



1000 - STANDARDS OF CONDUCT

I. INTRODUCTION

The purpose of this policy is to inform all managers and employees of their responsibilities regarding maintaining a positive and productive work environment. It also provides examples of important standards of conduct and performance that are fair and objective, and describes the procedures for taking corrective action, including disciplinary actions, which are consistent and appropriate.

II. STANDARDS OF CONDUCT AND PERFORMANCE

The following is not all-inclusive but is intended to illustrate certain minimum expectations for acceptable workplace conduct and performance. All employees shall comply with City and departmental policies, procedures, rules, and directives. Employee performance and conduct should always reflect and support the mission and values of the department and the City. Many of the City's standards of conduct and policies are readily understood and recognized as those that guide behavior anywhere in social or business relationships. Others are particularly applicable to employees working together in City government.

A. Work Performance

Employees are expected to meet or exceed established performance standards. Conditions or circumstances as they become known which prevent employees from performing normally or completing assignments should be reported to the appropriate manager. Likewise, unclear instructions or procedures should be brought to the attention of the appropriate manager.

B. Use of Time

Employees are expected to devote their full attention to performing assigned responsibilities during their full work schedule, except for reasonable time provided for meals and personal needs.

C. Use of City Equipment, Facilities, and Information

City equipment (all property owned, leased, or controlled by the City, including but not limited to vehicles, computers, tools, devices, and materials), facilities, and information, are to be used only for work-related purposes, unless otherwise authorized. Theft of City property of any kind may result in criminal prosecution in addition to disciplinary action.

D. Attendance

Employees are expected to have timely and consistent attendance on the job. Planned use of leave time should be arranged and approved by the appropriate manager in advance. Unexpected use of leave time should be reported to the appropriate manager

as promptly as possible within the timeframe specified by the department, division, or subdivision. Employees are expected to work any assigned overtime, unless excused by the appropriate manager.

E. Conflict of Interest

Employees shall conduct City business with the highest standards of integrity and shall not officially act in regards to any contract, transaction, or other matter in which the employee may have a personal interest, individually or through a family member, in violation of the State and Local Government Conflict of Interests Act, or do any act in violation of the Ethics in Public Procurement Law (City Code Sections 2-580 et seq.). Employees shall not solicit nor accept nor receive any personal payment, gift, favor, service or gratuity for the performance of their official duties. This should not be construed to prohibit acceptance of a token or memento of a particular occasion, the value of which is less than \$ 10.00.

F. Honesty

Honesty is required in all aspects of employee conduct. Falsification, alteration, and misrepresentation are prohibited. This includes falsification of any City or work-related documents, including but not limited to job applications, vouchers, timesheets, leave requests, complaints, and reports. Also prohibited are verbal statements which are untruthful or which contain material misrepresentations or omissions.

G. Safety

The City and certain departments have established safety rules, regulations, and procedures. Employees are required to know and observe all such rules, regulations, and procedures. Employees are required to observe all traffic laws. Employees in positions requiring a Commercial Driver's License (CDL) shall observe all laws and policies applicable to CDL holders.

Employees shall immediately report to their supervisor any situation or condition, such as the loss, suspension, revocation of a driver's license or any other job-related license or certification, or any condition which may interfere with the employee's regular performance of duties which requires or may require the City to provide a reasonable accommodation or which may adversely affect or endanger others. Employees are also required to report the use of any doctor-prescribed medication which they have been advised may affect their ability to safely perform the essential functions of their jobs. The City also requires employees to immediately notify their supervisor of any on-the-job injury or accident.

H. Outside Activities

The City does not prescribe employee conduct off-the-job. However, any conduct on or off-the-job which affects the employee's credibility, effectiveness, performance, or ability to fully carry out the responsibilities of City employment and any conduct which

is prejudicial to the interests, reputation, or operations of the City of Newport News are subject to disciplinary action.

III. TYPES OF OFFENSES

The following types of offenses are only a few examples and are to be used as guidelines. No attempt has been made to make an all-inclusive list. It is expected that many, if not most, infractions will not specifically be listed herein. Failure to correct behavior, performance, or conduct after commission of a Group I or II offense will result in further progressive disciplinary action.

