

City of Sterling Personnel Policies

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CHAPTER 8

DISCIPLINE

This chapter is in place to provide guidelines for conducting discipline. It does not create a vested employee right or contractual obligation to continued employment.

SECTION 1 General

The purpose of discipline is to improve performance, efficiency and morale of city employees. Any employee, whose conduct or performance is unsatisfactory or unacceptable under City Policy, is subject to disciplinary action. All employees of the City of Sterling are expected to observe the rules and regulations adopted by the City for the proper and efficient operation of City governmental functions and to insure continuing services.

Supervisors at all levels are responsible for the general conduct of employees of the City under their supervision. Supervisors further have the responsibility to the City to initiate disciplinary action, when appropriate and warranted, due to improper and detrimental activities which are contrary to accomplishment of purposes of proper municipal administration. Supervisors are expected to be expedient in issuing disciplinary actions, however, it should be understood by the employees, that past or previous allegations of misconduct may be investigated and utilized as part of current disciplinary action. Any action which reflects discredit upon the City of Sterling or has a direct hindrance to the effective performance of a Department or City function is considered reason for disciplinary action against any employee of the City. Disciplinary actions shall be based on the acts or omissions of the employee. Disciplinary action may be in the form of an oral or written warning, demotion/reduction in grade, suspension or dismissal.

No employee will be subject to disciplinary action because of race, color, creed, sex, national origin, age, disability, religion or political affiliation.

SECTION 2 Reporting Disciplinary Actions

All disciplinary actions, except oral reprimands, shall be recorded in writing on a form either provided or approved by the Human Resource Office and signed by the supervisor and the employee. The employee's signature acknowledges receipt of the reprimand and not that the employee necessarily agrees with the reprimand. The disciplinary actions should include the policy violation and describe the action or behavior which resulted in a disciplinary action. All recorded disciplinary actions shall be made a part of the employee's official personnel file to be maintained and housed in the Human Resource Office. The employee may, within three (3) working days of the receipt of the reprimand, file a written response to be included in the employee's personnel file.

SECTION 3 Authority to Issue Disciplinary Actions

The Department Head of each department of the city initiates the discipline of or termination of an employee. Such discipline may include reprimand, suspension without pay and demotion. In the case

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of a division head with direct reporting responsibility to the city manager, the division head shall function as would a department head in the discipline or termination process.

Disciplinary actions as presented in **Section 4** of this chapter may be administered by regular or acting supervisors, Division and Department Heads. All actions taken by regular supervisors, acting supervisors and Division Heads will be reported through supervisory channels to the Department Head.

SECTION 4 Types of Discipline

The following represents standard disciplinary actions which may be administered. This list is not all inclusive nor does it prevent other unlisted disciplinary actions from being utilized. The following actions are not listed in any particular order and may be administered singularly or in any order or combination depending upon the severity of the situation giving rise for the need to discipline.

- A. **Oral (Initial) Reprimands** may be administered by any immediate supervisor, normally consisting of a verbal warning. The immediate supervisor shall clearly and unmistakably orally advise the employee of the following: the specific activity which is unacceptable, why the activity is unacceptable, and the remedial or corrective action expected. The immediate supervisor shall be expected to make written memorandum of the objectionable activity, for division/department operational records.
- B. **Written Reprimand** is a disciplinary action which consists of a written record of a violation of a rule, regulation, policy or procedure and may be issued by an immediate supervisor. A written warning may be given to an employee when an activity is one which, of and by itself, does not require punitive action, such as suspension, demotion, or termination and the immediate supervisor or department head determines that a written warning is justified under the circumstances. The written warning shall be presented to the employee, and reviewed with the employee, specifically addressing the activity, citing any relevant previous oral warnings, and the remedial or corrective action expected, plus any applicable time frame for correction of the behavior. All written warnings shall become a part of the employee's personnel file. A memorandum record shall be kept by the employee's supervisor regarding the correction activities taken on the part of the employee or the lack thereof. The lack of attempted corrective activities on an employee's part may be used for and referenced in future disciplinary actions regardless of the nature of the future actions. Such memorandum, with the original written warning, shall become a part of the employee's personnel file.
- C. **Suspension with Pay/Administrative Suspension** is a forced leave of absence with pay. This type of disciplinary action may be administered by a Department Head in the event that further investigation of allegations of employee misconduct is necessary. This type of action will normally be used if the employee's presence at the job site could impede conducting an investigation, or cause disruption of City operations.
- D. **Demotion or Removal from Promotion/Eligibility List** are disciplinary actions which may be administered by the Department Head provided the employee's actions or behaviors indicate a reassignment to another position, or disqualification from promotional or eligibility consideration.
- E. **Suspension without Pay** is a forced unpaid leave of absence due to a policy violation, an act or an omission by an employee. This disciplinary action is normally administered by the Department Head or the City Manager. This form of discipline may be used under the following non-inclusive circumstances:

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- 1) when the activity giving rise to the need for disciplinary action has created a safety concern for the well being of the individual being suspended, other employees or the general public, if the person subject to suspension would remain on active employment;
- 2) if the person to be suspended would impede the efficient and proper operations of the City by continued presence at the workplace; or
- 3) other circumstances or conditions not listed above but which the Department Head or City Manager view as appropriate taking into consideration the severity or frequency of the policy violation(s), infraction(s), act(s), or omission(s) of the employee.

