

	<i>Administrative Regulation</i>	
	Corrective Action	Policy# 15.2
		Effective: 04/02/2018
		Revised: 09/07/2021
		Owner: Human Resources

PURPOSE:

This administrative regulation has been developed to establish a consistent and progressive means of addressing employee performance that does not meet the expectations of the City.

SCOPE:

This policy applies to any and all employee conduct that the City, in its sole discretion, determines must be addressed by corrective action. This regulation excludes public safety employees who are subject to their department discipline procedures (general orders). Progressive discipline may not apply to probationary employees.

POLICY:

The City strives to use progressive discipline with the goal of correcting unacceptable behavior, poor performance, or violations of City policies, practices or procedures and to allow the employee a reasonable opportunity to improve on their deficiencies. Of course, no policy can be expected to address each and every situation requiring corrective action in the workplace nor is progressive discipline appropriate for all serious offenses such as theft, workplace violence, harassment, or dishonesty which could warrant immediate discharge. It is not the intent of this policy to promote or require a progression of disciplinary measures to every corrective action. The City will however take a comprehensive approach regarding discipline and will attempt to consider all relevant factors before making decisions regarding discipline.

PROCEDURE:

1. Corrective Action Process

1.1. Corrective actions may be invoked in the following order:

- Step 1 (Written warning),
- Step 2 (Second written warning),
- Step 3 (Final warning) and
- Step 4 (Termination).

1.2. Corrective action will not always commence with Step 1 or include a sequence or steps. Some acts, particularly those that are intentional or serious may warrant more severe action (including termination) on the first or subsequent offense.

- 1.3. To ensure consistent decision-making, corrective actions should be reviewed with an appropriate level of department management and Human Resources prior to being issued. Employees shall not receive corrective action without just cause.
 - 1.3.1. Discipline resulting in the skipping of a progressive discipline step, suspensions, demotions, or discharge must have approval from the HR Director or designee.
 - 1.3.2. In cases where corrective action could include discharge or loss of pay, a meeting with the employee shall take place. The employee must be given an opportunity to present objections to the action and the supervisor must consider the employee-provided information prior to reaching a final decision.
 - 1.3.3. Employees shall be provided copies of corrective action taken against them and any such corrective action shall be placed in their personnel file.
- 1.4. Corrective actions which are twenty four (24) months or more from the date of the current offense will not be used for the basis of determining the step level assigned to the current corrective action on an employee. However, exceptions may be made when justified by clear pattern of prior corrective actions.
 - 1.4.1. The twenty four (24) month limit on the corrective action does not apply to any corrective action taken for the following offenses: falsification of City records, sexual harassment, workplace violence, theft, any conduct that could lead to separation for the first offense, or other types of harassment prohibited by policy or law.
- 1.5. Corrective action may also include the employee attending training or an educational opportunity.

2. Investigatory Process

- 2.1. The City will investigate any potential corrective matters prior to determining if a corrective action is necessary. Investigations should take place as quickly as possible. Employees are expected to comply and participate with interview requests from the City or its designee.
- 2.2. In the event that the City knows that a meeting will likely result in a corrective action, notice of the employee's right to union representation (when applicable) will be provided. This shall include a reasonable opportunity for the employee to make arrangements for the attendance of a union representative.
- 2.3. During any meeting concerning a potential corrective action matter, the employee must be given a reasonable opportunity to ask questions and provide information or an explanation about the conduct or performance that is under review.

- 2.4. Should the City have reasonable belief that information obtained during a meeting could result in criminal prosecution, the employee will be informed of their rights regarding participation in this meeting.
- 2.5. The employee may be placed on paid administrative leave if the department director believes the best interest of the department would be served by removing the employee during the investigatory process of a corrective action.
 - 2.5.1. An employee on paid administrative leave must be available to be interviewed or cooperate with the investigation during their normal working hours or other hours as specified by their supervisor. If the employee is sick or is otherwise unavailable during administrative leave, notification should be given to their supervisor so the timecard can be properly coded.

3. Demotion, Suspension, and Termination Process (Due Process)

- 3.1. Probationary period employees may be released at any time without the required due process outlined below. However, prior approval of the Human Resources Director shall be obtained before such action is taken.
- 3.2. In the event the City believes a non-probationary employee may be subject to demotion, suspension or termination, it will provide the employee with the following procedural due process:
 - 3.2.1. Within ten working days of the completion of the investigation, the department director or designee will review all investigation information related to infraction(s) and prepare a written report to include charges against the employee, a notice of the contemplated termination, and the date, time, and location for the pre-termination hearing.
 - 3.2.2. A written report shall be delivered to the employee in a manner most likely to reach the employee including in-person, email or by mail.
 - 3.2.3. The hearing will be scheduled no earlier than five working days from date of delivery to employee.
 - 3.2.4. The employee may respond to the charges at the hearing in person and/or in writing, in writing in lieu of a hearing, or waive their right to a hearing. A hearing will be conducted unless the employee specifically requests in writing that the hearing be waived.
 - 3.2.5. The director shall notify the employee in writing of the decision as to the termination within five working days of the conclusion of the hearing or notification of hearing waiver.