A. Group I Offenses

These offenses include behavior considered less severe in nature, but which require corrective action. The prescribed disciplinary action for Group I offenses is five (5) disciplinary points and a written reprimand placed in the employee's personnel file. Depending upon the severity and nature of the infraction, the employee may, in lieu of being cited for a Group I offense, be subject to verbal or written counseling. Verbal and written counseling are not formal disciplinary actions and are not grievable. Conversely, more severe or repeated acts of misconduct may result in a Group II or III offense. Examples of Group I offenses include:

- unsatisfactory attendance or tardiness as defined by individual departments;
- abuse of City time such as use of City time for non-work related activity or personal business, or abuse of medical leave;
- inappropriate or unauthorized use of City equipment, facilities, or information;
- unsatisfactory job performance;
- disruptive behavior including rudeness or uncooperativeness toward others;
- failure to comply with the Fair Labor Standards Act (FLSA); and
- improper operation of a City vehicle or equipment

B. Group II Offenses

These offenses include types of behavior which are more severe in nature. The prescribed disciplinary action for each violation is ten (10) disciplinary points and a written reprimand placed in the employee's personnel file, and may also include a suspension without pay (1 - 10 days) with the concurrence of the department director.

Incidents which are more severe in nature and would typically justify suspension without pay include:

- continued unsatisfactory job performance;
- failure to follow a supervisor's verbal or written instructions, perform assigned work, or otherwise comply with applicable City or

departmental policy, rules, regulations, or directives, except for refusal to cooperate with respect to alcohol and drug testing which is a Group III Offense;

- failure to exercise good judgment or sound reasoning
- violating safety procedures (not a threat to life);
- leaving the worksite without permission during work hours;
- unauthorized sleeping or appearance of sleeping on the job;
- failure to report to work as scheduled without proper notification;
- violating confidentiality when City and department policies, regulations, or rules have been published or which the employee is expected to know;
- use of obscene, offensive or inappropriate language, conduct or images when dealing with other employees, supervisors, or the public; and
- demonstrated significant performance deficiency

C. Group III Offenses

The offenses in this group are most severe in nature. The prescribed disciplinary action is termination. If the department director determines that extenuating circumstances exist and the employee otherwise has a satisfactory record of job performance and conduct, the department director, with concurrence of the Human Resources Director or designee, has the option of imposing 20 disciplinary points and a 20 work day suspension without pay, and/or demotion, in lieu of termination. Examples include:

- unauthorized possession or use of firearms, dangerous weapons, or explosives while working or on any City property except in accordance with Code of Virginia, Section 15.2-915;
- withholding information, or making false or misleading statements;
- failing to fully cooperate during an administrative investigation, or interfering with an administrative investigation;
- falsification, misuse, concealment, or alteration of records, including but not limited to vouchers, reports, time and leave records, or other City documents;
- negligent conduct by an employee which shows an intentional disregard for City policies, interests, personal or public safety;
- workplace harassment, retaliation or other prohibited conduct covered under Title VII of the Civil Rights Act of 1964;
- behavior which is considered unethical, or unprofessional conduct with clients, citizens, program participants, or other employees;
- overt or implied threats or coercing of employees, supervisors, subordinates or the public, including but not limited to incidents of bodily contact;
- unauthorized possession or use of alcohol or a controlled substance on the job; operating City equipment, including vehicles, while under the influence of alcohol or a controlled substance;

- positive controlled substance or alcohol test; refusal to cooperate fully with respect to alcohol/substance abuse testing policy as defined by City's Substance Abuse Policy and Procedures will result in termination;
- participating in or encouraging any type of strike, work slowdown, sit-down, or similar interference with City operations;
- acts of violence or fighting;
- theft, actual or attempted, of City assets, equipment, or the property of others;
- deliberately destroying or reckless use of City equipment or the property of others;
- improper or unlawful conduct on or off the job which affects or tends to affect the employee's relationship to the job, or the employee's credibility, effectiveness or ability to full carry out the responsibilities of the job, or which negatively affects the image or operations of the City government; and
- insubordination; intentional refusal to comply with directions, instructions, policies, directives, rules, regulations, or a lawful order of an employee or supervisor with higher authority

IV. DISCIPLINARY ACTION FOR POINT ACCUMULATION

In addition to the prescribed disciplinary action for each instance of misconduct, the following action is prescribed for the accumulation of disciplinary points.

