

JACKSONVILLE POLICE DEPARTMENT

Policy: 7-9

Effective: 01-01-09

Revised: 01-13-21

DISCIPLINARY PROCEDURE

PURPOSE: To establish Department guidelines in progressive steps of disciplinary action.

POLICY: It is the policy of this Department to avoid separation of employment of an otherwise productive employee when conduct, behavior, or performance problems occur, if possible. This Department will use progressive disciplinary action to bring about change once it is shown that a employee knew, or should have known, that such conduct, behavior or performance failed to comply with established policies, provided that the conduct, behavior or performance was not caused by a lack of skills or ability that the typical employee would not be expected to possess. Prior to taking any such disciplinary action, lesser forms of actions, such as supervisory consulting or formal counseling, will be appropriate and were followed when circumstances allow.

PROCEDURES:

I. ADMINISTRATION

When discipline is deemed appropriate, this Department will use a progressive system, when practicable.

- A. Furthermore, discipline shall be for cause and shall follow the basic concepts of due process.
- B. This Department will not illegally discriminate against current employees, potential employees, or employee groups on the basis of sex, ethnic background, race, religion, color, age, or physical disability in any disciplinary or separation of employment proceedings.
- C. Supervisors must ensure that fair enforcement decisions are made in the use of disciplinary or separation of employment action. Fair enforcement incorporates the concepts of equality and equity; supervisors will not illegally discriminate against employees and will treat them equally when making decisions about the appropriate type of intervention to use in correcting a performance deficiency. Solutions will include, but are not limited to, training, discipline, remedial training, reassignment, demotion, and lastly, separation of employment. Whatever the administrative action, its amount and degree must be based on equity.
- D. A Pre-Disciplinary Hearing will be established anytime the Chief of Police is considering disciplinary action on an officer that is above a written reprimand. The officer may opt-out of the Pre-Disciplinary Hearing. In this instance, the Chief of Police will move forward to the Disciplinary Review Board.

II. EQUITY DEFINED

- A. Equity means that supervisors review each employee's performance deficiency and consider the following:
 1. Circumstances to help determine the amount and degree of administrative action;
 2. The seriousness of the offense;
 3. Management's expectation that the type and level of administrative action will facilitate or deter the conduct, work proficiencies or behaviors of others;
 4. The employee's overall conduct, work productivity, time between other violations (if other offenses occurred), and behavior record;
 5. Management's expectation based on the employee's overt behavior, that the type and level of administrative action will correct and improve the employee's future job performance. In

- other words, will the employee respond positively to discipline; and
6. The employee's seniority.
- B. It is the policy of this Department to separate employees when situations are beyond the control of the Department, when the employee's actions or inactions create such, and/or when the results of the employee's actions or inactions, are such a nature that:
 1. Economic necessity requires reductions in the work force;
 2. A employee fails to demonstrate a willingness or ability to improve his or her conduct, behavior or performance deficiencies without intense supervision; and/or
 3. Failing to terminate the employee would create an unreasonable risk of negligently retaining an employee who has failed to display the necessary competencies to remain as an employee of the Department.
 - C. When discipline is deemed appropriate, it is policy to use a progressive system, when practicable. Furthermore, discipline shall be for cause and shall follow the basic concepts of due process.
 - D. Not every supervisory interaction or intervention with an employee is to be construed as discipline. Except in cases of culpability, correcting undesirable conduct, behavior or work performance is at times best handled by the immediate Supervisor in an informal manner. This means taking the employee aside and discussing the problem, candidly and openly. In addition to supervisory consulting, the following situations are not considered to be disciplinary:
 1. Verbal Counseling/Remedial Training: At times, personal problems may interfere with the employee's ability to perform normally. When the results are not serious enough for discipline but call for a more formal type of supervision than just consulting with the employee, verbal counseling and/or remedial training may be the proper tool to help the employee. Verbal Counseling/remedial training is not necessarily a form of discipline.
 2. Administrative Leave: Administrative leave occurs any time an employee must be removed from duty until a proper investigation or other administrative proceeding can be held. Situations can involve cases of suspected misconduct, or can involve a use of deadly force or other such use of force circumstances. In such cases, leaving the employee in position could create an unreasonable liability or safety issue for this Department. The immediate Supervisor can order a relief from duty and then immediately report the action through the chain of command to the Chief of Police. The Chief of Police can then assess the situation, initiates an investigation (when necessary), and makes a confirmed decision in a timely manner whether the relief will continue and, if so, its duration. These types of furloughs are not always discipline and should not be viewed as such.
 3. Incompetence or Inability to Serve: Anytime an employee's performance is consistently poor or the employee is not able to perform all the assigned responsibilities, duties or tasks of the job in a competent manner, causes exist to separate the employee's employment.

III. STEPS OF PROGRESSIVE DISCIPLINE

- A. Verbal Counseling: Verbal counseling is to allow a supervisor to bring to the employee's attention the need to improve their work performance, work habits, behavior or attitude, and to serve as a warning against further unsatisfactory conduct. The supervisor utilizes the occasion to identify and define the area needing improvement and inform the employee as to how such improvement can be realistically achieved.
- B. Written Warning: Written warnings are written records and the first step in the progressive discipline system. They are intended to be the least intrusive form of discipline. Written warnings are provided to employees of this Department within forty-eight (48) hours of the infraction being determined or the next scheduled work day.
- C. Written Reprimand: A written reprimand is the second step in discipline, unless circumstances of the case justify a higher level of discipline, in which case this can be bypassed.

- D. Suspensions: Suspensions are serious interventions and occur when an employee fails to respond positively to lesser forms of discipline. Suspensions can also be the first step in progressive discipline if the act, and/or the result of the act, is serious enough that a written warning or reprimand would not promote the intent or spirit of the purpose and need for disciplinary action. Employees should have a hearing, if they desire, when suspensions occur.
- E. Demotions as a Form of Discipline: Demotion as a form of discipline is intended to be punitive and can occur concurrently with a suspension when a supervisor is involved.

