or employee shall participate in any political activity during his or her working hours.
  - b. No officer or employee shall participate in any political activity while in a City uniform.
  - c. No officer or employee shall permit the entry of any person in a City facility or office for the purpose of soliciting or receiving political funds or contributions, nor shall any officer or employee enter any City facility for the purpose of soliciting or receiving political funds or contributions.
  - d. No officer or employee shall use his official influence or position to coerce or pressure political action.
  - e. No officer or employee shall knowingly solicit or receive political funds or contributions, whether directly or indirectly, from other officers or employees of the City or from persons on the employment lists of the City; provided, however, that no officer or employee shall be prohibited from such activity within or upon non-City premises and during non-working hours on a ballot measure affecting the pay, working hours or working conditions of City offices and employees.
- 23. Other failure of good behavior either during or outside of duty hours which is of such nature that it causes discredit to the City, the appointing authority, or the person's employment.
- 24. Willful disobedience of or failure to follow established procedures, or the instructions and orders of a supervisor.
- 25. Unauthorized release of confidential, sensitive or personnel information that may be obtained by employees in the course of employment.

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### II. Types of Discipline.

Formal disciplinary actions are: oral warning, written warning, suspension, demotion or discharge. Departments should consult with the Director of Human Resources, or his or her designated representative, prior to recommending or imposing discipline so that disciplinary issues may be addressed in a consistent manner on a city-wide basis.

- A. An Oral Warning is used to inform the employee that an oral disciplinary warning is being issued, what specific action or behavior is undesirable, what specific improvement is expected, and what may be expected if correction is not made. It is usually given by the employee's immediate supervisor. It should be given constructively and in confidence. A notation of oral warnings given an employee must be kept by the department.
- B. A <u>Written Warning</u> is a more formal disciplinary action, usually following an meeting with the employee regarding the alleged wrongdoing. The meeting should be held consistent with the applicable Memorandum of Understanding or the Salary Resolution for the classification. Where applicable, the written warning shall be prepared by the supervisor and should indicate the following:
  - 1. That the document constitutes a written notice of discipline.
  - 2. The behavior or violation of rules or procedures for which the discipline is given, and the specific improvement expected.
  - 3. A statement of any prior discipline given the employee.
  - 4. An indication, in general terms, of further action to be taken if there is a continuation of the unsatisfactory behavior or performance.
  - 5. An indication that the employee received a copy of the written notice of discipline and whether the discipline was discussed with the employee.
  - 6. The right of *a* regular employee to grieve the discipline pursuant to their classification's applicable Memorandum of Understanding or Salary Resolution.
- C. A <u>Suspension</u> is the removal of an employee from duty for a specified period of time. Suspensions pending investigation are not disciplinary in nature and are typically with pay; suspensions following a disciplinary procedure which are utilized as a disciplinary measure are typically without pay. The following procedures shall be followed:

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- 1. A written notice of discipline shall be prepared by the supervisor following due process requirements and procedures defined in this Manual, unless there is a conflict between this Manual and the applicable Memorandum of Understanding or Salary Resolution, in which case such Memorandum of Understanding or Salary Resolution shall take precedence.
- 2. A suspension shall be effective on the scheduled workday(s) determined by the department.
- 3. In circumstances requiring immediate action, <u>any</u> supervisor of the employee's department may suspend an employee from duty until an investigation can be made and subsequent disciplinary action determined by the employee's supervisor. In such an event, the supervisor levying the suspension shall identify theirself to the employee, obtain the identity of the employee and <u>immediately</u> notify the employee's supervisor or department head of the action taken. Suspensions during an investigation, before any disciplinary action is taken, are typically with pay.
- D. A <u>Demotion</u> is involuntary movement of an employee from a position in one classification to a different position in another classification having a lower salary schedule, and is typically applicable for employees who are unable to maintain satisfactory work performance in their job. Demotion during probation is a failure of the probationary work test period and is not a disciplinary action requiring due process procedures nor recourse to the grievance process.
- E. A <u>Discharge</u> is a termination of employment for disciplinary reasons.

#### III. Investigation

- A. When an act of an employee that may be cause for disciplinary action is reported to the employee's supervisor, it may be necessary to conduct an investigation to determine the facts and/or to confirm the allegations. The investigation may be performed by the employee's supervisor or assigned to an administrative employee. The objective of the investigation shall be to determine if a disciplinary offense did occur, and if so, by whom. Investigations shall be conducted as confidentially as possible.
- B. If the incident appears to be of a criminal nature, the City Attorney and the Police shall be notified immediately and the subsequent investigation shall be under its direction.

