

## **2-29 Corrective & Disciplinary Actions**

### **29.0 Purpose:**

The purpose of this document is to explain the standard procedures to be applied when carrying out corrective or disciplinary actions involving non-probationary classified employees of the City of Fairfield, Ohio. This policy may or may not be utilized, at management's discretion, for corrective or disciplinary actions involving unclassified or probationary employees. Managers and Supervisors at all levels are to be guided by these procedures.

### **29.1 Definitions:**

- A. **Oral Reprimand:** A face-to-face discussion between an employee and his/her supervisor, concerning employee misconduct or poor performance. An oral admonishment for an employee's misconduct or poor performance. A notation memorializing the issue and the discussion will be prepared.
- B. **Written Reprimand:** An admonishment for misconduct or poor performance, reduced to writing and given to the employee.
- C. **Suspension:** A more severe form of discipline than oral or written reprimands. It includes temporary removal from duties with loss of pay to the employee. It may include loss of employee benefits. It may only be imposed for cause.
- D. **Demotion:** The reduction of an employee to a lower classification, and/or pay grade, for cause.
- E. **Discharge:** (Termination, Dismissal) The permanent separation of an employee from the employment of the City. This is the most severe form of disciplinary action. Discharge is implemented in cases of misconduct or poor performance occurring more than one time (not necessarily the same misconduct or poor performance) where reprimand(s) and/or suspension(s) have failed to correct the employee's behavior; or, where the first offense is of such a serious nature as to warrant discharge.
- F. **Probationary Discharge:** The permanent separation of an employee from the employment of the City, during his probationary period for failure to satisfactorily complete the probationary period.
- G. **Administrative Leave:** A temporary and immediate leave for an employee from his/her duties, pending some future action, i.e. a hearing or investigation. An Administrative Leave may be with or without loss of pay or benefits.
- H. **EAP:** Employee Assistance Program. A benefit provided to all City employees and their immediate families providing access to professional counselling on financial matters, emotional problems, divorce, health disorder, substance abuse or dependency, psychological or psychiatric disorder, or stress. An employee may use the EAP voluntarily or may be referred by management in appropriate situations. (See Policy 2-21).
- I. **Gender Inclusive:** The masculine pronoun "he" and its derivatives, whenever employed herein, includes the feminine pronoun and its derivatives.

## 29.2 Procedures:

### A. Principles to be Applied

Disciplinary penalties should be consistent in their application. "Consistent" in this context means that the penalties applied are generally similar under similar circumstances. The determination of when and how penalties and circumstances are "similar" involves judgment on the part of supervisory and management personnel.

It is the duty of all employees to become familiar with the provisions of the City, Department and Division policies, Civil Services rules, and laws, to which they are expected to adhere.

### B. Disciplinary Penalties/Progression of Discipline

There are five (5) types of disciplinary penalties. They are listed below in increasing order of severity:

1. Oral Reprimand
2. Written Reprimand
3. Suspension
4. Demotion (if applicable)
5. Discharge

There are no hard and fast rules to fit each and every disciplinary action. The supervisor must exercise judgment based upon:

1. The particular facts of the case
2. The seriousness of the infraction
3. The employee's past disciplinary history

Disciplinary proceedings should begin as soon as practical when an appropriate judgment can be made. Discipline should generally be progressive in its application. This means that discipline imposed on an employee for repeated violations will generally progress from a lower form of discipline to a more severe form of discipline. However, the disciplinary process need not include all of the above five (5) types of disciplinary penalties depending upon the seriousness of the infraction.

1. A progression of discipline is desirable in most cases of relatively minor violation(s). Serious violations or misconduct may not follow progressive discipline and may not include all discipline steps. A typical progression of discipline may follow these steps:

Oral Reprimand  
Written Reprimand  
Suspension  
Discharge

2. The reprimand need not always be for the same or similar offense for which the employee is suspended. A suspension without pay shall remain a permanent part of the employee's file.
3. There is no intent in these principles to limit a supervisor's/manager's discretion to impose a greater, lesser or identical degree of discipline for like or similar violations. When deciding what level of discipline is to be invoked, the employee's entire personnel record should be considered.

C. Record of Discipline

Oral and written reprimands will remain a part of an employee's personnel record as follows:

1. In accordance with his/her respective collective bargaining agreement.
2. For all other employees of the City of Fairfield, any oral or written reprimands will cease to have any force and effect after a five (5) year period from the date of the reprimand and shall be removed from the employee's personnel record provided that there is no intervening discipline during the five (5) year period.

