

I. PURPOSE

To provide a uniform and consistent policy for employee discipline and establish guidelines for management actions designed to correct the conduct or performance of employees who 1) fail to meet established standards, or 2) have engaged in unacceptable behavior.

II. DEFINITIONS

- Discipline

Management actions designed to correct the conduct or performance of employees who:

- 1) fail to meet established standards, or
- 2) have engaged in unacceptable behavior.

- Progressive Discipline

The process of working with employees to resolve unsatisfactory or unacceptable performance through a sequence of disciplinary actions including 1) counseling, 2) oral warning/reprimand, 3) written warning/ reprimand, and 4) major disciplinary actions.

- Counseling

Counseling includes any informal discussion with an employee designed to assist him/her to fully develop his/her skills and abilities. The discussion may clarify standards, evaluate the employees strengths and weaknesses, seek information, and/or clarify and remedy problems.

- Oral Warning/Reprimand

The oral warning verbally notifies the employee that his/her performance or behavior must be improved. Oral warnings are given by supervisors when counseling has failed to produce the desired changes.

- Written Warning/Reprimand

A written warning is a formal notice to an employee that further disciplinary action will be taken unless his/her behavior or performance improves.

- Suspension/Reduction in Pay

Suspension is the removal of an employee from his/her duties without pay. The employee may continue his/her duties but, as an alternative to suspension from duties without pay, a temporary reduction in pay may be imposed.

Suspensions/Reductions in Pay are normally taken in cases involving gross misconduct or chronic behavioral problems for which there seems to be no other appropriate response. An employee may in some instances be suspended on the spot. Such action is reserved for cases, where, for example, the employee's continued presence constitutes a clear threat to the safety of other employee's or to the public.

- Demotion

Demotion is the removal of an employee from his/her present position to a lower classification. (Demotion may occur if an employee has been promoted and can not perform the duties of the higher position but may still function effectively at the lower level).

- Discharge

Discharge is the permanent removal of an employee from employment service for cause.

- Resignation: An Alternative to Disciplinary Action

An employee may offer to resign instead of facing disciplinary action. By doing so, the employee loses the right to appeal. However, the inquiries from future employers regarding the reason for leaving will be answered with the statement that the employee resigned. No employee can be compelled to resign; resignation must be entirely voluntary.

III. POLICY

It is the policy of the City of Visalia to use positive measures and a process of progressive discipline to minimize and/or resolve employee performance or behavioral problems before more serious actions must be taken.

Disciplinary actions can range from informal conversations to formal discharge. The disciplinary process is a reasonable system based upon the premise that:

- 1) disciplinary actions are to be corrective rather than punitive;
- 2) disciplinary actions are progressively more severe; and
- 3) disciplinary actions will fit the nature of the problem.

It is the goal of the disciplinary process to:

- minimize employee performance and behavioral problems by informing employees of what offenses will be subject to discipline;
- give employees the opportunity to improve by identifying what specific actions they must take in order to meet performance and behavioral standards; and
- ensure that disciplinary procedures are applied uniformly and consistently, in accordance with City policies, ordinances, and work rules.

A. Application of Policy

1. Probationary Employees

The corrective counseling policy does not apply to probationary employees. A probationary employee may be rejected, discharged, demoted, reduced in pay or suspended without right to review or appeal unless otherwise required by law.

2. At Will Employees

The corrective counseling policy does not apply to the appointed Heads. An appointed personnel may be discharged, demoted, reduced in pay or suspended without right to review or appeal unless otherwise required by law.

3. Regular Employees

Disciplinary situations involving employees who have completed their probationary period must be dealt with by progressive discipline.

B. Grounds for Discipline

ACTIONS WHICH MAY RESULT IN DISCIPLINE INCLUDE, BUT ARE NOT LIMITED TO:

1. Failure to meet reasonable work performance standards and requirements.
2. Neglect of duties.
3. Failure to cooperate with the implementation and application of the City's Equal Opportunity Employment policies and procedures and with the City's Affirmative Action plan.
4. Sexual harassment of any employee.
5. Absence without supervisor's approval of leave from the job; and/or abandonment of position, for three (3) consecutive days, without notification.

6. Tardiness or excessive absenteeism.
7. Practicing deception or fraud in the securing of a job appointment or promotion.
8. Failure to supply full information as to character, reputation, medical history, or acts which, if known at the time of appointment, might have resulted in a disqualification of the employee for the job to which appointment was made.
9. Falsification of a relevant official statement or document.
10. Incapacity to perform job duties because of a mental or physical ailment or defect consistent with the PERS retirement conditions.
11. Improper withdrawal or limitation of service or any action which interferes with or is disruptive of the City mission of service to the public.
12. Insubordination.
13. Willful or negligent disobedience of any law, ordinance, City rule, departmental regulation, or superior's lawful order.
14. Misappropriation or damage of public property or waste of public funds or property through negligent or willful misconduct.
15. Unauthorized possession or use of narcotics or alcohol in City offices or reporting to work under influence of same.
16. Conduct unbecoming an officer or employee of the City.
17. Discourteous treatment of the public or other employees.
18. Any action inconsistent with these policies, rules, ordinances or official

department rules.

