



# CITY OF GLENDALE

## Human Resources Policy No. 513

Title: **Discipline**

Effective Date: **7/1/2000**

Revised: **7/1/2017**

Contact: Human Resources & Risk Management Department – (623) 930 2270

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### **I. PURPOSE**

The City establishes this disciplinary process to assure a fair and consistent procedure for the prevention, correction, and discipline of employee performance and behavioral deficiencies. This system emphasizes the prevention, identification, correction, and resolution of employee performance deficiencies.

### **II. PROCESS**

#### **A. Covered Employees**

This policy applies to all City employees, unless otherwise specified in the governing Memorandums of Understanding for represented employees.

#### **B. Employee Standards of Performance**

Every employee shall maintain high standards of performance, including cooperation, efficiency, and fiscal responsibility in his or her work for the City. Every employee is responsible to be knowledgeable of City policies and to correct any deficiencies in his or her performance.

#### **C. Responsibilities**

Supervisors are responsible for maintaining and applying knowledge of City policies, as well as identifying, evaluating, and instituting measures to correct performance deficiencies. Supervisors are expected to utilize the following prevention strategies:

1. Communicate and explain the City's expected performance and behavioral standards.
  2. Provide employees training, recognition, and feedback on performance standards.
  3. Conduct periodic performance reviews and appraisals.
  4. Communicate and explain the City's Disciplinary System.
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5. Consult with Human Resources & Risk Management regarding consistent organizational practices.
6. Apply appropriate disciplinary measures.

**D. Grounds for Discipline**

Discipline shall be based on “just cause”. Just cause for disciplinary action shall be defined as performance deficiencies which include, but are not limited to, neglect of or failure to perform assigned job duties, interference with other employees’ efforts to perform their assigned job duties, violation of federal, state or local laws, and violation of City and departmental policies, procedures, regulations and directives.

In identifying and analyzing a performance deficiency, the supervisor will determine the severity of the deficiency in order to correct the behavior and administer the appropriate disciplinary action. When determining the appropriate disciplinary action, the supervisor should consider the individual circumstances of the situation including, but not limited to, the following factors:

1. Seriousness and consequences of the performance deficiency
2. Consistent organizational practices
3. Employee’s previous work performance
4. Employee’s previous disciplinary action for performance deficiencies
5. The disciplinary action that would be most effective in correcting the employee’s performance deficiency.

**E. Administrative Leave**

Employee may be temporarily relieved of his/her normal job responsibilities, continue to receive regular pay and benefits, and be required to remain available and considered to be on duty during specified work hours. A department director, in consultation with Human Resources and Risk Management, may place an employee on administrative leave for any circumstance which warrants removing the employee from the workplace. It shall be communicated to the employee: (1) that he/she is being placed on administrative leave; (2) the reason for being placed on leave; (3) the requirement for the employee to be available for contact with City management; (4) the need for the employee to return all City property while on administrative leave status (keys, badges, electronic equipment, access cards, etc.); and (5) that his/her access to the City network will be disabled during this leave.

**F. Performance Deficiencies**

Performance deficiencies fall into two categories: minor deficiencies and major deficiencies. The following categories describe the most common types of deficiencies and are not intended to be an all-inclusive list. The disciplinary action taken should be proportionate to the severity of the performance deficiency, its frequency, and its consequences. A punitive disciplinary action, up to and including dismissal from City employment, need not necessarily be preceded by corrective action or prior disciplinary action.

## **1. Minor Deficiencies**

These violations of City policy, procedures, regulations and directives are acts which do not involve any question of trust or honesty. They do not pose a threat to the orderly City operations and they do not endanger the health, welfare, or safety of employees or other individuals. These deficiencies should normally be handled through corrective disciplinary actions. Examples include, but are not limited to:

- Minor Insubordination
  - Disrespect toward supervisor or other authority
  - Disorderly conduct causing disruption of work unit or task
  - Disregard, omission or neglect of duties
- Instances of tardiness or unexcused absenteeism or failure to report to work
- Abuse of meal or rest periods
- Failure to wear a required uniform or to display proper identification credentials
- Improper dress or untidiness in person, clothing or work habits
- Minor job performance deficiencies (*e.g.*, failure to meet deadlines, failure to complete and submit required documentation such as leave slips, time sheets, etc.)

