

Administrative Regulations Details

Supersedes: A.R. 6-20 dated November 15, 1993	Title: DISCIPLINE OF EMPLOYEES	Number: 6 - 20 Effective Date: 08-01-1997
Related Documents: <u>Instructions to Serving Supervisor</u>		Sections: I - IX Chapter: Human Resources
<p>I. AUTHORITY</p> <p>The Charter of the City of Alexandria (Sections 4.03 and 8.05) authorizes and empowers the City Manager or her designee to appoint and, for cause, to discharge or otherwise discipline department heads and other officers and employees of the City.</p> <p>II. PURPOSE</p> <p>This Administrative Regulation establishes the policy of the City Manager to be utilized whenever disciplinary action is warranted.</p> <p>City employees are to conduct themselves in a manner that reflects the highest standards of work performance and personal integrity. Employees are subject to discipline for their behavior, whether on or off the job, when it reflects adversely upon the City.</p> <p>III. DEFINITIONS</p> <p>A. Administrative Review</p> <p>An opportunity for an employee against whom a major disciplinary action has been recommended to present to the Director of Human Resources or a designee of the City Manager information and reasons as to why the recommended disciplinary action should not be implemented.</p> <p>B. Demotion</p> <p>Disciplinary reduction in rank and salary or in grade and salary.</p> <p>C. Director</p> <p>Director of the Department of Human Resources.</p> <p>D. Disciplinary Action</p> <p>An action against an employee which is based upon, and is designed to discipline an employee for, his/her unsatisfactory performance and/or unacceptable conduct.</p> <p>E. Leave Pending Administrative Review</p> <p>Administrative leave, with or without pay, for an employee against whom a major disciplinary action has been recommended to the Director of Human Resources, pending the administrative review of and the Director's decision on the recommended action. When an FLSA-exempt employee is placed in leave without pay status pending</p>		

administrative review, it shall be for a normally scheduled work week or multiples of a work week.

For fractions of a normally scheduled work week, the administrative leave shall be charged to annual leave and/or compensatory time.

F. Loss of Annual Leave

Disciplinary reduction of an employee's annual leave balance.

G. Major Disciplinary Action

A termination, demotion, major suspension or loss of more than three days of annual leave.

H. Major Suspension

Disciplinary removal of an employee from paid status for more than three working days.

FLSA-exempt employees may not be removed from paid status for disciplinary reasons unless the suspension is for a full work week. More severe suspensions must be in multiples of work weeks. The one exception to this rule is that FLSA-exempt employees may be removed from paid status for disciplinary reasons for less than a full work week for violations of safety rules of major significance.

I. Minor Suspension

Disciplinary removal of an employee from paid status for not more than three working days. FLSA-exempt employees may not be removed from paid status for disciplinary reasons for less than a full work week, except for violations of safety rules of major significance.

J. Oral Reprimand

Oral notification to an employee by a superior of performance or conduct which is not satisfactory or appropriate

K. Termination

Disciplinary separation of an employee from employment with the City.

L. Written Reprimand

A formal notification issued in writing to an employee by a superior of performance or conduct which is not satisfactory or appropriate.

IV. PROGRESSIVE DISCIPLINE

It is the policy of the City that disciplinary action should be remedial in nature and that termination, which constitutes the severest form of disciplinary action, should be utilized only in the event of serious or repeated offenses. Normally, disciplinary action should be progressive, ensuring that efforts are directed to encouraging employees to understand fully the nature of their conduct and their obligations to the City. However, it is recognized that there are some types of conduct and some levels of performance which provide a reasonable basis for termination upon the first offense. See Section IX below.

The implementation of discipline shall be at a level deemed appropriate in view of the seriousness of the employee's deficient performance or conduct and the employee's prior work record. Depending upon the circumstances of the matter, disciplinary action may be imposed at any level of severity. A single serious offense, such as one of those listed in Group III (see

Section IX), or an accumulation or a pattern of less serious offenses, whether related or unrelated, may form a reasonable basis for invoking a major disciplinary action.