IV. SEPARATION OF EMPLOYMENT

All employees are subject to separation of employment for the following general conditions:

- A. Reductions in work force brought about by economic conditions;
- B. Consistent performance failure(s) or a single performance failure that results in serious consequences to the office's public credibility or ability to do business in an effective and efficient manner, with or without fault;
- C. Separation of employment for performance failure (through acts of omission or commission while on or off duty) can occur with or without fault on the employee's part;
- D. Separation of employment with fault: Examples include, but are not limited to, insubordination, threatening a supervisor, fighting, assaults, or provoking a fight or assault, harassment, endangering another, drug or alcohol abuse, theft, and false reporting or witnessing. In cases of separation of employment with fault, employees normally have culpability; that is, the employee acted purposefully, knowingly, recklessly, or negligently.
- E. Separation of employment without fault: Examples include, but are not limited to:
 - 1. Chronic problems, substantial impairment of the employee relationship, and situations where performance is not reasonably expected to improve or where problems are not expected to be resolved in a reasonable time.
 - a. Chronic problems include excessive excused and non-excused absences as compared to other employees;
 - b. Failure to consistently accomplish expected levels of performance results on assigned tasks; and/or
 - c. Chronic complaining about operations to the extent that Supervisors must spend excessive time dealing with problems caused by the complaints.
 - 2. Examples of substantial impairment of the employment relationship include, but are not limited to;
 - a. Unreasonable disruption to normal operations of this Department;
 - b. Endangering the organization's mission purpose;
 - c. Actions or inactions that contribute to an unnecessary risk to the public image; and/or
 - d. Creating conflicts of interest.
 - 3. Decisions of the Chief of Police as permitted under local, state, and federal law.
- F. Whenever disciplinary action is used, employees will be informed in writing of the following specific elements:
 - 1. The exact offense violated;
 - 2. How the violation affects this Department 's ability to be an effective, efficient and a safe employer;
 - 3. What the employee must do to avoid future disciplinary action;
 - 4. How much time the employee has to correct the problem(should such be applicable); and
 - 5. What further disciplinary action, including the possibility of separation of employment, could occur if performance does not improve.

V. NOTICE OF SEPARATION OF EMPLOYMENT

If an employee's performance requires an investigation, the employee may be placed on

administrative leave pending outcome of the investigation. Depending on the findings, the employee may then be terminated. If this occurs, the terminated employee will be provided with information that includes:

- A. The reasons for the separation of employment;
- B. The effective date of the separation of employment;
- C. Whom to contact regarding status of fringe and retirement benefits;
- D. A statement that the content of the employee's record relating to the separation of employment will be made available to the employee according to state public law; and
- E. The employee's right to appeal to the Civil Service Commission, if applicable.

VI. APPEAL PROCEDURES (2.08)

The appeal process for discipline resulting in suspension, demotion, or separation of employment is outlined in A.C.A. §14-51-308 and the City of Jacksonville Personnel Policy Manual.

VII. ROLE OF SUPERVISORS IN DISCIPLINARY ACTION

- A. All leaders shall be responsible for detecting those instances and actions when positive or negative disciplinary actions are warranted for employees under their immediate or indirect supervision. These responsibilities include, but are not limited to:
 - 1. Investigating allegations of employee misconduct when within the scope of their authority and responsibility;
 - 2. Counseling employees to improve job performance or correct minor infractions of Department rules and policies;
 - 3. Identifying training or remedial training needs as a function of the disciplinary process;
 - 4. Recommending/apprising their immediate leader whenever unacceptable personal and professional conduct requires formal disciplinary action (i.e. corrective action beyond counseling and/or remedial training); and/or
 - 5. Monitoring their team employee's performance after counseling, remedial training, or disciplinary action has been invoked.

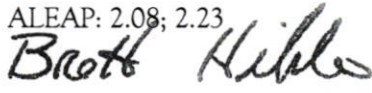
VIII. LEVELS OF AUTHORITY

- A. Verbal Counseling: All verbal counseling of subordinates will be documented and maintained in the employee's file to be used, as needed, in evaluations or future disciplinary actions.
- B. Written Warning (JPD Form 7-9: Employee Action Form): All leadership personnel may invoke such non-punitive action to employees when actions are observed by a Sergeant or above. The employee's chain of command will be notified prior to issuance. The completed report will be placed in the employee's performance evaluation packet to be included in his evaluation and will be forwarded to Human Resources. These documents may also be maintained by the Office of the Chief of Police in the Department's employee performance records.
- C. Written Reprimand, Suspension, Demotion, and Separation of Employment: Such punitive disciplinary action may be recommended by all leadership personnel to the Chief of Police. Only the Chief of Police is authorized to invoke punitive disciplinary action to Department employees. In instances of suspension, demotion and separation of employment a Pre-Disciplinary Hearing will be conducted unless the seriousness of the violation/conduct of the employee warrants immediate action.

IX. MAINTENANCE OF RECORDS OF DISCIPLINARY ACTIONS (2.23)

- A. All records of punitive disciplinary action; written warning, written reprimand, suspension, demotion, and separation of employment, will be maintained by Human Resources in the employee's personnel file.
- B. Copies of all disciplinary actions resulting from a Pre-Disciplinary Hearing will be maintained by the Office of Professional Standards within its investigative file.
- C. A copy of all disciplinary actions; punitive and non-punitive, will be kept in the Office of the Chief of Police in the Department's employee performance records. Such records will be kept indefinitely.

ALEAP: 2.08; 2.23



Brett C. Hibbs
Chief of Police