## **2. Major Deficiencies**

These violations of City policy, procedures, regulations and directives are acts that involve questions of trust or honesty, constitute a threat to the orderly City operations, pose a threat to the health, welfare or safety of employees or other individuals or are repeated or exhibit a pattern of similar violations. Major deficiencies should normally be handled through punitive disciplinary action procedures. Examples include, but are not limited to:

- Additional performance deficiencies after previous disciplinary action
- Major Insubordination
  - Disobedience or refusal to obey a reasonable order or direction
  - Neglect or carelessness resulting in injury or damage
  - Promoting work unit insubordination
  - Continued incidents of insubordination
  - Abusive, hostile, aggressive, disrespectful or offensive conduct toward City management.
- Conduct unbecoming of a City employee
  - Abusive attitude, language or rude, demeaning, or disparaging conduct toward employees, contractors, vendors, customers or the public

- Abuse of authority over employees, contractors, vendors or the public
- On or off duty conduct which may bring discredit to the City
- Conduct which harms the standing of the employee’s profession in the eyes of the public
  - Conduct involving dishonesty or untruthfulness
- Violation of safety laws, regulations, or guidelines, including violations of traffic laws related to driving under the influence of drugs or alcohol
- Negligence or careless job performance, including sleeping on the job
- Misuse or inappropriate use of the City’s electronic communication system or networks, i.e., accessing inappropriate internet sites, using City time to access the internet for personal, saving or forwarding inappropriate materials on the City network, or other similar activities
- Violation of equal employment opportunity laws, policy, procedures, regulations and directives
- Participation in City political activities, other than expressing a private opinion, signing a petition or voting
- Retaliation against another employee for bringing activities that are illegal or contrary to City policy, procedures, regulations and directives to light (“whistle blowing”)
- Willful and unauthorized removal and control of property belonging to, or in possession of, the City, an employee, contractor, vendor or the public
- Misappropriation, misuse, negligence resulting in damage or loss, theft or conversion of property belonging to, or in the possession of, the City, an employee, or the public
- Unauthorized possession, use, consumption, abuse, manufacture, distribution, or dispensing of alcohol, illegal drugs, or other substances while on duty, during the scheduled work day or on City property or engaging in conduct which violates a return to work agreement.
- Unauthorized physical restraint or contact, or verbal or physical attack upon another employee, contractor or any other person or the attempt to do so, while on duty, or during the scheduled work day
- Willful, knowing, or reckless falsification or omission of records, reports, forms, information, timesheets, or any other document submitted by an employee
- Conduct which is a violation of public policy or trust, or is corrupt
- Criminal activity which jeopardizes effective or efficient business practices or poses a threat to the safety or security of persons or property
- Disclosure of confidential information that is either defined by laws as confidential or is designated confidential by the City

- Improper use of position, character or confidential information for personal benefit (the benefit may be financial or any other benefit) or for the benefit of others, including giving preferential treatment or showing favoritism to individuals or firms
- Conduct, which is a conflict of interest or creates the appearance of a conflict or interest, or conflicts with an employee's performance of his/her duties and responsibilities as a City employee
- Unauthorized display or discharge of firearms, deadly weapons, dangerous instruments, or harmful weapons while on duty or while on the work site, at any time
- Unauthorized carrying or bringing weapons onto City property or into City buildings
- Abandonment of one's position for three (3) or more consecutive workdays
- Failure to obtain and maintain required licenses and certifications
- Failure to disclose information that may impact one's ability to perform his/her job responsibilities, unless such disclosure is protected by applicable privacy laws
- Tape recording in the workplace or while on duty without the permission of the individuals being recorded, except in the course of official City business
- Photographing individuals in the workplace or while on duty, without their permission, except in the course of official City business
- Racial slurs, derogatory comments, prejudicial statements or actions that may negatively incite others
- Engaging in any conduct which results in the loss, revocation, or restriction of any privilege required of an employee in order to perform their job responsibilities, such as revocation or suspension of a driver's license after being convicted of Driving While Intoxicated
- Acts of fraud including, any willful or deliberate act committed with the intention of obtaining an unauthorized benefit, such as money or property, by misrepresentation, deception, or other unethical means
- Discriminating against, or encouraging another person to discriminate against, any City employee, contractor, vendor, supplier or other City customer, including any member of the general public, based solely on that person's age, color, national origin, race, ethnicity, family or marital status, sexual orientation, gender identity or expression, genetic characteristic, physical or mental disability, political affiliation, religion, or veteran status.
- Being untruthful or failing or refusing to cooperate in any investigation, including an investigation conducted by law enforcement officials or Human Resources staff.

