

## **DISCIPLINE**

### **A. Consultation with Human Resource Director**

Supervisors who have questions regarding disciplinary issues will consult with the Human Resource Director. Any new departmental policies intended to reflect the provisions of this Policy will be reviewed by both the Human Resource Director and Law Director. Department Directors may develop supplemental policies for their department, in accordance with Policy Modifications, which are not inconsistent with this Policy. With the concurrence of the Human Resource Director, and with good cause, Department Directors may vary from the procedures to be followed in this Policy.

Those employees covered by/under their respective collective bargaining agreement shall refer to it for the appropriate disciplinary policy and procedures.

### **B. Employee's Right to "Due Process"**

- 1) Unless otherwise designated, all employees of the City of Mason are employed "at-will" and can be discharged for any reason or for no reason at all. In general, however, the City will allow employees an opportunity to respond to a charge of conduct for which discipline is to be imposed before imposing such discipline. This does not alter the at-will nature of the employment relationship.
- 2) Regular full-time and part-time Classified employees, regular full-time and part-time Unclassified employees and employees covered by applicable collective bargaining agreements, who have satisfactorily completed their probationary period, may have a right to "due process" in matters affecting their continued employment.
- 3) The following are examples of offenses for which an employee may be subject to discipline, including suspension and/or termination. An employee's action need not violate a written policy, procedure or law to render it subject to discipline. The following list is not exhaustive and is illustrative only:
  - a) Conviction of any penal or criminal offense;
  - b) Fighting, threatening, or attempting bodily injury to another;
  - c) Stealing or malicious mischief resulting in the injury or destruction of property of other employees or the City of Mason
  - d) Use of alcohol or the illegal use of drugs while on duty or as it relates to the relative policies established for alcohol and drug use;
  - e) Disorderly or unprofessional conduct on City time;
  - f) Insubordination, including the refusal or failure to perform work assignments;
  - g) Use of profane or abusive language in inappropriate and/or public places;
  - h) Willful neglect in the care or use of City property;



- 1) Employees may be required to participate in disciplinary hearings. An employee's refusal to participate in these hearings may result in termination.
- 2) Investigations and hearings conducted by the City of Mason regarding employee disciplinary matters are not criminal in nature. As such no privilege against compulsory self-incrimination applies. An employee's refusal to answer questions in a disciplinary hearing or investigation may result in discipline, including dismissal.
- 3) Investigations into employee disciplinary matters are conducted internally by the employee's supervisor or other designated person. Employees are not permitted to have representatives present during disciplinary hearings or investigations unless expressly provided for in an applicable collective bargaining agreement.
- 4) Classified civil service employees are entitled to notice of their alleged violation and an opportunity to explain or defend their actions prior to the imposition of any discipline. Attorneys and other representations will generally not be permitted to attend this pre-disciplinary hearing unless expressly provided for in an applicable collective bargaining agreement. Employees without such an express right to representation may request at least one day prior to the scheduled pre-disciplinary hearing that representation be permitted. This request must be in writing.

#### **D. Types of Discipline**

The types of discipline identified here are illustrative only and are not intended to establish a system of progressive discipline. The City of Mason may use whatever type of discipline it deems appropriate to the situation.

##### **1. Written Warning**

- 1) Definition - A written warning is a formal reprimand that records both the offense and the discipline imposed. The supervisor will make the employee aware that a written warning is a serious matter and that a copy of it will be placed in his/her file
- 2) Authority - The authority to issue a written warning rests with all levels of supervision for all subordinates, not only immediate subordinates.
- 3) Content - A written warning must be completed on the Disciplinary Notice form. All written warnings will contain: 1) the name of the employee being disciplined, 2) a specific description of the violation, including specific reference to violated rules, if applicable, 3) the possible consequences of further undesirable behavior, 4) the name and signature of the issuing supervisor/ representative; 5) the signature of the employee acknowledging receipt of the warning, and 6) the date the individual received the warning.
- 4) Appeal - Written warnings are subject to appeal through the Grievance Policy procedure, or the grievance procedure established by any applicable collective bargaining agreement.



disciplinary suspension to a regular full-time and part-time employee, either with or without pay.

- ii) Only the City Manger may suspend a regular full-time or regular part-time employee for a period in excess of five (5) working days.

3) Procedure and Content - See following:

- i) Employee is to be given reasonable notice of the hearing and the charges of the hearing. The Human Resource Director, or their designee, will notify the employee and schedule the time and place for the hearing. In situations where the circumstances warrant, a hearing with the employee may take place without reasonable notice to the employee.

In most circumstances, before a regular full-time employee or regular part-time employee receives disciplinary suspension without pay of five days or less, he/she will have the opportunity to speak to his/her Department Director, or in the absence of the Department Director, the next level management person designated in charge of the Department at that time. If the employee's actions necessitate having him/her leave the workplace immediately and/or, the employee or superior is otherwise unavailable the employee will have the opportunity to speak to his/her Department Director as soon as reasonably possible following the suspension. Such a meeting shall be formal and its purpose shall be for the employee to respond to charges that have been brought against him/her. The employee will be presented with a written charges at the time of the meeting.

- ii) Before a regular full-time employee or regular part-time employee receives a disciplinary suspension without pay of more than five days, he/she will be provided the opportunity to speak to the City Manager. The meeting with the City Manager shall be formal and its purpose shall be for the employee to respond to charges that have been brought against him/her. The employee will receive a written copy of the charges in advance of the meeting.
- iii) If an immediate suspension is necessary before an investigation into the charges is completed, a written explanation that the employee is suspended, with or without pay, pending the results of the investigation will be provided to the employee as soon as possible.
- iv) The written Notice of Disciplinary Action, will state the anticipated duration of the suspension. When the final determination of possible disciplinary action is to occur following the investigation of the incident, the employee may also be advised of the ultimate Disciplinary Action that may take place.
- v) Under most circumstances, the Department director will thoroughly review

the situation prior to the suspension, which would include a meeting/hearing with the employee being disciplined.

