

**808.20 SUBJECT: DISCIPLINARY ACTION**

:1 OBJECTIVE:

The City of Orlando desires to create a uniform and reasonable code of conduct for employees. This policy applies to all permanent employees as defined in: 4A below and intends to establish and maintain a remedial, impartial, and consistent employee disciplinary policy.

:2 AUTHORITY:

This procedure amended by City Council September 8, 2008, Item A16; amended City Council April 27, 2009, Item A-9.

:3 DIRECTION:

Human Resources Division Manager, through the Chief Administrative Officer or designee, Department Directors, Office Directors, Division Managers, and Supervisors.

:4 METHOD OF OPERATION:

A. General

1. This policy and procedure establishes parameters to be followed when employee disciplinary action is necessary. Nothing in this policy, however, is intended to preclude Department/Office Division management from adopting, with the consent of the Labor Relations Section, other supplementary and/or modified disciplinary policies or performance standards where they are needed to conduct efficient operations. Designated supervisors shall keep employees informed of Departmental/Office/Division rules and regulations. Any disciplinary action effective under this policy may be appealed by an employee as provided by Procedure 808.21 "Grievances."

- a) All employees interviewed during any investigation/grievance, which could result in a disciplinary action, whether as a witness or the alleged guilty party, shall be informed of the requirement to truthfully answer questions regarding work performance and other work related activities. Employees refusing to answer these questions or intentionally providing false statements during these investigation/grievance interviews will be subject to the appropriate disciplinary action based on the infraction involved.
- b) If an employee does not want to answer questions due to the possibility of criminal charges, the Supervisor should involve Labor Relations or the City Attorney's Office.

Employees requesting the presence of either a representative or a witness during a meeting that could result in disciplinary action shall be given reasonable opportunity to obtain such person. Any disciplinary action involving non-probationary employees, to have official standing, must be in writing (except oral counseling), and the reason(s) for the action fully stated. A copy of the action shall be given to the employee, and the employee shall sign both the copy and the original. Should the employee

refuse to sign, the supervisor shall enter this fact on the notice and shall have it attested to by another person.

2. Copies of the signed documented disciplinary action shall be forwarded to the Human Resources and Labor Relations Section immediately after review by the employee and designated supervisor.

Records pertaining to disciplinary action against an employee shall be permanently retained in the employee's City Personnel File. However, when administering progressive disciplinary action, previous disciplinary actions shall not be considered if the employee has had no disciplinary actions within the past twenty-four (24) months.

3. Consistency in application of disciplinary action for similar infractions is critical. The Labor Relations Section is charged with the responsibility of monitoring disciplinary actions taken to ensure consistency in application. Departments, Offices and Divisions are encouraged to coordinate disciplinary action with the Labor Relations Section prior to and at the time action is taken. In all instances where suspension and dismissal action is contemplated, the Labor Relations Section must be notified in advance of the specific action to be taken and of the justifications for that action. The Labor Relations Section shall consult with the City Attorney's Office prior to any termination.

#### B. Probationary Periods

1. Employees initially hired or re-employed by the City in a permanent position, or a regular employee newly transferred, demoted or promoted, shall be placed on a six (6) month probationary period.

The probationary period is considered an extension of the selection process. New probationary employees (those with less than six (6) months of service) shall not have recourse through grievance procedures (see 808.21, Grievances) on matters of discipline, termination for reasons of performance or otherwise, or layoff due to reduction in force. If a new hire's probationary status is extended, so too does the lack of recourse to the grievance process.

**NOTE:** Regular employees who become probationary employees due to a promotion/transfer retain their right of appeal in accordance with Grievance Procedure 808.21.

2. Designated supervisors may, at their discretion, terminate a probationary employee at any time during the probationary period. Such termination and their reasons and circumstances shall be reviewed with the Labor Relations Section preferably no less than five (5) days prior to the termination date.

Should contingencies be placed upon the employee to comply with certain conditions agreed to by the Office Director/Division Manager, or designee, and the employee prior to employment, the period of probation may be extended for a period not to exceed nine (9) months from date of employment. The contingency shall be stated in writing, signed by both the Office Director/Division Manager and employee, and submitted to the Human Resources Division for inclusion in the employee's personnel file.