**29.3 Format for Reprimands:**

- A. Oral Reprimand. An oral reprimand is a face-to-face discussion between a supervisor and an employee, concerning misconduct or poor performance. It should clearly state the act or acts, or omissions which constitute the misconduct or poor performance. If not apparent, the reprimand should include instructions to the employee on the standard of performance that is expected and if necessary, may spell out what specifically is expected.

An oral reprimand shall be documented by memo maintained in the Personnel file in the Human Resources office. The documentation is used to record the fact that the discussion took place, the misconduct or poor performance, and the course of action expected on the part of the employee. It should include a statement that the employee was advised that continued misconduct or poor performance of this nature will result in further disciplinary action. See suggested format in Appendix "A" to this Policy and Procedure.

- B. Written Reprimands. A written reprimand is an admonishment for misconduct or poor performance, reduced to writing, and given to the employee. It should specifically state the incident or incidents of misconduct or poor performance. If not apparent, it should include instructions to the employee on the standard of performance that is expected and if necessary, may spell out what is expected. It should cite any and all prior oral and/or written reprimands for misconduct or poor performance, if applicable. It should include a statement advising the employee that continued misconduct or poor performance will result in further disciplinary action. See suggested format in Appendix "B" to this Policy and Procedure.

All written reprimands must have a signature by the Department/Division Head, prior to issuance to the employee.

**29.4 Administrative Leave:**

- A. When a Supervisor determines that an employee's misconduct or poor performance indicates that the employee should be immediately removed from the workplace, an administrative leave may be imposed by any person in the position of Division Head or higher. As a general rule, and if possible, an administrative leave should be invoked by a person within the same department as the employee suspended, but this guideline shall not absolutely limit the right to impose such a removal. The administrative leave is an optional step in the disciplinary procedure and should only be used as necessary, for instance, to protect the public good, to provide a safe and efficient working environment, or to deal with a suspected theft or dishonesty. Generally an administrative leave would only be used in instances where the Supervisor intends to recommend that the employee be considered for serious disciplinary measures or other extenuating circumstances.
- B. An administrative leave is generally initiated verbally but must be confirmed in writing. When appropriate, the written notice may be delivered to the employee simultaneously with a Notice of Pre-Disciplinary Hearing as set forth below. A Notice of Administrative Leave is prepared by the designee of the City Manager upon written notice by the imposing Supervisor (and Department Head, when feasible). It shall be presented to

the City Manager as soon as possible for an approval concurrence or disapproval and is copied to the City Manager, the City Law Director, and the employee's Department Head, Human Resources and Payroll Administrator.

- C. A Notice of Administrative Leave shall be prepared in writing and given to the employee as soon as possible following a verbal administrative leave; it shall contain the following information:
1. A statement that the employee was placed on administrative leave;
  2. The effective time and date;
  3. The Supervisor and/or Department Head imposing the administrative leave;
  4. The reason for which it is being imposed;
  5. Whether it is a paid leave (without loss of pay or benefits) or an unpaid leave;
  6. The approximate duration;
  7. Whether the employee is restricted from City property.

See example in Appendix "F".

#### **29.5 Procedure for Suspensions and Discharge/Pre-Disciplinary Hearing:**

- A. When a Supervisor becomes aware of an act that warrants a suspension or discharge, the matter should be reported to Department Head as soon as possible. The Department Head shall then report the matter to the Assistant City Manager or other designee of the City Manager in writing. The report should include, at a minimum, the following information:
1. The name of the offending employee.
  2. The date and time the act(s) occurred.
  3. A narrative of the facts in the matter.
  4. The names of relevant witnesses to the act(s).
  5. A listing of all prior oral reprimands, written reprimands, suspensions and/or demotions which remain in the employee's personnel file.

See example in Appendix "C".

- B. The Assistant City Manager/designee reviews the report to determine if there is probable cause for a hearing into the matter. If he concludes that there is cause for a hearing, a Notice of Pre-Disciplinary Hearing will be issued. The notice is in writing and will be delivered, by any means available, to the offending employee, with copies to his Supervisor, Department Head, the Human Resources Manager, the City Law Director, and the City Manager. The notice shall contain, at a minimum, the following information:
1. The date, time and place of the hearing;
  2. The matter to be heard;
  3. That the employee may be represented by an appropriate individual of his choice (i.e., attorney, union representative);
  4. That the employee has the opportunity to hear all charges against him, to cross examine all witnesses against him, to examine all documents relative to the matter, and to present evidence, witnesses and testimony on his own behalf.