F. Reduction of future accruals of PTO (Paid Time Off) This action may be utilized singularly or in conjunction with any of the disciplinary actions found in this section. Dependent upon the severity of the infraction giving rise to a disciplinary action, the employee's future accrual of PTO may be temporarily delayed or suspended by a period not to exceed ten (10) pay periods within a twelve (12) month period, as established by the Department Head and Human Resources Director.

G. Dismissal/Discharge is an involuntary separation from employment. This action may be taken by the Department Head after consulting with Human Resources.

Other Disciplinary Actions not listed above may be made by the Department Head after consulting with the Human Resource Director.

Note to Employees: *Disciplinary actions are not normally subject to public disclosure. Your disclosure or discussion of a disciplinary action with individuals except those issuing the disciplinary action may make the records public. You may unknowingly be breaching the confidentiality of these records, through you own actions.*

The following table represents a listing of the employee's administrative review options available for the respective disciplinary actions. The **Grievance Process** is found in **Chapter 9** of this manual with the appeal process found following in this chapter.

Disciplinary Actions	Request Review Through
Oral Warning	Grievance Process
Written Warning	Grievance Process
Suspension with Pay	Grievance Process
Reduction of future accruals of PTO (Paid Time Off)	Grievance Process
Demotion	Appeal Process
Suspension without Pay	Appeal Process
Dismissal/ Discharge	Appeal Process

SECTION 5 ACTIVITIES OR BEHAVIORS SUBJECT TO DISCIPLINE

NOTICE: Any one of the activities set forth in this section may subject an employee to disciplinary action up to and including dismissal from employment.

In order to clarify those employee behaviors or activities deemed improper and most detrimental to the proper functioning of Sterling's City government, the following activities are deemed to be subject to disciplinary action by the City administration through its supervisory personnel. This listing is by no means meant to be all inclusive where as the City reserves the right to discipline employees for any inappropriate work behaviors.

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Listed are some reasons for issuing disciplinary actions referred to in **Section 4** of this chapter. These activities or behaviors are deemed to be improper and detrimental to the proper functioning of Sterling's City government, but disciplinary action is not limited to the offenses listed:

- a. Being convicted of a felony or a misdemeanor;
- b. Excessive absenteeism or tardiness;
- c. Being absent without leave;
- d. Abuse of PTO or other leave with or without pay;
- e. Inefficiency or ineffectiveness;
- f. Neglect, damage to, abuse or misuse of City property;
- g. Unauthorized adjustment to, modification or alteration of City equipment or property which either disables or overrides the intended purpose or use of the equipment;
- h. Willfully giving false statement(s) or information to a supervisor, City officials, the public, the City Council or other City Boards and Commissions;
- i. Violation of Departmental or City policies, rules and/or regulations or violations of the City Charter or ordinances;
- j. Being under the influence or in possession of, or impaired by the use of drugs, alcohol or intoxicants while on duty;
- k. Discovery of false statement in an application which had not been detected previously if such statements are of relevance to the employee's current status;
- l. Acceptance of gratuities, gifts, or favors from persons or agencies for the performances of duties as a City employee;
- m. Refusal to be examined by the City designated physician and/or psychologist when so directed, and/or refusal to drug or alcohol testing when directed to do so;
- n. Political activity in conflict with the City's policies;
- o. Insubordination, or neglect or refusal to comply with lawful instruction;
- p. Personal use of City equipment without official permission;
- q. Conduct on or off the job unbecoming to a City employee or which brings discredit to the City or compromises the employee's ability to perform job functions and responsibilities;
- r. Neglect or abandonment of departmental or City duties;
- s. Failure to cooperate with fellow employees or supervisory personnel;
- t. Unauthorized disclosure of official or confidential information;
- u. Being derelict in the performance of City or Departmental duties;
- v. Retaliation against an employee for the legitimate use of the complaint procedures consistent with Chapter 9 of this manual;
- w. Subjecting any citizen or fellow employee to vulgar, abusive or profane language or sexual, racial or cultural slur or harassment;
- x. Deliberate or careless conduct endangering the safety of the employee or other employees;

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- y. Using, threatening, or attempting to use personal or political influence in an effort to secure special consideration as a City employee;
- z. Participating in or instigating a work slow-down or shut down; or
- aa. Public censure of City officials and/or City policy without first having followed proper procedures to alleviate the situation.

SECTION 6 Disciplinary Conference

Note to Employees: Through the remainder of this chapter, a working day shall be defined as a regularly scheduled and observed working day Monday through Friday from 8:00 a.m. to 5:00 p.m. regardless of an employee's work period, regular schedule, etc.