C. Definitions

For the purpose of this procedure, the following words and terms are defined as:

1. **Designated Supervisor** – Department Director, Office Directors, and Division Managers are considered designated supervisors with full authority to administer disciplinary action up to and including termination. Any other supervisory employee who is granted this authority shall be so designated by the Department Director/Division Manager.
2. **Permanent Employee** – All employees in the service of the City of Orlando, in permanent positions, having completed a six (6) month probationary period, except elected and appointed officials, contract employees, Civil Service employees, and except when otherwise provided by negotiated labor agreements.
3. **Probationary Employee** – Persons initially employed or re-employed by the City, assigned to a permanent position, who have not completed a six (6) month probationary period in that position; or a permanent employee newly transferred, demoted or promoted within or between Offices/Divisions/Departments who has not completed a six (6) month probation period in the new assignment.
4. **Seasonal and Temporary Employees** shall be considered as probationary employees regardless of service tenure and may be terminated at any time without regard to the disciplinary procedure contained herein.
5. **Working Days or Day** shall mean all days on which an employee is normally or regularly scheduled to work, other than holidays recognized by the City.

D. Supervisory Interventions

If performance deficiencies can be corrected before disciplinary action becomes necessary, supervisory intervention as follows may be appropriate.

1. Individual counseling.
2. Referral to established City resources, e.g., Employee Assistance Program, the City's Labor Relations Section.
3. Reasonable adjustments to terms and conditions of employment, e.g., work schedule adjustments, reassignments.
4. Additional job-related training.

E. Disciplinary Action

In applying discipline, supervisors may use the following disciplinary actions consistent with the frequency, seriousness, and magnitude of the employee infraction (see the attached Disciplinary Action Reference):

1. **Oral Counseling** – Verbal conference with the employee for infractions of a common, less serious nature. Documentation other than Supervisory notes (name, date, location, nature of incident, etc.) is not required.
2. **Written Reprimand** – Formal notice of infraction that is normally issued after an employee has failed to respond to oral counseling for the same type of infraction or for more serious infractions such as employee's punctuality,

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productivity, efficiency, safety, work habits, or personal behavior towards co-employees and supervisors. It serves as notice that continued similar behavior will result in more serious discipline including suspension and/or dismissal.

3. ***Suspension Without Pay*** – Form of discipline taken when an employee fails to respond in a satisfactory time and manner to a prior written reprimand or for infractions which, taken alone, are of sufficient seriousness to require suspension from one (1) to ten (10) work days without pay.

Suspensions of one full day or more may be made for infractions of workplace conduct rules, pursuant to a written policy applicable to all employees.

Supervisors may elect, with employee concurrence, to charge available annual or personal leave in lieu of suspension without pay. Such a charge will have the same weight as suspension without pay for progressive discipline purposes.

4. ***Demotion*** – Movement of an employee from one position to another with a salary level lower than the current position when the employee does not perform satisfactorily in the current position (see 808.5).
5. ***Dismissal*** – Form of discipline imposed to terminate employment, generally for two types of situations:
  - a) When an employee’s behavior or performance fails to respond in a satisfactory time and manner to prior progressive disciplinary measures; or,
  - b) When an employee’s behavior or performance demonstrates a willful or unlawful refusal to comply with City policy or Department rules and regulations, or conduct of a similar serious nature when such conduct, behavior, or performance impairs the efficiency of the City service or brings it into public disrepute, or when an employee acts with gross negligence resulting in loss of, damage to, or destruction of City property regardless of the cost of the damage.

#### F. Dismissal Procedures

1. An employee who is to be dismissed for a disciplinary infraction must be relieved of duty immediately. However, when circumstances require, an employee may be relieved of duty without pay by the designated supervisor pending further investigation of an incident. At the time the employee is relieved of duty, the designated supervisor will provide the employee oral or written notice of the charges against the employee, or the focus area to be investigated, and allow the employee an opportunity to respond to the charges. Such investigations should be objective, thorough, and normally not exceed ten (10) working days.
2. When possible, the Department Director and Labor Relations Section shall be notified one day prior to an employee being relieved of duty, pending investigation or termination. An employee may use accrued Personal Leave during the time an investigation is being conducted. An employee relieved of duty without pay or forced to use accrued leave who is cleared by the investigation will receive any pay or benefits which may have been lost or used

as a result of the action. Any pay due an employee shall be reduced by any earnings realized as a substitute for City employment.

3. Once the designated supervisor's investigation is completed, a conference shall be scheduled with the employee. During the conference, the supervisor shall review, with the employee, the evidence which supports the suspension or dismissal action and provide the employee an opportunity to present his/her side of the events. The determination to suspend or terminate shall be preceded by due consideration of all available evidence.

Dismissal actions shall be from the designated supervisor in writing and shall include the reason for termination and a notice of right of appeal. The action can be delivered personally or by certified mail. In the event discipline short of dismissal is determined, appropriate notification shall be provided by the designated supervisor as soon as possible.