## **G. Administration of Discipline**

The seriousness and consequences of the performance deficiency determine the type of disciplinary action taken.

### **1. Corrective Actions**

#### **a. Purpose**

These actions are intended to correct, prevent, and document serious deficiencies.

#### **b. Types of Action**

- i. Verbal Counseling - A discussion to explain a performance deficiency and emphasize expected performance standards.
  - ii. Memorandum of Expectation – A written notice to document a performance deficiency and define expected performance standards.
  - iii. Memorandum of Correction – A written notice requiring the need for immediate and sustained improvement in performance to expected standards.
  - iv. Written Reprimand – A written notice to an employee stating that a performance deficiency exists or that a violation of work rules has taken place. The contents of the notice must also be verbally explained to the employee in person. A written reprimand is appropriate when a number of related or unrelated performance deficiencies have occurred or when previous corrective actions have not been effective or when a violation of rules, policies, and/or directives has occurred.
  - v. Employee Decision Making Leave – Paid leave during which an employee shall be instructed to make a decision regarding whether or not he/she will correct communicated performance deficiencies and meet the City’s expected standards of performance or those described in the employee’s Performance Management Core Competency and Goal Review Plan. The employee shall be instructed that upon return, he/she must communicate verbally and in writing to his/her Department director whether they will meet expected standards or leave the City’s employment. This leave shall not exceed one (1) working day.
- c. All Memoranda issued pursuant to the Corrective Action Process (Memo of Correction, Written Reprimand, and Decision Making Leave With Pay) shall include:**
- i. Reason for the corrective action reflecting each performance deficiency and its impact upon the City, its employees or the public
  - ii. Reference to any prior corrective or disciplinary actions

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- iii. The expected performance standard and a time frame for achieving the standard
  - iv. A general indication of the consequences if there is not timely and sustained improvement

**d. Authority**

The immediate supervisor or department director or his/her designee may issue a Verbal Counseling, Memorandum of Expectation or a Memorandum of Correction. These corrective actions do not require the department director's signature. A Written Reprimand and Decision Making Leave with Pay shall be approved and signed by the department director or designee.

Action	Approval Signatures
Memorandum of Expectation or Memorandum of Correction	Supervisor or Department Director
Written Reprimand	Department Director or Designee

**e. Recordkeeping**

- i. The written documentation of the Verbal Counseling and Memorandum of Expectation shall be placed in the employee's department file and a copy shall be given to the employee.
- ii. The Memorandum of Correction, Written Reprimand, and the Decision Making Leave with Pay shall be placed in the employee's department file. Additional copies shall be given to the employee and Human Resources & Risk Management for the employee's official personnel file.
- iii. Records of these actions may be removed from the employee's official personnel file if sustained performance/behavior improvement has been observed for one (1) year after the action. The purging of a corrective document is not automatic and requires the department director's approval. It is the employee's responsibility to request, in writing to the department director, removal after one year. Removal shall occur only after consultation between the department director and Human Resources & Risk Management.