A regular non-introductory, non-probationary employee shall be afforded the opportunity for a Disciplinary Conference if a Department Head is administering a disciplinary action which involves suspension without pay, demotion or dismissal. A date for the conference will be established by the Department Head performing the discipline. The employee receiving the discipline shall be informed in writing of the time and place of the disciplinary conference. Should an employee fail to attend the conference the employee forfeits the opportunity for further administrative review of the disciplinary action through the appeal process of this chapter (**Section 7**).

If the incident is severe enough to require immediate disciplinary action or additional investigation of the incident is necessary, the regular employee shall be relieved of duty immediately with pay until the completion of the Disciplinary Conference. At a minimum two supervisory or administrative staff members shall be present at any disciplinary conference.

Since a disciplinary conference is an Internal Administrative process/proceeding, legal counsel or other representation shall not be present during any such conference. Following the disciplinary conference, the Department Head shall forward a copy of the disciplinary action taken to the Human Resource Director.

A **Disciplinary Conference** shall at a minimum include the Following:

- 1) A written explanation given to the employee during the conference that discipline up to and including discharge/dismissal from employment may be imposed. The explanation shall describe the event(s) (i.e., policy violations, unacceptable behaviors, etc.) leading to the disciplinary action and the level of discipline being imposed.
- 2) The written explanation shall also inform the employee as to their opportunity to request in writing (within three (3) working days of the disciplinary conference), the appeal of the indicated disciplinary action.

Prior to holding a disciplinary Conference for an employee dismissal, the Department Head may confer with the Human Resource Director and provide a copy of the written explanation to be presented in the Disciplinary Conference.

This process shall not prohibit the City Manager or their designee from directly disciplining an employee should the department head or supervisors fail or refuse to do so. In this situation the Human Resource Director shall hold the disciplinary conference. In the event of the City Manager or their designee directly disciplining an employee, review through this manual's Disciplinary Hearing process is not applicable.

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Note to employees: Forms for requesting the appeal of a disciplinary action through the appeal process are available in the Human Resource Office. There is space available on the form for your rebuttal to the disciplinary action.

SECTION 7 Disciplinary Action Appeal

General:

The appeal hearing is the opportunity for a **regular, non-introductory, non-probationary** employee to explain or present their side of a disputed departmental disciplinary action. Disciplinary actions which are subject to appeal as established by city code are **suspension without pay, demotion, or dismissal** from city service. The appeal hearing shall be informal in nature and therefore the formal rules of evidence will not be followed. In the instance of the City Manager directly issuing a disciplinary action, the affected employee will be afforded the opportunity of requesting an appeal of the disciplinary action using the following process.

A. Requesting an Appeal:

A regular, non-introductory, non-probationary employee may appeal a disciplinary action only after the employee has received notification of the disciplinary action from their department head. After receipt of the department head notification of the disciplinary action, the employee must request an appeal in writing, signed and dated by the employee and delivered to the Human Resource Office prior to 5:00 PM on the third working day after the employee receipt of the departmental disciplinary notification. If an employee does not request an appeal within this time period the disciplinary action will become final with the employee forfeiting the opportunity of appealing the action. From the date of the delivery of the notification of disciplinary action to the final determination of the disciplinary action by the City Manager the employee shall be placed on administrative leave (suspension with pay).

B. The Appeal Process:

The Human Resource Department may convene a meeting to conduct the appeal hearing. The appeal hearing shall be held on or before the tenth (10th) working day following the receipt of the request for an appeal hearing. The employee requesting the appeal shall be informed of the date, place, and time of the appeal meeting. Should an employee fail to appear on the established meeting date, the disciplinary action will become effective retroactively to the original delivery date of the disciplinary action.

Information to be available to the City Manager, the appeal shall include the disciplinary action notification, employment record of the employee requesting the appeal, the employee's request for appeal and other documents pertaining directly to the disciplinary action. The purpose of the hearing is for the City Manager to determine if the disciplinary action imposed is warranted and if the disciplinary action appropriate for the alleged actions or behaviors of the employee.

Prior to taking final action on the disputed disciplinary action, the City Manager shall be afforded the discretion to conduct further investigations into the disciplinary action should the manager deem it advisable and in the best interest of the city to do so. The City Manager shall make and distribute the final action no later than the tenth (10th) working day following the review.

Any action taken regarding the disciplinary action by the City Manager shall be final. If for any reason an employee fails to meet a deadline listed for requesting an appeal, attendance at the time and date specified for an appeal meeting, or attendance at any post appeal meeting as part of the City Manager Review convened by the City Manager or the City Manager's designee, the employee's appeal shall be deemed resolved and the disciplinary action appealed shall become final with any disciplinary action effective retroactive to the date of the initial delivery of the disciplinary action.

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SECTION 8 Removal of Disciplinary Actions from Employee Personnel Files

Documentation of disciplinary actions shall not be removed from the employee's official personnel file except at the direction of the City Manager. All disciplinary actions which are part of the employee's official personnel file will be given weight in determining eligibility for pay increases, promotions, assignments and further disciplinary action.