G. Attendance and Punctuality

1. **Absence – Actionable** – An occurrence or pattern of occurrences not otherwise defined as “absence-non-actionable;” abuse of leave time as determined by Office/Division policy and implemented in accordance with Policy and Procedures 808.20, paragraph I, 1-6.
2. **Absence – Non-Actionable** – Pre-approved and pre-scheduled leave which includes earned leave, holidays, any authorized change of schedule (e.g., bereavement leave, judicial leave, military service leave) with reasonable notice.
3. **Extraordinary Unscheduled Absence** – An unscheduled absence in excess of 40 hours or in excess of 6 occurrences within the preceding 12 months, from the most recent occurrence or incident of absence.
4. **Tardiness** – Not arriving on the job at the designated work time, or not returning to work on time following designated break time, lunch periods, etc.
5. **Unscheduled Absence** – An absence which was not scheduled or arranged, and approved as provided by applicable Union Contract, City Policy or Division/Office Procedure.

- H. Being on the job on time every day is an essential requirement for efficient City business. Occasionally, circumstances will occur beyond the employee's control such as severe weather, illness, accidents, other emergencies, which may cause tardiness or absences. The employee is responsible for doing everything possible to minimize the interruption which these events have on the job. The essential minimum requirement is that notification be provided as specified by the employee's supervisor, except when a valid reason supports an employee's inability to do so.

Attendance and punctuality problems are a major source of disciplinary actions. Time away from work due to personal business, unscheduled appointments, or other controllable events, may be considered as “actionable absences” by the designated supervisor. To the extent that these absences exceed guidelines, the designated supervisor may discipline the employee by following appropriate procedures.

- I. Frequent or prolonged absences due to illness or injury may be considered cause for dismissal. Compliance with punctuality requirements will be by specific Department/Office/Division policy and the following guidelines:
  1. Recognize that no two employees have the same personal circumstances and needs (e.g., severe weather, accidents, unforeseen medical/surgical, or other emergency situations).
  2. Focus on monthly, quarterly, and yearly leave usage, and other actionable absence records. Compare to City average use to establish a point of reference.
  3. Review number of monthly occurrences and the duration of each occurrence.
  4. Review overall impact which actionable absences have on the efficient operation of the Office/Division.
  5. Review total amount of accrued leave time balances.
  6. Place employee on notice of having exceeded the “extraordinary” absence criteria per Section; 4.G, 3. Employees who exceed the extraordinary unscheduled leave use criteria may be required to verify the cause of any additional unscheduled absence(s) by documents acceptable to management, for a period of no less than six (6) months from the most recent incident of unscheduled absence. Improper or unacceptable documentation of extraordinary unscheduled leave use may subject the absence to be coded as “without pay” and charged for discipline as “actionable.” Excessive Leave usage, even if documented, is subject to discipline.
- J. An employee who, for a cumulative one hundred eighty (180) days in a continuous twelve (12) month period, has been unable to perform the essential functions of that position (whether on leave, restricted duty, or otherwise), will be required to return to full duty or be terminated. (See P&P 808.15 (4-K).
- K. Safety Violations – An employee involved in an accident and determined responsible pursuant to Section 800.3 as determined by the Damage Assessment Committee, will be subject to assessment (points/monetary) and to disciplinary action.

”Employee” in this instance, includes any designated supervisor who is held responsible for implementation of safety regulations invoked by the Damage Assessment Committee.

:5 FORMS:

None.

:6 COMMITTEE RESPONSIBILITIES:

None.

:7 REFERENCE:

City Council minutes of January 2, 1951, Item 23; minutes of October 9, 1961, Item 35; Supervisor’s Policy Manual as amended September 4, 1962; amended January 25, 1971, Item 61; amended March 6, 1972, Item 3; amended June 23, 1975, Item 20; amended October 6, 1975, Item 35; amended November 29, 1976. Item 37; amended September

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12, 1977, Item 15, renumbered from 708.19 and amended January 25, 1982, Item 7(T); amended May 23, 1988, Item 14A-2; amended April 1, 1991, Item 3/43; amended June 21, 1993, Item 2-P, amended February 7, 1994, Item 4-V; amended December 19, 1994, Item S; amended May 11, 1998, Item 6-A; amended July 17, 2000, Item 3-FF; amended September 15, 2003; re-formatted only April 2004; amended August 9, 2004, Item A4; amended February 13, 2006, Item A5; amended September 8, 2008, Item A16; amended April 27, 2009, Item A-9.

:8 EFFECTIVE DATE:

This procedure effective April 27, 2009.

**DISCIPLINARY ACTIONS REFERENCE**

This Reference is intended to be illustrative and directional rather than compulsory or binding on Departments/Divisions. Discipline imposed may vary from these recommended guidelines, depending on the circumstances of the particular case. While not comprehensive, it includes infractions over which supervisors most frequently discipline employees.