- vi) Under normal circumstances, the employee will be provided with a written Notice of Disciplinary Action, stating suspension, at the time of suspension, which will include: a) The name of the disciplined employee; b) A description of the violation(s) including specific reference to violated rules (Specifications and Charges), if applicable; c) The consequences of further undesirable behavior; d) The specific dates for which the employee is to be suspended; e) A statement as to whether the suspension is to be with or without pay; f) Reference to the employee's right to appeal; and g) Signature and date of the Department Director, Human Resource Director and the disciplined employee; acknowledging receipt.
- vii) In the case of a suspension for more than five (5) working days, the Department Director will make a written recommendation for suspension to the Human Resource Director, who will in turn forward the recommendation to the City Manager including all the information normally continued in the Notice of Disciplinary Action stating suspension. Only after the City Manager approves distribution to the employee, will the recommendation be shared with the employee.
- viii) A copy of all notices and documents of suspensions will be forwarded to the Human Resource Director immediately for placement in the employee's file.

4) Appeal - Suspension

- i) Suspensions may be appealed through the Grievance Policy or through the grievance procedure established by any applicable collective bargaining agreement that precedes the employee manual. Employees covered by a collective bargaining agreement who are suspended should refer to the applicable grievance procedure established by any applicable collective bargaining agreement
- ii) Classified employees, not covered by a collective bargaining agreement who are suspended for five (5) working days or less are not appealable to the Personnel Review Board of the City of Mason. Classified employees, not covered by a collective bargaining agreement, who have successfully completed their probationary period and have been suspended without pay for more than five (5) working days may appeal their suspension to the City of Mason Personnel Review Board per the appeal procedure outlined in Section 4.(d) Appeal Procedure of this Policy
- iii) Unclassified employees who have successfully completed their probationary period and have been suspended without pay may appeal their suspension under the provisions set forth in the City of Mason Charter.

4. Demotion To A Lower Classification



- i) Recommendation for dismissal of a regular full-time or regular part-time employee is to be made in writing to the City Manager by the appropriate Department Director or the Human Resource Director.
- ii) An employee may be suspended/dismissed with or without pay pending investigation of an employee's conduct.
- iii) The written recommendation will include: a) The name of the employee for whom dismissal is recommended; b) A description of the violation(s) including specific reference to violated rules (Specifications and Charges), if applicable; c) The date of the violation; d) The name and signature of the Department Director or the Human Resource Director and the signature of the employee and date acknowledging receipt.
- iv) A regular full-time employee or regular part-time employee who is recommended for dismissal from his/her employment with the City, may have the opportunity to meet with the City Manager. Such a meeting shall be requested by the employee in writing to the Human Resource Director within ten (10) days following the notification of termination recommendation. The meeting shall be scheduled as soon as possible, and shall be formal, shall allow the employee to respond to allegations, charges and specification which have been brought against him/her. Employee will receive a written copy of the allegations, charges and specifications.
- v) If mutually agreed to by the employee and the City manager, a written statement submitted by the employee or the employee's representative may be substituted for a hearing.
- vi) If, following the City Manager's hearing/meeting with the employee, the decision is made to approve the Department Director's recommendation for dismissal, the Department Director or the Human Resource Director will attach a cover letter (Notice of Disciplinary Action) to the approved recommendation and forward it to the dismissed employee. The employee will sign for receipt of this notification.
- vii) The City Manager shall retain the option of responding as described in the preceding paragraphs, or responding through a memorandum to the Department Director and/or Human Resource Director either affirming or denying the recommendation for dismissal, or responding directly to the employee in question either affirming or denying the recommendation for dismissal.
- viii) The documentation signed by the City Manager affirming or denying his/her decision will be given to the regular full-time or regular part-time employee in question and appropriately distributed at the time the Notice of Disciplinary Action, stating dismissal, is presented to the employee, or as soon thereafter as possible.
- ix) For part-time/temporary non-classified employees the Department Director will advise the employee of the reason(s) for the contemplated dismissal, and if the employee is available, give the employee the opportunity to respond to any allegations, charges or specifications. A record will be made of such reason(s) for



dismissal, the employee's response, and the action taken.

4) Appeal Procedure (Available Only to Classified Employees)

- i) A Classified employee has the right to appeal a termination to the City of Mason Personnel Review Board. The employees covered under the collective bargaining agreement should refer to it for appeal procedures. Such appeal must be addressed to the Personnel Review Board and filed with the Human Resource Director for conveyance within ten (10) calendar days of receipt of the Notice of Disciplinary Action, stating the specific discipline. The appeal must be in writing and must specify either or both the following:
  - 1) There was a failure on the part of a City Official to observe or correctly apply the provisions of the rules, regulations or terms of the subject's appointment;
  - 2) There was not a complete consideration of the facts regarding the Disciplinary Action taken against the appellant. The appellant must be specific concerning his justification for citing either or both of these possible grounds for appeal.
- ii) The appeal must be submitted within ten (10) calendar days of the receipt of the disciplinary order, but may not be submitted until the action complained of has become final (i.e., when signed by the City Manager).
- iii) Hearings, where applied, are normally closed to the public. The appellant may request that it be open at the time he/she submits his written appeal.
- iv) An Unclassified employee has the right to appeal a termination under the policies set forth in the City Charter.
- v) Where applicable, the Notice of Disciplinary Action to an employee will advise him/her of the preceding rights of appeal.
- vi) City of Mason Personnel Review Board hearings will be conducted according to the standards outlined in the Personnel Review Board Manual.