Disciplinary actions include the following: oral reprimand; written reprimand; loss of annual leave; leave pending Administrative Review; minor suspension; major suspension; demotion; and termination.

V. REVIEW OF DISCIPLINE

A. Major Disciplinary Actions.

1. No major disciplinary action may be implemented against an employee until after a major disciplinary action has been recommended by the employee's department head to the Director (or another designee of the City Manager), an opportunity for an Administrative Review has been provided to the employee and, following such Administrative Review, the Director (or other designee of the Manager) has confirmed the imposition of the disciplinary action.
2. At the time a department head recommends that a major disciplinary action be taken against an employee, the department head shall notify the employee, in writing, of the recommendation and the basis for the recommendation. In this same written notice, the department head shall inform the employee of the opportunity for an Administrative Review of the recommended disciplinary action, of the steps which the employee must take in order to obtain the Administrative Review, and of the dates by which such steps must be taken.
3. Notwithstanding any provision to the contrary in A.R. 6-18, a department head who recommends that a major disciplinary action be taken against an employee may place the employee on leave, with or without pay, pending the Administrative Review of the recommendation; provided, that prior to placing an employee on leave without pay pending Administrative Review, the department head or designee shall provide the employee an opportunity to present the reasons why he/she should not be placed on such leave.
4. In cases where the City Manager has not specifically designated another individual, the Director shall conduct the Administrative Review of the department head recommendation for a major disciplinary action and, following such review, shall confirm, modify or reject the recommendation.
5. During the Administrative Review of the recommended action, the employee may present to the Director, in writing and/or person, his/her reasons why the recommended action should not be implemented. The employee must make his/her written submission to, and must meet with, the Director within seven calendar days of the date of the written notice issued to the employee under Section 2 above; provided, that the Director may, for good cause shown by the employee, enlarge this period for up to an additional seven calendar days. A representative of the employee may be present during, but may not participate in, any verbal presentation the employee makes during the Administrative Review.
6. Following review of the recommended major disciplinary action and the written and/or verbal presentation by the employee, the Director shall decide whether to confirm, modify or reject the recommended action. If the recommended action is confirmed, the Director shall sign an appropriate personnel action form implementing the disciplinary action. Any decision by the Director to confirm a recommended termination shall be referred to the City Manager's attention by the Director within 48 hours of the decision. In the event that the recommended action is modified or rejected by the Director or, in the case of termination, the City Manager, any benefits and/or salary lost by the employee

as a result of the recommended action shall, if deemed appropriate by the Director, be restored to the employee. Any decision by the Director to modify or reject a recommended major disciplinary action may, within seven calendar days of the Director's decision, be appealed by the department head to the City Manager, who may confirm, reject or modify the Director's decision.

B. Other Disciplinary Action

1. Any disciplinary action listed in Section IV which is not a major disciplinary action may be implemented on the departmental level by department heads and supervisors. However, the Director or his designee shall review any such disciplinary action before any record reflecting or describing it may become part of an official employee record. In the event that, in the course of such review, the Director or his designee determines that the disciplinary action was inappropriate, the Director may cause the action to be rescinded and, if appropriate, other disciplinary action imposed. In addition, in the event that a disciplinary action is rescinded by the Director, any benefits and/or salary lost by the employee as a result of that action shall be restored, less any benefits and/or salary which the employee would have lost if the other disciplinary action imposed by the Director had been previously imposed.
2. Within three working days of imposing a minor suspension or a loss of three or fewer days of annual leave, a department head or supervisor shall notify the employee, in writing, of the basis for the suspension or loss of leave. A copy of such notice shall be forwarded to the Department of Human Resources for review by the Director under Section 1 above and for inclusion in the employee's official personnel file.
3. Oral reprimands are the lowest form of discipline. Although no record of an oral reprimand is kept in the employee's official personnel file, a supervisor giving an oral reprimand to an employee must say the words, "This is an oral reprimand." If the supervisor discusses a performance problem with an employee and fails to say, "This is an oral reprimand," the employee has been counseled and not disciplined. Any oral reprimand shall include an explanation of the proper performance or conduct expected of the employee and a warning that the continuation of the performance or conduct causing the reprimand, or similar performance or conduct, will result in further discipline. The supervisor must note in the employee's departmental file that the employee was given an oral reprimand and notify the department head through the chain of command that an oral reprimand was administered.
4. A written reprimand shall include an explanation of the proper performance or conduct expected of the employee and a warning that the continuation of the performance or conduct which caused the written reprimand, or similar performance or conduct, will result in further discipline, including suspension or termination. A copy of any written reprimand shall be forwarded to the Department of Human Resources for review by the Director (see Section 1, above) and for inclusion in the employee's official personnel file.
5. Any disciplinary action other than the actions listed in Section IV may not be implemented without the approval of the Director.