- Employees who accumulate (25) disciplinary points within any rolling twelve (12) month period will be terminated.
- Employees who accumulate 30 disciplinary points within any rolling twenty-four (24) month period will be terminated.

Points shall accrue at the time the disciplinary action is taken, not when the misconduct occurs or the date that any appeal from the disciplinary action is decided at the various steps of the grievance process (even if the disciplinary action is modified). The date of the original letter or memoranda which notifies the employee of the disciplinary action is the date that points accrue.

V. CORRECTIVE ACTION GUIDELINES

Disciplinary action will be taken to correct or discourage unsatisfactory behavior or performance. The following principles will be observed when considering disciplinary action:

- Management shall consider prior disciplinary actions taken against the employee, including the date, severity, and circumstances of the prior actions.
- The disciplinary action shall be situationally appropriate and shall be consistent with the expectations of the position.

- Management shall consider the special needs of the department, and the seriousness of the employee's behavior or performance.
- Employees are responsible and accountable for knowing the performance or behavioral expectations of the City and their department.
- In determining the severity of the disciplinary action, the supervisor should establish whether there has been repetition of the same or similar performance or behavior.

VI. PROGRESSIVE DISCIPLINE

A. Verbal or Written Counseling

The employee is advised and cautioned by a supervisor or department director about unsatisfactory work performance or misconduct. Verbal discussion may be reduced to writing in a counseling memorandum and will not be considered formal discipline. Counseling is generally the initial attempt to correct less severe performance or conduct violations; however, it is not a prerequisite to disciplinary action for subsequent offenses. All verbal and written counseling is not grievable.

B. Suspensions

Temporarily prohibiting an employee from performing his duties as a result of the employee's unsatisfactory job performance or misconduct. A suspension seriously impacts departmental productivity and the employee's pay.

1. Basis

This may be imposed for acts of misconduct of a more serious nature, or for repeated acts of misconduct of any severity, or continued unsatisfactory job performance. Disciplinary suspension may also be imposed in lieu of termination where mitigating factors and an otherwise good work and conduct record support a decision to retain an employee. The procedures in Section VI are to be followed prior to any disciplinary suspension.

2. Duration

Disciplinary suspensions shall be without pay and shall not exceed ten (10) work days for a Group II violation.

3. Overtime Exempt Employees

Overtime exempt employees may be suspended for any duration within the above limits for violations of written rules and policies governing workplace conduct applicable to all employees; otherwise, the suspension must be for a full work week. Also, overtime exempt employees cannot be suspended for less than a full work week for job performance issues.

C. Demotions

A disciplinary demotion can occur as an intermediate form of discipline or as an alternative to termination and in situations where progressive discipline has been unsuccessful to correct unsatisfactory job performance or misconduct. The employee's salary will be reduced to a level within the salary range of City's Classification & Pay Plan.

D. Terminations

An involuntary separation for acts and behavior of such a serious nature that the first occurrence should justify termination or for unsatisfactory job performance or misconduct of a less serious nature which continues after progressive discipline has been imposed for prior poor work performance or misconduct.

VII. DISCIPLINARY PROCEDURES

Any alleged violation of the City's or a department's Standards of Conduct, rules, policies, directives, or for continued failure to meet job performance standards or expectations shall be investigated. The employee shall be provided the opportunity to respond before disciplinary action is taken. Departments have flexibility in the investigation of disciplinary matters in a manner appropriate to the alleged misconduct.

In addition to the City-wide procedures below, the Fire Department shall comply with Title 9.1 of the Code of Virginia, Firefighters and Emergency Medical Technicians Procedural Guarantee Act, and the Police Department shall comply with Title 9.1 of the Code of Virginia, Law-Enforcement Officers Procedural Guarantee Act.

A. Immediate Administrative Suspension With Pay Pending Departmental Investigation:

An employee may be immediately suspended from work with pay pending completion of a disciplinary investigation into misconduct (committed on or off duty) with the prior approval of the affected department director and the Director of Human Resources or designee, if it is determined that the employee's continued presence on the job is deemed to be a substantial and immediate threat to the efficient operation of the City government or the employee's department, or to the welfare of the public, or to other City employees or to the administrative investigation.