**f. Employee Due Process Rights**

- i. All Memoranda issued pursuant to the Corrective Action Process (Memo of Correction, Written Reprimand, and Decision Making Leave With Pay) are not appealable to the Personnel Board and are not grievable under the City's grievance procedure.
- ii. Upon receipt of a Memoranda issued pursuant to the Corrective Action Process (Memo of Correction, Written Reprimand, and Decision Making Leave With Pay), employees have ten (10) calendar days to respond in

writing. The response will then become part of the employee's official department and personnel file and may be considered by the decision-maker in determining whether any modification of the Correction Action is appropriate.

## **2. Punitive Disciplinary Actions**

### **a. Purpose**

The purpose of punitive disciplinary actions are to record, discipline and/or correct major performance deficiencies or violations of City policy, procedures, regulations and directives.

### **b. Types of Action**

- i. Suspension Without Pay - This action may be taken for major deficiencies to permit the employee and the City to evaluate the future course of the employment relationship. Exempt and non-exempt employees may be suspended without pay for a minimum of eight (8) hours. No suspension without pay shall exceed forty (40) working days or three hundred twenty (320) working hours.
- ii. Involuntary Demotion - The placement of an employee, as a result of a disciplinary action or performance deficiency, in a classification assigned a lower pay range. This action may be taken for an employee who is unwilling or unable to perform his or her assigned duties at expected performance standards or is able to perform the assigned duties of a lower classified job at expected performance standards. The employee shall be placed in the new classification range and their salary shall be reduced by 5%. The employee's salary shall not exceed the maximum rate nor be lower than the minimum rate for the new lower pay range. In the event a 5 % reduction results in the new salary exceeding the range maximum, the employee's salary will be further reduced to the range maximum of the new lower pay range.
- iii. Disciplinary Probation - This measure will return the employee from regular to probationary status. It may be assessed against an employee for serious or major performance deficiencies that have not been corrected after other disciplinary measures have been implemented. It may also be assessed against an employee for major performance deficiencies regardless of prior discipline.
  - a. The disciplinary probation period shall be for six (6) months. The employee's department director, in consultation with Human Resources & Risk Management, may adjust this period as may be reasonably warranted. There is no requirement that this measure be used in any specific situation or that it be implemented prior to any disciplinary measures, including termination, when other measures are deemed more appropriate.
  - b. During the probation period, the employee's performance or behavior shall be closely monitored in an effort to effect

improvement or change and to assure that the performance or behavior leading to the discipline is not repeated. As with all probationary employees, an employee on disciplinary probation is an at-will employee and may be terminated for any reason, regardless of the cause and without any recourse to grievance or appeal procedures. Therefore, if any new problems or performance deficiencies arise during a disciplinary probation period, regardless of their relationship to the circumstances that gave rise to the assessment of disciplinary probation, termination or other discipline may be assessed without any recourse to grievance or appeal procedures.

- iv. Termination - Termination is the permanent involuntary separation of an employee from employment as a disciplinary measure.

**c. Progressive Discipline**

It is the policy of the City of Glendale to increase the level of discipline for repeated violations of its policy, procedures, regulations and directives. Prior violations of City policy, procedures, regulations and directives that have previously occurred and resulted in disciplinary actions may be taken into account when determining the appropriate level of discipline for a new violation.

**d. Authority**

A department director, designee, or higher authority shall issue Punitive Disciplinary actions with the consultation and approval of The Human Resources & Risk Management Department.

**e. Employee Due Process Rights**

i. Notice of Intent to Discipline

Punitive disciplinary actions require Notice of Intent being served on the employee and providing the employee the opportunity to respond to the alleged violations of City policy, procedures, regulations and directives before the disciplinary action may be imposed. Service on the employee alleged to have committed the violation shall be made in person or by certified mail.

The notice shall include:

1. Notice of the proposed level of discipline.
2. Reasons for the action, including a statement of the particular facts which evidence each performance deficiency and identification of each performance deficiency.
3. A list of exhibits supporting the statement of facts.
4. Notice to the employee of his or her right to respond to the department director, verbally or in writing, challenging the intended

action, within seven (7) calendar days of the date of the notice of intent.

ii. Notice of Disciplinary Action

After consideration of any timely response or objection to a Notice of Intent to Discipline submitted by the employee and after consultation with the Human Resources & Risk Management Director or his/her designee, the employee's department director shall issue a Notice of Disciplinary Action and serve such Notice on the employee in person or by certified mail.