VI. PHYSICAL AND/OR MENTAL INCAPACITY

- A. If a department head's recommended termination is based upon the employee's physical and/or mental incapacity to perform the usual and customary duties and responsibilities of his/her position, a letter to that effect shall so inform the employee and shall inform him/her of the opportunity for an Administrative Review of the

recommended termination. Before such a recommendation is made, the department head shall determine that all reasonable efforts to accommodate the physical and/or mental incapacity of the employee have been made and that these accommodations have not enabled the employee to perform the usual and customary duties and responsibilities of his/her position. This letter shall be in lieu of the notice required by Section V.A.2. All other notice and procedural requirements applicable to termination under Section V shall apply to a termination for physical and/or mental incapacity.

- B. An employee who is terminated due to his/her physical and/or mental incapacity to perform the usual and customary duties and responsibilities of his/her position shall have full access to the customary benefits, rights and procedures of an employee who voluntarily terminates his/her employment with the City.

VII. ADMINISTRATIVE INQUIRY

- A. A department head may initiate an Administrative Inquiry into any suspected improper or unauthorized activity on the part of one or more employees in his/her department which may form the basis for a disciplinary action. Department heads must seek and receive permission from the Director in order to initiate Administrative Inquiries. Department heads shall consult with the Director, Chief of Police, and City Attorney about possible illegal or criminal matters. The Director shall notify the City Manager if the Chief of Police and City Attorney recommend criminal investigation.

Not all employee activities that may result in discipline require an Administrative Inquiry. Routine problems with attendance and leave or employee job performance do not typically require an Administrative Inquiry. The department head should consult the Director if he/she needs assistance in determining whether an Administrative Inquiry is necessary.

1. If an Administrative Inquiry appears to involve more than one City department or agency, the department head who initiated the inquiry shall notify the Director. The Director shall ask the department head of the other department or agency to designate a representative to participate in the Administrative Inquiry.
 2. In the course of an Administrative Inquiry, if the persons conducting the Administrative Inquiry have reason to believe that a criminal act or violation of the law may have occurred, they will notify the department head(s) and the Director immediately. The Director shall ask the Chief of Police and City Attorney to review the matter for possible criminal investigation. The Administrative Inquiry must halt during the criminal investigation. It may resume pending the approval of the Director.
 3. The City Manager may also direct the Director or a department head to initiate an Administrative Inquiry under this section.
- B. All employees shall cooperate fully with the City officers and employees conducting an Administrative Inquiry. Any employee who fails to cooperate fully or who provides false testimony or information in the course of an Administrative Inquiry shall be subject to disciplinary action, including termination.

Personnel information is confidential and is not to be disclosed. Administrative inquiries are confidential processes and employees are required to keep the information discussed in confidence. Any employee who discusses the progress of an investigation will be subject to disciplinary action, including termination. (See A.R. 6-1, Code of Ethics, Section VII A.1.)