However, in most cases, an employee should not be placed on administrative suspension and should be able to continue performing all or a portion of his regular job duties, or be given modified job duties which may be temporarily assigned during this period, depending on the situation.

When an employee is placed on administrative leave with pay and the department director has established one or more meeting dates related to the

administrative investigation during the employee's regular work hours which the employee may reasonably be expected to attend, and the meeting date is postponed at the employee's request, the employee will not be paid past the original established date. Likewise, paid administrative leave will cease if an employee does not attend the meeting. If a meeting date is postponed by the department director, then the employee will remain on administrative leave with pay until the date of the meeting. If the meeting is commenced but is adjourned, the employee will remain on administrative leave with pay until the meeting is concluded. If subsequent termination action is taken, the effective date of the termination will be the date of the disciplinary action.

B. Immediate Administrative Suspension Without Pay Pending Departmental Investigation:

An employee may be immediately suspended from work without pay only when a finding of probable cause that a crime has been committed by the employee has been made by a judge, magistrate, or grand jury, AND the employee's continued presence on the job is deemed to be a substantial and immediate threat to the efficient operation of the City government or the employee's department, or to the welfare of the public, or to other City employees. Such a suspension without pay may be imposed if the above conditions are met, and with the prior approval of the affected department director and the Director of Human Resources or designee, after consultation with the City Attorney's Office. Where such suspension must be imposed at a time other than normal working hours, the Director of Human Resources or designee, and the City Attorney's Office, shall be consulted at the beginning of the next work day.

1. Duration

The administrative suspension without pay shall end if the above conditions cease to exist (e.g. the employee is no longer deemed to be a substantial and immediate danger to the aforementioned persons or entities) or until completion of the City's administrative investigation provided the employee is returned to work.

2. Grievable

The administrative suspension of an employee without pay under this subsection is immediately grievable. Steps I, II, and III of the grievance procedure shall be waived. A meeting at step IV within the required time period shall be limited to the issue of the continued suspension without back pay. At the employee's option, the issue of the suspension without pay may be combined in a timely grievance filed later by the employee concerning the underlying disciplinary action, if any.

3. Back Pay

If the employee is not subsequently terminated following the completion of the administrative investigation, the City Manager or designee may order full, partial, or no back pay. The City Manager or designee shall not be bound by the outcome of any criminal court case but may refer to such outcome and findings in making a final decision. The specific disciplinary process to be followed is set forth in Section VII.

C. Procedures for Taking Disciplinary Action

1. Disciplinary action may be taken only by the department director or the department director's designated representative. This policy is intended to promote consistency in the application of discipline and to grant employees the opportunity to respond to allegations at a high level of management before action is taken. However, supervisors below the level of the department director or the designated representative have a major responsibility for administering the Standards of Conduct (and also performance issues) and disciplinary procedures. Supervisors monitor and enforce the Standards of Conduct and, in most instances, will determine if an action will be processed through the disciplinary process. Supervisors are often assigned responsibility for investigating alleged misconduct and performance issues. Supervisors are responsible for providing input and making recommendations to department directors and designated representatives and such recommendations are to be considered in the determination of what disciplinary action to take, if any.
2. In large departments, or those with several levels of management, with approval of the City Manager, the department director may designate lower levels of management to handle less severe misconduct and performance issues and to take appropriate disciplinary or corrective action, if any. This management level is usually no lower than the division, bureau director, or precinct level. In cases involving alleged misconduct and unsatisfactory performance, which may result in suspension, demotion, or termination, the department director shall be personally involved in investigating or overseeing the investigation of the allegations of misconduct and unsatisfactory performance, and determining disciplinary action, if any.
3. When there is reason to believe misconduct may have occurred, the department director or the department director's designee shall initiate an appropriate investigation to determine the facts surrounding the alleged misconduct or unsatisfactory performance. The department director or designee may personally conduct the investigation or may assign the investigation to another person.