C. Process of Progressive Discipline

The following outline describes the progressive discipline process, beginning with informal counseling (which occurs when a potential problem is first identified) and progressing through alternative actions that increase in severity, if the problem persists. The choice of alternative disciplinary actions will vary in accordance with the severity of the performance problem, and will not necessarily follow the sequence as outlined herein.

1. Informal Discussion/Counseling

When a performance or behavioral problem is first identified, the problem should be discussed with the employee, along with the steps that need to be taken in effort to resolve the problem.

(The record of oral warning/reprimand is not placed in the employee's personnel file, unless subsequent action is necessary).

2. Oral Warning/Reprimand

If counseling fails to produce the desired changes, oral warnings/reprimands will be given by the supervisor. The oral warning verbally notifies the employee that performance must be improved.

If the employee fails to improve, more serious disciplinary action will be taken.

(No record of oral warning/reprimand is placed in the employee's personnel file, unless subsequent action is necessary.)

3. Written Warning/Reprimand

If the oral warning/reprimand fails to produce the desired changes, a written warning/reprimand is given to the employee. A written warning/reprimand is a formal notice to the employee that further disciplinary action will be taken unless his/her behavior or performance improves.

It is the responsibility of the supervisor to insure that the written warning/reprimand:

- Identifies what occurred to warrant disciplinary action.
- Identifies the date and time of the event which warrants disciplinary action.
- Identifies what City policy, ordinance, or work rule has been violated.
- Identifies what prior action was taken with the employee.
- Identifies what the employee is directed to do to correct the situation, establishing goals and timetables for improved performance/behavior.
- Informs the employee that failure to improve will result in more serious disciplinary action.

A record of written warning/reprimand will be placed in the employee's personnel file.

A written warning/reprimand may be expunged upon sustained corrective behavior, as determined by the City, after a period of three (3) years. It is the responsibility of the employee to request that his/her personnel file be purged.

4. Major Disciplinary Actions

If all previous attempts of corrective counseling and progressive discipline have failed to result in the required changes in employee performance/behavior, then major disciplinary actions will be applied.

Major disciplinary actions consist of:

- suspension/reduction in pay
- demotion
- discharge
- resignation, in lieu of discharge

a) Suspension/Reduction In Pay

Suspension is the temporary removal of an employee from his/her duties without pay. As an alternative to complete suspension from duties without pay, the employee may continue to perform his/her duties but a temporary reduction in pay may be imposed.

If the decision is made to suspend/reduce in pay an employee, the following must be considered:

- 1) After consulting with the Human Resources Department, a written notice to the employee from the Department Head is prepared which, includes:
 - Notice of proposed suspension/reduction in pay.
 - Date(s) suspension/reduction in pay will be effective.
 - Reasons for the suspension/reduction in pay, the specific grounds and the particular facts upon which the action is taken.
 - A reasonable time limit in which an employee may respond either orally or in writing to the department

head.

- 2) The supervisor will be responsible for insuring that there is a written record verifying that the employee has received the Notice of Suspension/Reduction in pay. This may be accomplished by either obtaining 1) the employee's signature, or 2) the signature of the individual who served the Notice, and the date of receipt/service.
- 3) The employee must be provided, upon request, with any written materials, reports and documents upon which the suspension is based.
- 4) The employee reduced in pay has a right to meet with the decision maker. (Note: This meeting does not constitute a hearing.)

An immediate suspension may be used when a serious violation has occurred and it is considered in the best interest of the City to suspend an employee immediately. However, written notice is still required.

A copy of the notice must be provided to the Human Resources Department.

Upon request of the employee, the record of suspension will be expunged upon sustained corrective behavior, as determined by the City, for a period of three (3) years. It is the responsibility of the employee to request the purging of suspension.

b) Demotion

Demotion is the removal of an employee from his/her present position to a position of a lower classification. If the decision is made to demote an employee, the following must be considered:

- 1) After consulting with the Human Resources Department, a written notice to the employee from the Department Head is prepared which includes:
 - Notice of proposed demotion.
 - Date demotion will be effective.
 - Reason(s) for the demotion, the specific grounds and the particular facts upon which the action is taken; and a specific statement of which positions are involved.
 - A reasonable time limit for the employee to respond either orally or in writing to the Department Head.
- 2) The supervisor will be responsible for insuring that there is written record verifying that the employee has received the Notice of Demotion. This may be accomplished by either obtaining 1) the employee's signature, or 2) the signature of the individual who served the Notice, and the date of receipt/service.
- 3) The employee must be provided, upon request, with any written materials, reports and documents upon which the demotion is based.
- 4) The employee has a right to meet with the decision maker. (Note: This meeting does not constitute a hearing.)

