

City of Red Bluff
Administrative Policies & Procedures – Personnel Manual

Subject: Cause for Disciplinary Action & Procedures		Number: 22-48
		Effective Date: 10/17/2023
Departments Affected: All		Supersedes (Number/Date):
Authority: Section 2.82-A. Red Bluff City Code	File References:	
	Approved: Approved by City Council on: 10/17/2023	

Overview: Employment is conditioned upon reasonable standards of an employee’s personal conduct and satisfactory job performance. Failure to meet such standards may be considered cause for disciplinary action.

Applicable to: All employees; unrepresented, elected, probationary, and part-time/seasonal employees may be excluded from certain procedures

Guidelines: Discipline should be imposed with the goal of improving an employee’s performance and/or conduct and occur when attempts to change the employee’s behavior through traditional methods, such as additional training, intervention, coaching, or improvement plans have not been successful. Depending on the severity and nature of the behavior, discipline may be initiated at any stage and progress until the conduct has been corrected. Department Heads or their designees may impose discipline in accordance with this rule.

Public Safety Officers have additional protections under certain conditions. The Public Safety Officers Procedural Bill of Rights Act (POBR) specifies elements which must be afforded to “public safety officers” when subjected to investigations or disciplinary matters and must be adhered to accordingly.

Firefighters have additional protections under certain conditions. The Firefighters Bill of Rights (FBOR) specifies elements which must be afforded to “firefighters” when subjected to investigations or disciplinary matters and must be adhered to accordingly.

Procedures outlined in this rule shall not apply to a reduction in workforce, a reduction in pay that is part of a reclassification action, or a reorganization approved by the City Council.

In some circumstances, employees may be placed on paid administrative leave in order for the Department to complete an investigation or review prior to the imposition of discipline. Reference AP&P 22-49: Paid Administrative Leave for more information.

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Causes for Disciplinary Action

Disciplinary action, up to and including termination of employment, may be taken against any employee for unsatisfactory performance or for misconduct including, but not limited to, the following:

- Disorderly conduct while on duty, while attending any event related to employment, while using a City vehicle, while on City-owned or leased property, or while in uniform.
- Use of foul or abusive language toward supervisors, fellow employees, or the public.
- Off-duty conduct which brings discredit or disrepute to the City or Department or impairs its credibility with the public or other public agencies.
- Hostile or discourteous treatment of members of the public, public officers, or fellow employees.
- Sexual harassment, unlawful discrimination, mistreatment, or retaliation of another employee or applicant for employment.
- Physical altercation or threat of violence, reference AP&P 22-50: Workplace Violence.
- Bullying, seeking to harm, intimidate, or coerce someone perceived as vulnerable.
- Unauthorized use of City vehicles and equipment
- Negligence or willful damage to public property, waste, or theft of public supplies or equipment.
- Conviction of driving under the influence, reckless driving, or hit-and-run driving, whether on or off the job, while operating a City vehicle.
- Unauthorized possession of weapons or explosives on City premises.
- Willful carelessness or violation of safety rules and regulations which jeopardizes the safety of others and/or which could result in bodily injury to others or damage to City property.
- Using, possessing, manufacturing, distributing, dispensing, or being under the influence of alcohol, narcotics, intoxicants, drugs, or hallucinatory agents while on City property or while operating a City vehicle during working hours or reporting to work under such conditions, or abuse of alcohol or drugs while in City uniform, reference AP&P 22-7 Drug & Alcohol Free Workplace / Testing.
- Conviction of any criminal act involving moral turpitude.
- Violations of any of the provisions of the Personnel Rules, policy, or law.
- Willful disregard of a departmental policy, City policy, and/or laws regarding the confidentiality of records, reference AP&P 22-10: Employee Responsibility to Maintain Confidentiality.
- Dishonesty, including but not limited to fraud, falsifying official records, embezzlement, or theft, including gifts of public funds, misappropriation of City property or property of others for personal gain or for the benefit of others.
- Concealment or misrepresentation of material facts in applying for or securing employment.
- Falsification of any records, such as medical forms, timecards or employment applications, or making material dishonest work-related statements to other employees at work or committing perjury.

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- Neglect of duty.
- Incompetence or inefficiency.
- Failure to meet reasonable work performance standards and requirements.
- Failure to maintain licenses or certifications to perform the essential functions of the position.
- Excessive incoming or outgoing personal calls or electronic messages, including text messages, from an electronic device.
- Selling and/or soliciting on City premises without prior approval of the supervisor.
- Insubordination, including refusal to follow a reasonable order or refusal to perform the job as required.
- Refusal to cooperate or refusal to participate in a workplace investigation, either as the subject of the investigation or as a witness.
- Refusal to comply with a proper directive to undergo a medical examination as issued by an appointing authority.
- Requesting sick leave, family sick leave, or worker's compensation benefits when not ill or not injured.
- Absence without approved leave, excessive absences or tardiness, or an unauthorized absence, reference AP&P 22-29 Work Hours and Attendance.

PROGRESSIVE DISCIPLINARY PROCESS

Informal Discipline

Informal discipline is notification to an employee that their performance or conduct needs improvement. Informal discipline is generally documented by a counseling memo or a follow-up email outlining the basis for an informal discussion and future expectations for the employee's performance. Documentation of informal discipline should not be placed in an employee's personnel file. Instead, informal discipline should be maintained in the Supervisor's file.