4. If after review of information developed in the investigation, the department director or designee determines that misconduct or unsatisfactory performance may have occurred and that disciplinary action may be pursued, he will inform the employee in writing in a formal written notice of allegations. The employee will be informed in the notice that the employee will be afforded an opportunity to meet with the department director or designated representative in order to respond to the allegations after five (5) work days after receipt of the notice, unless an earlier date has been agreed to by both parties. The allegations should cite the specific instance(s) of misconduct or unsatisfactory performance including the facts underlying the allegations but need not specify specific level(s) of misconduct. The employee shall also be informed in the notice that the employee has a right to present documents and give verbal or written statements at the meeting, and bring witnesses, if desired.
5. The meeting between the department director or designee and the employee shall be held as soon as practicable, preferably within ten (10) work days of the time the employee is given the notice of the allegations.
6. The meeting, at which the employee is provided the opportunity to respond to the allegations, is an informal administrative process. It is not a grievance proceeding. The meeting is not a trial and it is not intended that the department's evidence and witnesses be presented. The meeting is not bound by or conducted by court procedures or rules of evidence. The meeting is conducted by the department director or designee who shall determine the procedures by which the meeting will proceed to ensure that the employee has the opportunity to respond to all allegations. The following policies apply to the conduct of the meeting:
 - a. The meeting shall be between the department director or designee and the employee. A representative from Human Resources may also be present. In accordance with the Firefighters and EMT's Procedural Guarantee Act, firefighters and EMTs may have an observer, who is not an attorney present during the meeting with the department director or designee. Attorneys for the City and the employee shall not be present. Supervisors of the employee and other departmental management shall not be present except as necessary to provide information. The employee has the right to present documents, make statements, and present witnesses. If the employee brings witnesses, the witnesses shall be present only while presenting information.
 - b. Unless the employee and the Department director or designee agree, the meeting shall not be electronically recorded. However, notes may be taken.

- c. The department director or designee may continue the meeting if necessary and shall determine when the matter is concluded.
7. If the employee has waived the right to appear at the meeting, or does not appear, the department director or designee shall base the decision on the information available.
8. Upon conclusion of the meeting, the department director or if appropriate, designee, shall consider all available evidence, including the employee's work record, if appropriate, and shall determine appropriate action.
 - a. If the department director or the designee determines that misconduct or unsatisfactory performance did not occur, or could not be substantiated, the reasons for the decision shall be documented and the matter shall be closed.
 - b. If the department director or designee determines that misconduct or unsatisfactory performance did occur, the department director or designee shall determine the specific instance(s) of misconduct or unsatisfactory performance, level of misconduct, and the disciplinary action to be taken. In cases in which several violations of the City's or a department's Standards of Conduct, rules, policies or directives arise from the same incident, the department director may assess the appropriate disciplinary action for each separate violation. The department director or designee shall not be bound by the outcome of any court action, but may refer to such outcome and findings in making a final decision.

If the employee was administratively suspended without back pay under Section VI, the City Manager or designee may order full, partial, or no back pay as deemed appropriate under the circumstances.

- c. If the meeting was held by a person other than the department director, the department director may review the case with the designee and may elect to meet with the employee before making the final determination of disciplinary action.
 - d. In cases involving termination, demotion, or suspension and in cases in which misconduct specifically assigned to a level by this policy is processed at a different level, and in cases in which a lesser action than termination is taken due to extenuating circumstances, the department director shall review the case with the Director of Human Resources or designee prior to determining disciplinary action.

9. The employee shall be notified in writing of the determination within ten (10) work days after the conclusion of the meeting. However, this time frame may be extended by the department director or designee when necessary to appropriately consider the information, review the case, and prepare a written response.
10. If the meeting was held by anyone other than the department director, the employee may request a meeting with the department director before disciplinary action is administered. The request must be in writing to the department director within seven (7) calendar days of notification of the disciplinary action. This meeting will be conducted as stated above, with the department director notifying the employee of his determination within ten (10) work days after the conclusion of the meeting.
11. Upon the final determination of disciplinary action, the employee shall be advised of his rights to appeal through the Employee Grievance Procedure, if applicable.

Supersedes/Amends: 1000, 09/01/2012

Approved:


Cynthia D. Rohlf
City Manager