- C. Except as provided in Section D.4, employees may not be represented by counsel or an employee representative during an Administrative Inquiry, but shall be entitled to representation during any ensuing disciplinary action.
- D. In the course of an Administrative Inquiry, employees may be required to participate in a polygraph examination if there is reasonable cause to believe that they may have engaged in conduct which would form the basis for disciplinary action. Polygraph examinations shall, to the extent possible, be completed within a reasonable time, and they shall be done under circumstances devoid of intimidation or coercion. Any requirement that an employee participate in a polygraph examination shall have the prior written approval of the City Attorney. The requirement that an employee participate in a polygraph examination shall be conveyed to the employee in a written document, over the signature of his/her department head and either the Director or the City Manager, which contains the following information:
1. The employee must be notified that the subject of the polygraph examination will be limited to the subject of the Administrative Inquiry. Unless the employee otherwise consents, all questioning shall be limited in scope to activities, circumstances and events involving or pertaining to conduct of the employee which may form the basis for disciplinary action against him/her. However, in the course of a polygraph examination, for establishing controls and proper response measurement levels, questions irrelevant to the Administrative Inquiry may be asked so long as such questions pertain to matters that reasonably appear to be irrelevant to the inquiry, and the answers to the questions are readily verifiable independent of the answers of the employee.
 2. The employee must be notified that the polygraph examination will be given by a licensed examiner and will be conducted in accordance with the Virginia Department of Commerce's regulation on polygraph examiners.
 3. The employee must be notified that his/her refusal to participate in the required polygraph examination may subject him/her to disciplinary action, including termination.
 4. The employee must be notified that he/she may consult with a representative or legal counsel prior to but not during the examination.

In addition, in order for an employee to be required to participate in a polygraph examination, the employee must be notified in writing by the Commonwealth's Attorney that criminal charges against him/her will not result from participation in the polygraph examination and that none of the information he/she provides in the course of the examination will be used by the law enforcement officials or others in developing or bringing criminal charges against him/her.

VIII.

IX. RECORDS

Records of disciplinary action taken against an employee shall be kept in the employee's official personnel file and shall be kept confidential to the degree required by Virginia law. Records of Administrative Inquiries shall be retained by the department or office conducting the inquiry, shall be kept separate from other records and shall be kept confidential to the degree required by Virginia law. Records of employee grievances shall be kept in the employee's grievance file and shall be kept confidential to the degree required by Virginia law.

X. GUIDELINES

The guidelines below are provided for management officials to be used in determining the appropriate level of discipline to impose for various levels of unacceptable performance and for various types of unacceptable conduct. The examples given are not intended to be all inclusive,

and they are not binding on management officials. In determining the level of discipline to impose, managers should consider the employee's prior work and disciplinary record and any mitigating or aggravating circumstances which may exist.

A. GROUP I OFFENSES

The first group of offenses include behaviors and job performances which are not severe in nature but which require correction in the interest of maintaining a productive and well-managed work force. Generally, supervisors should attempt to address a first offense with an oral reprimand and a second offense with a written reprimand.

First Offense - Oral or Written Reprimand

Second Offense - Written Reprimand, Loss of Annual Leave, Suspension

Third Offense - Suspension, Demotion or Termination

Fourth Offense - Termination

- Unsatisfactory attendance or excessive tardiness.
- Inadequate or unsatisfactory job performance.
- Smoking in unauthorized areas.
- Unauthorized time away from the work area or a failure to notify supervisor promptly of completion of assigned work.
- Failure to establish and maintain harmonious working relationships with co-workers, supervisors and the public.
- Unauthorized removal of City notices, signs or other appropriate materials from bulletin boards on City property.
- Violation of established rules regarding use of City bulletin boards.
- Malicious behavior, loafing, horse play, or similar conduct.
- Carelessness in the observance of departmental rules or disregard of common safety practices.
- Failure to report any personal injury or equipment damage or loss immediately to one's supervisor.
- Vending, solicitation or distribution of materials or services without permission during working hours.
- Wearing attire or maintaining personal appearance which is obscene or offensive or inappropriate to such a degree that it interferes with the proper functions of the workplace or the proper performance of the individual's job.
- Failure to keep the proper City officials informed of home address and phone number.
- Accidental or unintentional introduction of one or more computer viruses to any City computing system, or failure to report a computer virus in a timely manner.

B. GROUP II OFFENSES

Second group offenses include behaviors and job performance problems which are severe and which form a reasonable basis for more stringent initial disciplinary action.