The notice shall include:

1. Notice of the effective date of the action.
2. Reasons for the action, including a statement of the particular facts, which evidence each performance deficiency and identification of each performance deficiency.
3. A list of exhibits supporting the statement of facts not previously provided in the Intent document.
4. A notice to the employee of his or her right to appeal the action to the City's Personnel Board, by submitting a request in writing to Human Resources & Risk Management within fourteen (14) calendar days of receipt of Notice of Disciplinary Action.

iii. Right to Representation

Represented employees who choose to respond to a disciplinary action may have a representative present during their meeting with the department director. The representative shall act only as an observer. Unless agreed to by the department director, in consultation with Human Resources & Risk Management, the representative shall be a City employee and shall not be an attorney.

In accordance with A.R.S. § 38-1104, if the City reasonably believes an interview with a Law Enforcement Officer could result in dismissal, demotion or suspension, that Law Enforcement Officer shall be permitted reasonable breaks of limited duration during the interview to consult by telephone or in person, with others, including an attorney, who are immediately available.

At the conclusion of the interview, the Law Enforcement Officer is entitled to a period of time to consult with his/her representative, including an attorney, and make a statement not to exceed five (5) minutes addressing specific facts or policies that are related to the interview.

**f. Recordkeeping**

- i. Recordkeeping for punitive disciplinary actions must comply with all employee due process rights. The department director or designee shall

present a copy of all notices of punitive disciplinary action to the employee, and forward the signed original to Human Resources & Risk Management for the employee's official personnel file.

- ii. In matters of punitive disciplinary actions involving Law Enforcement Officers, information related to that discipline shall be maintained confidential and shall not be placed in the Officer's official personnel file until the action becomes complete in accordance with A.R.S. § 38-1106 and A.R.S. § 38-1109. The action will not be deemed complete until the conclusion of the discipline process, including the appeal process, if applicable.
- iii. Records of these actions may be removed from the employee's file if sustained performance/behavior improvement has been observed for five (5) years after the disciplinary action. The purging of a punitive disciplinary document is not automatic and requires the department director's approval. It is the employee's responsibility to request, in writing to the department director, removal after five (5) years. This will be done after consultation between the department director and Human Resources & Risk Management.

**g. Appeal Rights**

- i. Suspensions without pay for more than one working day (for non-sworn employees) or one day or more (sworn employees), involuntary demotions, disciplinary probation, and terminations are appealable to the Personnel Board in compliance with the employee's due process rights. Suspensions without pay for one working day for non-sworn employees are not appealable.
- ii. To exercise his/her appeal rights, the employee must file a written notice of appeal to the Personnel Board by serving the appeal to the Human Resources & Risk Management Director within fourteen (14) calendar days of employee's receipt of the disciplinary action. Failure of the disciplined employee to file a written notice of appeal within the designated time will serve as a waiver of all further procedural due process rights, including the right to a hearing on his/her appeal.

**h. Appeal Hearing Procedure**

- i. Within thirty (30) calendar days of the receipt of notice of appeal, Human Resources & Risk Management shall set the date of the Personnel Board Hearing. This hearing date shall be within a reasonable time from the receipt of the notice of appeal and will not exceed one hundred twenty (120) calendar days from the notice of appeal unless an extension is granted by Human Resources & Risk Management for good cause.
- ii. Termination appeal hearings have precedence over and may supersede previously scheduled appeal hearings where suspensions, involuntary demotions or disciplinary probation are being considered.