The notice shall set the hearing not earlier than three (3) working days following the date of the notice. The notice delivered to the employee shall include a copy for return of the proof of service to the Assistant City Manager.

See example in Appendix "D".

- C. If the employee chooses, he may submit a statement acknowledging guilt for the action at any time up until the time set for the hearing. If the employee chooses to do this, he shall sign a waiver of all his rights for the hearing and of the due process requirements. At that time, the Assistant City Manager/designee prepares a statement of findings in the matter. (The Assistant City Manager/designee may choose to conduct the hearing to gather additional information.) The original is forwarded to the City Manager and copies sent to the City Law Director, the Department Head, the Supervisor, Human Resources Manager and the employee.
- D. If neither the employee nor his representative appear at the designated time and place for the hearing, the hearing will be conducted without them.
- E. Postponement of the hearing for reasonable periods of time and for good cause may be granted at the discretion of the Hearing Officer. The Hearing Officer is not required to grant postponements.
- F. The hearing shall be conducted before a neutral Hearing Officer. The Assistant City Manager is the Hearing Officer unless:
  - 1. He is not available to conduct the hearing, or;
  - 2. He has an interest in the hearing and cannot be neutral, or;
  - 3. He chooses to designate another person as Hearing Officer.
- G. The City Manager, with advice of the City Law Director, has the final determination as to a Hearing Officer's neutrality.

**29.6 Conduct of the Pre-Disciplinary Hearing:**

- A. The hearing should be conducted with the primary objective of hearing both parties' explanation of the events surrounding the incident. The Hearing Officer needs to hear the facts of the case.
- B. Persons who should be present at the hearing may include:
  - 1. Hearing Officer
  - 2. Accused Employee
  - 3. Employee's Supervisor
  - 4. Witnesses for either party
  - 5. Representatives of the employee
- C. Other persons who may be present are:
  - 1. City Law Director
  - 2. Department Head
  - 3. Human Resources Representative
  - 4. Secretary or Stenographer to record the session
- D. Persons who should not be present are those who may impose disciplinary action, generally the City Manager.
- E. The Hearing Officer will decide the sequence of presentations. The following guidelines are suggested:
  - 1. Reading of the statement of charges by the Hearing Officer;
  - 2. Presentation of facts by Supervisor;
  - 3. Presentation of witnesses by Supervisor with cross examination of witnesses by accused employee or his representative;
  - 4. Presentation of facts by accused employee or his representative;
  - 5. Presentation of witnesses by accused employee or his representative.

6. Clarifications or questions by Hearing Officer;
  7. Presentation of mitigating facts or extenuating circumstances by accused employee or his representative.
- F. A record of the hearing should be kept on a tape recording or from minutes of the hearing.

**29.7 Recommendation to the City Manager:**

- A. Following the hearing, the Hearing Officer prepares a report to the City Manager. The report describes the charges, the events leading to the charges, and the facts presented in the hearing. Any written evidence or documents should be attached. At the conclusion of the report, the Hearing Officer states whether he does or does not recommend disciplinary action and why. If he does recommend disciplinary action, he should state what he feels is the appropriate action. The City Manager is not bound by this recommendation. He may take more or less severe action, as he deems appropriate, and if necessary, conduct additional inquiry into the matter.
- B. A copy of the report shall be sent to the City Law Director, the Department Head, the Human Resources Manager, the Supervisor, and the employee. The report of the hearing should be forwarded to the City Manager, and the other parties, not later than ten (10) working days following the hearing.

**29.8 Notice of Suspension/Discharge:**

- A. Notices of Suspension or Discharge are prepared by the office of the City Manager, authenticated by the City Manager and signed for delivery to the employee.
- B. Notices of Suspension shall advise the employee of the following information:
  1. The misconduct or poor performance for which he is suspended;
  2. The starting date and time of the suspension;
  3. The ending date and time of the suspension;
  4. Whether or not the suspension is to be with a loss of pay and/or benefits;
  5. Whether it is appealable, and, if appealable, the authority to which it may be appealed, and the deadline for the appeal.