First Offense - Written Reprimand, Loss of Annual Leave, Suspension

Second Offense - Suspension, Demotion, Termination

Third Offense - Termination

Fourth Offense - Termination

- Performing personal work on City time or with City equipment.
- Absence without approved leave for less than three days.
- Failure to follow supervisor's instructions (insubordination) or otherwise comply with applicable established policy.
- Violating safety rules or Virginia Traffic Code while driving City or other public vehicles where such violation does not involve a threat to life.
- Working when ability is impaired by alcohol or drugs.
- Engaging in gambling, lottery, games of chance or betting on City property or during working hours.
- Failure to report to work without proper notice to supervisor.
- Leaving work prior to the end of the work day or tour of duty.
- Failure to report an accident in which the employee was involved.
- Making false, discriminatory, or malicious statements concerning any employee, supervisor, the public, the City or its operations.
- Failure to perform overtime work without good reason after being assigned to work overtime.
- Unauthorized or improper use of any type of leave.
- Sleeping or appearing to be asleep during working hours.
- Unauthorized disclosure of another employee's personal computer access code.
- Issuing unauthorized correspondence to the public on City stationery.
- Use of foul, obscene, profane, abusive or sexually offensive language toward co-workers, supervisors or the public.

C. GROUP III OFFENSES

Third group offenses include behaviors and job performance problems of such a serious nature that a first occurrence normally warrants termination.

- Absence without approved leave for three consecutive days.
- Possession, distribution or use of alcohol or controlled substances while on the job.
- Falsifying records such as, but not limited to: vouchers, travel records, reports, insurance claims, time records, leave records, employment applications or other official City documents.
- Permitting another person to use City identification, using another person's City identification card, or altering a City identification card.
- Willfully or negligently damaging, defacing or destroying City records, City property, tools or equipment, or the property of another employee.
- Theft, misappropriation or unauthorized removal of City records, or of public property or of property belonging to another City employee.
- Acts of physical violence, fighting or endangering the health or safety of others.
- Violating safety rules or the Virginia Traffic Code where such a violation poses a threat to life.
- Use of undue influence to gain or attempt to gain promotion, leave, favorable assignment or other individual benefit.
- Unauthorized possession or use of firearms, dangerous weapons or explosives on the job.
- Threatening or intimidating subordinates, fellow employees, supervisors or members of the public.
- Willful or serious neglect in the performance of assigned duties or in the care, use, or custody of any City property.
- Making false claims or misrepresentation, or withholding information in an attempt to obtain sickness or accident benefits, workers compensation, unemployment compensation benefits or other items or benefits of value.
- Criminal or other misconduct occurring on or off the job which is related to job performance or is of such a nature that to continue the employee in the assigned position or in any City employment capacity would constitute negligence in regard to the City's duties to the public or to other City employees.
- In any matter within the jurisdiction of any officer, department or agency of the City:
(a) the knowing falsification, concealment or cover-up of a material fact, and/or (b) the knowing making of any false, fictitious or fraudulent statement or representation, and/or (c) the making or using of any writing or document knowing the same to contain a false, fictitious or fraudulent statement or entry.
- Misuse, alteration, destruction, concealment or removal of City records such as letters, memoranda, and/or blueprints and/or lists without prior authority from the City.

- Disclosure of records, documents or information which the employee knows or should have known to be confidential.
- Instigating, leading or participating in any walkout, strike, refusal to return to work at the scheduled time, restriction of production, or interference with work in or about the City's work areas.
- Failure to satisfactorily complete a required training program that is part of a job assignment.
- Sexual conduct, even consensual conduct, on the job.
- Failure to obtain or maintain a current license or certificate required by law or organizational standards as a condition of employment.
- Intentional introduction or repeated unintentional introduction of one or more computer viruses to any City computing system.
- Unauthorized disclosure, to any individual or group, of City computer data, either in electronic or printed form.
- Unauthorized modification of computer records, either in electronic or printed form.
- Verbal or other conduct regarding an individual or group that maligns or shows hostility for the individual or group because of race, color, religion, gender, national origin, age, disability, or sexual orientation.