- 1) Counseling: Counseling is typically an informal discussion with an employee, and may be considered a form of performance management, such as coaching and training, and is designed to assist an employee in their development or improvement of job skills, performance, behavior, or conduct.
- 2) Oral Reprimand: An oral reprimand is an informal verbal notification to the employee designed to indicate their job skills, performance, behavior, or conduct needs improvement. Oral reprimands are typically given when counseling has failed and the employee's conduct warrants a more serious action.
- 3) Improvement Plan (IP): A written improvement plan detailing areas that need to be addressed in the employee's performance after previous counseling and oral reprimands failed to achieve results. The IP should detail previous informal discipline actions taken, a time frame of either 30, 60 or 90 days to improve behaviors, and finally, state the potential formal disciplinary steps if the employee fails to improve in the stated time frame.

Formal Discipline

When informal discipline is unsuccessful in improving performance and/or

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conduct, Department Heads or their designees may impose formal discipline on employees.

A permanent status employee will be provided all due process rights under the Skelly v. State Personnel Board decision prior to the imposition of any formal disciplinary action, other than a Written Warning. The Department Head or their designee shall partner with Human Resources on all formal disciplinary actions.

Department Heads, working with Human Resources, may determine the stage of discipline depending on the severity and nature of the behavior or misconduct. The normal progression of discipline is:

Non-Severe Disciplinary Action:

- 1) Written Reprimand: A written reprimand is a formal notice to the employee that further disciplinary action will be taken unless the conduct improves. A copy of a written reprimand should be placed in the employee's permanent personnel file.

Severe Disciplinary Action:

- 2) Unpaid Suspension: Suspension is the temporary removal of an employee from their position. Suspensions are without pay and are usually given for either more serious forms of misconduct or for chronic problems not corrected by earlier counseling or reprimands. Suspension without pay should not exceed a period of 30 calendar days.
- 3) Salary Step Reduction: A salary step reduction is the reassignment of an employee's salary step placement at a lower salary step and shall not exceed a reduction of two salary steps for a defined period of time.
- 4) Involuntary Demotion: Involuntary demotion is the involuntary placement of an employee in a lower-paying classification. Involuntary demotions may be appropriate for employees who have demonstrated they do not have the skill set or other qualifications to perform at the higher level.
- 5) Termination: Termination is the involuntary and permanent removal of an employee from their position.

An appointing authority who proposes a suspension, salary step reduction, involuntary demotion, or termination of an employee who has attained permanent status shall, prior to taking such action, serve notice of the proposed action on the affected employee. The notice shall be in writing and shall include the reasons underlying the proposed action, including a copy of the charges and materials upon which the proposed action is based, and notification advising the employee of their right to respond, either orally or in writing, to the City Manager, or their designee. Once a decision has been made by the City Manager, or their designee, the employee has the right to appeal according to the appeals process as outlined in this policy or applicable memorandum of understanding.

Any employee covered by this rule can be terminated from City employment due to a mental or physical inability which prevents them from performing the essential functions of the employee's job, as determined by a medical or mental examination.

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The procedures outlined in this rule shall not preclude an employee from the following:

- Entering into a written agreement (i.e.: Last Chance Agreement, etc.) with the City to settle a pending disciplinary matter.
- Waiving any of the notice provisions as part of the settlement agreement.
- Waiving any time limits and formal steps with mutual written consent of the parties.

Appeals Process

Disciplinary Actions #2-5 above may be eligible for appeal.

Right of Appeal: Any regular employee who has successfully completed their initial probationary period shall have the right to appeal any appealable severe disciplinary actions to a Hearing Officer.

Method of Appeal: Appeals shall be in writing, subscribed by the appellant and filed with the City Manager or their designated representative, within five (5) city business days of the imposition of the appealable severe disciplinary action. The written request must state the reasons for appealing the disciplinary action taken. The appeal shall be a written statement addressed to the City Manager, explaining the matter appealed from and setting forth therein a statement of the action desired by the appellant, with the reasons therefore. The formality of a legal pleading is not required.

Notice of time, place, and date of Hearing: The City Manager within (5) City business days shall appoint an individual not currently connected with the City or employee groups to hear the appeal. The Hearing Officer shall coordinate with the City Manager to set a time, date, and place for a hearing which shall be not less than five (5) days following appointment nor more than twenty (20) City business days following the filing of the appeal. The City Manager shall notify all interested parties of the time, date, and place of the hearing.

Hearings: The appellant shall appear personally, unless physically unable to do so, before the Hearing Officer at the time, date, and place of the hearing. Any person or attorney may represent the appellant as they may select and may, at the hearing, produce on their behalf relevant oral or documentary evidence. The appellant shall state their case first and, at the conclusion, opposition matters may then be presented. Rebuttal matter, which is not repetitive, may be allowed at the discretion of the Hearing Officer. Cross-examination of witnesses shall be permitted. The conduct and decorum of the hearing shall be under the control of the Hearing Officer, with due regard to the rights and privileges of the parties appearing. Hearings need not be conducted according to technical rules relating to evidence and witnesses. Hearings shall be closed unless the appellant, in writing, requests an open hearing.

Findings and Recommendations: The Hearing Officer, within ten (10) City business days after the conclusion of the hearing, shall submit their findings and recommendations to the City Manager. The recommendations of the Hearing Officer are advisory only and may be accepted, rejected, or modified by the City Manager.

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Action by the City Manager: The City Manager, within ten (10) City business days following receipt of the report of the Hearing Officer, shall render their determination on the recommendations in writing and deliver or mail them to the appellant.

Probationary, unrepresented, and part-time/seasonal employees may be dismissed at any time without the right of appeal. Probationary employees who are released during a promotional probationary period, and attained permanent status in their previous position, shall be eligible to exercise return rights, reference AP&P 22-27 Promotion for more information.

References: Public Safety Officers' Procedural Bill of Rights Government Code Section 3300-3312, or AB301; Skelly v. State Personnel Bd., 15 Cal.3d 194.