See example in Appendix "E".

- C. A Notice of Suspension or Discharge shall be hand-delivered to the affected employee, by the employee's supervisor or by anyone the City Manager shall designate, or may be delivered by certified mail or other reliable process. A duplicate original or copy of the notice shall be filed with the Civil Service Commission.
- E. A copy of the Suspension Notice is placed in the employee's personnel record and shall remain there as provided.
- E. Notices of Discharge shall advise the employee of the following:
  1. The misconduct or poor performance for which the employee is discharged;
  2. The effective date of the discharge;
  3. A statement of the status of fringe and retirement benefits after dismissal;
  4. Whether it is appealable; and, if appealable, the authority to which it may be appealed and the deadline for appeal.

See example in Appendix "G".

**29.9 Probationary Discharge:**

- A. An employee in a probationary status may be discharged during his/her probationary period without cause with a communication to the employee and the Civil Service Commission notifying them of such discharge.
- B. The discharge of a probationary employee does not require progressive or any prior discipline.
- C. Employees terminated during their probationary period do not have appeal rights to the Civil Service Commission or arbitration.

**29.10 Causes for Corrective or Disciplinary Actions:**

The following is a list of causes for corrective or disciplinary action. This list is meant to be a guideline to supervisors and employees and is not all-inclusive.

- Incompetancy
- Inefficiency
- Dishonesty
- Immoral Conduct
- Insubordination
- Discourteous Treatment of the Public
- Neglect of Duty
- Failure of Good Behavior
- Conviction of a Felony or a serious misdemeanor
- Misfeasance
- Malfeasance
- Non-Feasance
- Theft of Public Property
- Assault on the Public While on Duty
- Misuse or Destruction of Public Property
- Sexual Harassment
- Misuse of Public Funds
- Intoxication or Drinking of Alcohol During Duty Hours
- Improper Possession of Narcotics or Weapons During Duty Hours, or On City Premises, or in City Vehicles
- Falsification of Official Records
- Tardiness
- Poor Attendance
- Reckless Operation of City Vehicles
- Threats, Intimidation, Harassment, Violent Behavior or Assaults on City Employees
- Abuse of City Time
- Misuse of City Computers
- Criminal Offenses During Off-Duty Hours
- Sleeping During Duty Hours
- Absence Without Approved Leave
- Violation of Other Division, Department, or City Policies, Rules, Regulations, Orders, or Ordinances

**29.11 Appeal:**

Non-probationary employees in the classified Civil Service have appeal/arbitration rights as defined in the appropriate collective bargaining agreements and/or in the Rules and Regulations of Civil Service.

Employees in the unclassified Civil Service are "at will" employees. As such, they have no specified probationary periods and have no appeal rights to the Civil Service Commission or arbitration concerning any discipline administered under this policy.

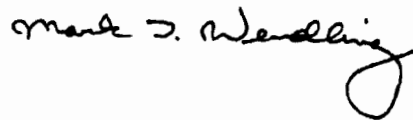
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**29.12 References:**

Ohio Revised Code	124.11
Ohio Revised Code	124.34
Fairfield City Charter	3.12
Fairfield City Charter	4.01(A)(5)
Fairfield City Charter	4:01(A)(7)
Fairfield City Charter	4:01(A)(8)
Fairfield City Charter	6.02(A)(2)
Fairfield City Charter	6.02(A)(10)
Fairfield City Charter	6.02(A)(12)
Fairfield City Charter	6.04(C)
Fairfield City Charter	8.04(B)
Fairfield City Charter	8.04(C)
Fairfield City Charter	8.04(D)
Fairfield City Charter	8.04(E)
Fairfield Codified Ordinances	163.17
Fairfield Civil Service Rules and Regulations	
Collective Bargaining Agreements between the City of Fairfield and:	
F.O.P. Lodge #166	
AFSCME, Local #3646	
IUOE Local #20	
IAFF, Local #4010	

**Review & Questions:**

Questions on the application of this policy should be addressed to Human Resources or the Assistant City Manager.



City Manager

10/1/15

Date

*Supersedes # 2-29, Issued 09/07/07*



**Acknowledgement of Understanding**  
**2-29 Corrective & Disciplinary Actions Policy**

I acknowledge that I have read and understand the updated discipline policy (2-29 Corrective & Disciplinary Actions).

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name