A copy of the notice must be provided, to the Human Resources Department.

When such demotion is initiated by an employee, it is necessary that the employee request demotion in writing; such action requires the approval of the department head with concurrence of the Human Resources Department.

A record of demotion shall remain permanently in the employee's personnel file.

c) Discharge

Discharge is the permanent removal of an employee from employment service, for cause. If the decision is made to discharge an employee, the following must be considered:

- 1) After investigation and consultation with the Human Resources Department, the department head prepares "A Notice of Intent to Terminate" to the employee which includes:
 - Statement of Intent to Terminate.
 - Date dismissal will be effective.
 - Reason(s) for the dismissal, the specific grounds and the particular facts upon which the action is taken.
 - A reasonable time limit for the employee may respond either orally or in writing to the department head.

A copy of such notice shall be provided to the City Manager and/or the Human Resources Director.

- 2) The employee must be provided with any known written material, reports and documents.

- 3) The supervisor will be responsible for insuring that there is a written record verifying that the employee has received the Notice of Suspension/Reduction in Pay. This may be accomplished by either obtaining 1) the employee's signature, or 2) the signature of the individual who served the notice, and the date of receipt/service.
- 4) The employee has a right to meet with the decision maker. This meeting does not constitute a hearing.

The employee may elect to resign in lieu of discharge, however, the City retains the right to refuse the resignation.

A record of discharge shall remain permanently in the employee's personnel file.

d) Resignation in Lieu of Discharge

An employee may offer to resign, instead of accepting a disciplinary discharge. If the employee elects to resign, he/she loses all rights to appeal. The employee's personnel file will reflect the resignation and any inquiries from future employers regarding the employee's reason for leaving City employment will be answered simply with the statement that "the employee resigned."

No employee can be compelled to resign; resignation must be entirely voluntary.

Matters of concern to an employee which are not eligible for the procedures set forth in either Section 101 Equal Employment Opportunity/Affirmative Action, Section 116 Corrective Counseling (Discipline), Section 117 Grievance Policy or Section 120 Sexual Harassment, may be addressed to the Human Resources Director.

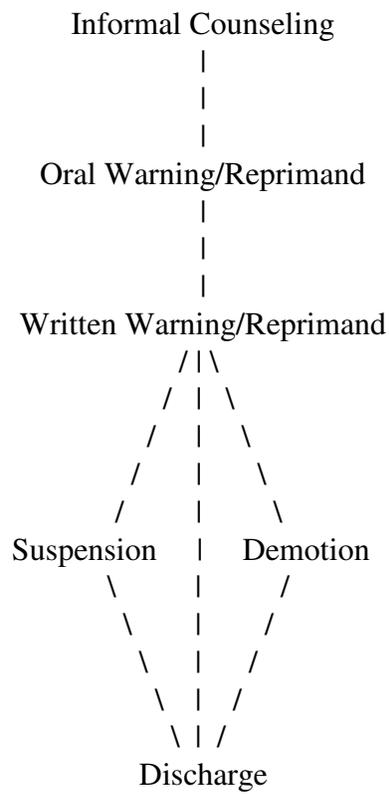
IV. APPEAL

If an employee chooses to appeal the reasons or acts of why a substantial, progressive, disciplinary action was taken, he/she may appeal using the Administrative Hearing Procedures. A demotion, a suspension of more than five (5) days or a reduction in pay equivalent to the loss of the total sum of more than five (5) days regular pay, constitutes substantial discipline for the purpose of this policy.

V. OTHER EMPLOYEE CONCERNS

Matters of concern to an employee which are not eligible for the procedures set forth in either Section 101 Equal Employment Opportunity/Affirmative Action, Section 116 Corrective Counseling Policy (Discipline), Section 117 Grievance Policy, or Section 120 Sexual Harassment, may be addressed to the Human Resources Director.

FLOW CHART OF PROGRESSIVE DISCIPLINE



CORRECTIVE COUNSELING POLICY (Discipline)

116

ADDENDUM TO CORRECTIVE COUNSELING POLICY

In recognition of the fact that *sworn personnel* within the State of California are subject to the *Police Officer's Bill of Rights*, this legislation will supersede the City of Visalia's Corrective Counseling Policy (#116) in its application to *sworn personnel* within the Visalia Police Department. *Sworn personnel* should refer to Police Department Disciplinary Procedures. All other employees continue to be subject to the Corrective Counseling Policy 116 as stated herein.