- iii. The Personnel Board Hearing will be conducted in accordance with the Personnel Board Process and Procedures.
  1. At the hearing, the employee must appear personally and may produce evidence. The employee may, but is not required to, be represented by legal counsel. Legal counsel may represent the employee, provided the employee or legal counsel notifies Human Resources & Risk Management of such representation not less than fourteen (14) calendar days prior to the hearing.
  2. The City may be represented by the City Attorney's Office in all cases, regardless of whether the employee has retained counsel or is self-represented. If the City Attorney's Office does not present the case for the disciplinary action, a representative of the City Attorney's Office may serve as advisor to the department director or designee, who shall present the City's case for taking the disciplinary action.
  3. The hearing shall be informal, is intended to be non-adversarial, and is not bound by formal rules of evidence.
  4. The Chair of the Personnel Board or designee may grant a continuance of the hearing only for good cause shown and only one continuance will be granted per party. Continuance requests shall be received by the Personnel Board Chair or designee no later than seven (7) calendar days prior to commencement of the hearing.
  5. A record of the disciplinary action shall be included in the minutes of the hearing.
  6. The order of proof in any hearing shall be: (i) an opening statement made by the City; (ii) an opening statement made by the appellant (unless waived or deferred); (iii) the City presenting evidence demonstrating the violation of the City policy and supporting the penalty sought ; (iv) the employee's presentation of any evidence in his or her defense and any justification for a reduction in the penalty sought; and (v) rebuttal evidence by the City. Each party shall be entitled to make a closing statement. Each party may submit an opening or closing statement in writing in lieu of making an oral statement during the hearing. Each party shall be given a cumulative two (2) hours to present its case, inclusive of any opening statement, witness testimony, cross-examination, or rebuttal testimony unless the Personnel Board grants an extension. The time necessary to present closing arguments shall not be included in the two (2) hours given to each party to present its case. The time limitation shall also not include time used by members of the Board to ask questions of the witnesses.
  7. The employee or the employee's attorney may request the Personnel Board to require other employees to attend and testify at the hearing.

Any such request must be submitted in writing to Human Resources & Risk Management no later than fourteen (14) calendar days prior to the commencement of the hearing. The request must identify the employees requested to attend and a statement as to the substance and relevancy of the information or testimony to be solicited from each individual employee. The Chair of the Personnel Board shall be provided with all such requests and shall have the authority to order any employee who may have relevant information to attend the hearing and testify.

8. The employee or the employee's attorney may request the City to produce documents other than those provided to the employee in the notice of intent to take disciplinary action or the notice of the disciplinary action. Any such request must be submitted in writing to Human Resources & Risk Management no later than twenty-one (21) calendar days prior to the commencement of the hearing. The request must identify with specificity the documents requested and contain a statement as to the substance and relevancy of each such document requested.
9. The City may object to the production of any document requested by filing a written objection with Human Resources & Risk Management not more than fourteen (14) calendar days after the receipt of the request from the employee or the employee's attorney. The Chair of the Personnel Board shall be provided with all such requests and objections to such requests, and shall have the authority to order the production of relevant documents requested by the employee or the employee's attorney.
10. In any hearing conducted, the Personnel Board may require any employee of the City to attend and produce evidence. Refusal of an employee to attend and produce evidence upon an order of the appointing authority, the Personnel Board, or Human Resources & Risk Management, shall subject the employee to disciplinary action. During any investigation or hearing, testimony shall be presented under oath or affirmation, and will be held confidential by all parties.

**i. Disposition of Appeal**

Following the hearing, the Personnel Board's recommendation shall be reported to the City Manager. The Board's finding and recommendations shall be advisory in nature. The City Manager may affirm the action imposed in the Disciplinary Action, modify it pursuant to the Board's recommendations or modify or dismiss the action in his/her sole discretion. The employee's official personnel file shall reflect only the final action.

**j. Settlement of Punitive Disciplinary Actions**

The City and the employee may agree to settle the punitive disciplinary action at any point in the disciplinary process. Any agreement reached by the parties to

resolve the disciplinary action shall be documented and signed acknowledging agreement by the employee, the department director, and the Human Resources & Risk Management Director or his/her designee. The Settlement Agreement shall recite the statement of facts surrounding the alleged violation of City policy, procedure, regulation or directive, identify the City policy, procedure, regulation or directive the employee is charged with violating and the final disposition of the disciplinary action, including any penalty being imposed and any corrective action the employee is required to undertake to satisfy the terms of the agreement.