R U L E S	P E N A L T I E S			
	1 <sup>ST</sup> OFFENSE	2 <sup>ND</sup> OFFENSE	3 <sup>RD</sup> OFFENSE	4 <sup>TH</sup> OFFENSE
Abuse/Misuse of E-Mail, Internet or Intranet Systems	From oral counseling, to dismissal, depending upon circumstances of the offense.			
Actionable Absences	2 occurrences with 30 days – oral counseling	4 occurrences within 90 days – written reprimand & monitoring per sick leave abuse program	8 occurrences within 180 days – 1 to 5 days suspension	11 occurrences within 360 days – termination
Tardiness (Notification to Division in Advance)	3 occurrences within 30 days – oral counseling	5 occurrences within 60 days written reprimand	7 occurrences within 90 days – 1 to 5 days suspension	9 occurrences within 120 days – termination
Failure to notify Division of tardiness or absence prior to prescribed start time	Oral counseling	<b>WRITTEN REPRIMAND</b>	1 to 5 days suspension	<b>TERMINATION</b>
Absent for three (3) consecutive days without notifying your designated supervisor and obtaining subsequent approval	<b>T E R M I N A T I O N</b>			

R U L E S	P E N A L T I E S			
	1 <sup>st</sup> OFFENSE	2 <sup>nd</sup> OFFENSE	3 <sup>rd</sup> OFFENSE	4 <sup>th</sup> OFFENSE
Failure to comply with established work practices of the Division	Oral counseling	Written reprimand	1 to 5 days suspension	TERMINATION
Improper use of City's equipment, supplies or communication system	Written reprimand	1 to 3 days suspension	3 to 5 days suspension	TERMINATION
Discourteous, rude, or obscene behavior towards the public	Written reprimand	Up to 5 days suspension	Up to 10 days suspension	TERMINATION
Flagrant discourtesy to the public	1 to 5 days suspension	Up to 10 days suspension	TERMINATION	
Sleeping on the job	From written reprimand to dismissal, depending on circumstances of offense			
Failure to carry out orders of designated supervisor	Up to 5 days suspension	Up to 10 days suspension	TERMINATION	
Intentionally misrepresenting or lying about work related activities (truthfulness)	From 3 days suspension to dismissal, depending on circumstances of offense			

R U L E S	P E N A L T I E S			
	1 <sup>ST</sup> OFFENSE	2 <sup>ND</sup> OFFENSE	3 <sup>RD</sup> OFFENSE	4 <sup>TH</sup> OFFENSE
Abusive language (including racial or ethnic epithets, slurs, and jokes) or threatening behavior towards a fellow employee or supervisor)	Written reprimand	Up to 10 days suspension	TERMINATION	
Possession of alcohol or other drugs on City property not prescribed by a physician	From 3 days suspension to dismissal, depending on circumstances of offense			
Reporting for or being under the influence of alcoholic beverages or drugs while on duty or using City property or in City vehicles (A positive alcohol or drug test is, considered as being under the influence as is failure to submit to a test)	FIRST OFFENSE: A verified positive test, not in conjunction with a job-related accident or injury, will result in discipline for work rules violations, mandatory referral for counseling and/or treatment and entering into a written "last chance" agreement outlining continued terms of employment for up to twenty-four (24) months. See Policy and Procedures 800.4 and 808.4 for specific details	SECOND OFFENSE: A second verified positive test during or following an employment contract will result in immediate termination.		
Pressure for Sexual Favors	From 5 days suspension to dismissal, depending on circumstances of offense			
Uninvited or unwelcome teasing, jokes or questions of a sexual nature	Written reprimand	Up to 5 days suspension	Up to 10 days suspension	TERMINATION

RULES	PENALTIES	RULES	PENALTIES	RULES
	1 <sup>st</sup> OFFENSE	2 <sup>nd</sup> OFFENSE	3 <sup>rd</sup> OFFENSE	4 <sup>th</sup> OFFENSE
Insubordination or purposeful failure to carry out orders or instructions of the designated supervisor	From 3 days suspension to dismissal, depending on circumstances of offense			
Possession of weapons while on City property, except as otherwise permitted by City Policy & Procedure 808.29.	From 3 days suspension to dismissal, depending on circumstances of offense			
Falsification of official City records (including personnel application, and claims against the City)	TERMINATION			
Causing, instigating, and participating in fights while on City property	From written reprimand to dismissal, depending on circumstances of offense			
Stealing City property or that of others while on the job	TERMINATION			
Willfully, or with gross negligence, damaging or destroying City property, regardless of the cost of the damage	TERMINATION			
Engaging in any unauthorized slow-down activities	From written reprimand to dismissal, depending on circumstances of offense			
Commission of a crime or conviction for criminal conduct	Termination where detainment exceeds available paid leave or disrupts the Division's efficiency or when offense reasonably relates to job performance.			