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- C. Where criminal conduct is not indicated, the investigator should:
  - 1. Interview the complaining party and any witnesses to secure detailed information, such as
    - a. Exact time and places of events;
    - b. Complete description of the alleged offense and complete description of alleged offender and the action complained of;
    - c. Exact words used, if the language used or statements made were involved in the alleged offense (as in abusive language or an insulting proposition); and
    - d. Whether the employee was on or off duty at the time and place of the alleged offense.
  - 2. Interview the employee (the complaining party or witnesses) in private. It should be made clear that this is a fact-finding interview, not a disciplinary one. Questions should be phrased with care to avoid indicating any prejudgment. For example, ask "What happened?" rather than, "Whose fault is it?" It may be appropriate to invite the employee to submit a signed statement giving the employee's account of the pertinent facts.
- D. Any questions from employees regarding their constitutional rights should be referred to the City Attorney's Office or the Human Resources Department for resolution prior to completion of the interview.
- E. The investigation shall be conducted impartially to give fair and impartial treatment to the employee, and to provide the City with the necessary facts before a disciplinary action is taken. The investigator should write a report of the findings and the evidence gathered during the investigation.
- F. To warrant subsequent disciplinary action, the investigation shall establish, to the satisfaction of the appropriate supervisor:
  - 1. That a disciplinary offense did occur;
  - 2. The nature of the offense, and
  - 3. That it was committed by the employee to be disciplined.

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### IV. Disciplinary Procedures/Due Process

A. A disciplinary meeting shall be held by the supervisor with the employee to discuss the charges. If the employee's response to the charges does not satisfactorily resolve the matter, then the notice of proposed disciplinary action will be given to the employee. If a meeting with the employee is not possible, the notice should be mailed to the employee, preferably by certified mail.

Whenever possible, the proposed disciplinary action should be conveyed to the employee in a private meeting. The employee may request a representative of his/her choosing to be present

- B. Each written warning, notice of suspension, demotion or discharge shall be prepared in writing and distributed as follows:
  - 1. Original given to the employee (or mailed if circumstances necessitate) at the conclusion of the interview or as soon thereafter as possible.
  - 2. A copy forwarded to the employee's designated representative, if known.
  - 3. A copy retained by the employee's department.
  - 4. A copy forwarded to the Human Resources Department for filing in the employee's personnel records.
- C. The employee will be requested to sign a notice of disciplinary action as evidence that it has been received by the employee. The signature shall not be construed as indicating agreement with the disciplinary action or the reasons stated thereon for such action. If the employee refuses to sign, a notation to that effect shall be made on all copies of the document.
- D. If discharge or demotion (of an employee who has completed the initial probation period), or suspension of five days or more is proposed:
  - 1. The employee's supervisor shall prepare a notice of discipline or proposed disciplinary action. This notice shall contain:
    - a. The specific reasons why disciplinary action is proposed. The "charges" should be in sufficient detail to identify dates, times, places and specific acts.

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- b. A statement that the employee may, upon request, receive a copy of any documents or materials (if copies are available) on which the charges are based.
- c. Identification of the rule, regulation or policy or procedure violated.
- d. A statement of what level of discipline is proposed.
- e. A statement of the employee's right of response to the charges and proposed discipline, either orally or written, and an indication that a hearing or conference with the department head or his/her designated representative can be scheduled should the employee so request within timely receipt of the notice of discipline.
- f. A statement of the right to be accompanied or represented by any person of the employee's choosing who is not involved in the case when making an oral or written response.

Assistance of the Human Resources Department in preparing this notice is recommended.

- 2. Concurrence must be received from the Human Resources Director or designated representative that the discipline or proposed discipline would be appropriate if the employee does not offer a satisfactory response to the charges. This concurrence should be obtained before any notice is given or expressed to the employee that the discipline is being, or will be requested.
- 3. If the employee disagrees with the discipline or proposed discipline, the department head or his/her designated representative shall hear and/or read the response of the employee, if one is given, and may discuss it with the employee. After consideration of the employee's response and the evidence submitted, the department head shall determine what disciplinary action, if any, is appropriate and may sustain, or may reduce or vacate the discipline or proposed discipline. The appropriate notice of disciplinary action shall then be prepared. The notice shall include a statement of the right of appeal pursuant to the grievance procedure.
- 4. The advice and assistance of the Human Resources Department in each step of this procedure is recommended.