- 3.2.6. Only department directors in coordination with the Human Resources Director are authorized to approve the discharge of an employee.
- 3.2.7. A copy of the decision will be forwarded by the department director to the HR Department along with a PAF of anything that needs to be captured in the Human Resources personnel system.
- 3.3. Should the City anticipate the necessity to publicly disclose “stigmatizing” information in connection with a termination, the City will make reasonable efforts to offer a name clearing hearing prior to the release of information.

4. Causes For Corrective Action Shall Include But Not Be Limited To The Following

- 4.1. Falsification of employment, timecard, or other records.
- 4.2. Theft or deliberate, reckless, negligent, or careless acts of damaging or destroying any City property or equipment or the property of any other employee, citizen, vendor or third party.
- 4.3. Unauthorized use or possession of City property, equipment, materials or facilities.
- 4.4. Unauthorized carrying of a firearm or any other instrument used as a dangerous weapon on City premises at any time.
- 4.5. Causing, creating or participating in a significant or substantial disruption of work during working hours on City property.
- 4.6. Engaging in criminal conduct while at work or conviction of a crime which, in the City’s judgment, would render the employee unfit to perform the duties of their position.
- 4.7. Using abusive, vulgar, condescending, or threatening language; disrespectful, or inappropriate workplace behavior or otherwise uncooperative in dealing with co-workers, supervisors, or the public to include threatening, intimidating, coercing; or assaulting another employee, supervisor, or member of the public.
- 4.8. Insubordination, including but not limited to, failure or refusal to follow a verbal or written order or instructions from a supervisor or member of management, or the use of abusive or threatening language toward another City employee, customer or vendor.
- 4.9. Failure to follow notification procedures when unable to report to work, or when leaving work during normal working hours when permission is required.
- 4.10. Failure to observe work schedules, including rest breaks and meal periods. You are expected to be at work on time, remain until your workday ends, and perform the work assigned to or requested of you.

- 4.11. Sleeping or malingering on the job.
- 4.12. Use of sick leave under false pretenses or abuse of sick leave.
- 4.13. Excessive personal use of technology during working hours. This includes talking on a cell phone, texting, or any other activity that detracts from work, safe driving, or safe equipment operation.
- 4.14. Failing to attend scheduled work sessions and related activities at conferences, workshops, or educational events that are paid for by the City.
- 4.15. Careless, inaccurate, unreliable, or otherwise unsatisfactory work performance or productivity including failure to complete assigned work tasks in a timely and accurate manner.
- 4.16. Failure to promptly report an accident or injury or cooperate in accident or injury investigations.
- 4.17. Failure to obtain/maintain job required licenses/certificates or professional designations.
- 4.18. Misrepresentation of City policies, practices, procedures, or status or authority on behalf of the City. Employees may not use the City's name, logo, likeness, facilities, assets or other resources of the City for personal gain or private interests.
- 4.19. Violations of the Ethics Policy or Oregon's Ethics laws to include but not limited to unauthorized acceptance of a reward, gift, or other form of remuneration by an employee for the performance of their duties and solicitation as an employee of the City for money, goods, or services not specifically authorized by the City Manager.
- 4.20. Failure to promptly report any perceived or known unethical, illegal, threatening or violent behavior on the part of any City employee or elected official.
- 4.21. Dishonesty of any type or making false charges or accusations against City employees or members of the public.
- 4.22. Violation of any safety, health, security or City policy, rule or procedure currently in effect or subsequently issued. Employees are expected to act in accordance with all appropriate codes, laws, regulations, and policies, regardless of whether they are set by the City or outside regulatory or legislative bodies.
- 4.23. Any other conduct, which is in the view of the City, serious enough to justify discipline or discharge.

5. At Will Status

- 5.1. In all cases, the City retains its “at-will” status and sole discretion to determine the nature and extent of any discipline based upon the circumstances of each individual case. Accordingly, the City reserves the right to proceed directly to any level of discipline, including discharge for misconduct or performance deficiency, without any prior corrective steps, when the City deems such action appropriate.
- 5.2. The City retains the right to terminate any employee’s employment at any time and for any reason, with or without other prior corrective action.

6. Appeal

- 6.1. Employees covered by this policy may file a grievance concerning any formal corrective action in accordance with the procedures and limitations within their collective bargaining agreement or the non-union Grievance Resolution administrative regulation.

DEFINITIONS:

1. **“Discipline”** is the outcome of the corrective action process.
2. **“Misconduct”** is any action by an employee which adversely affects the employee’s ability to perform assigned duties properly, impairs customer service, discredits the City’s image, threatens the safe and productive conduct of City operations, or endangers City personnel or property or the public.
3. **“Probation Period”** is the final phase of the selection process, a “working test period” during which an employee is required to demonstrate, by actual performance of the duties, fitness for the position to which they have been appointed.
4. **“Progressive Discipline”** is a series of increasingly severe penalties for repeated offenses.
5. **“Public Safety Employees”** is an employee whose principal duties include services requiring specialized training in the area of police protection, firefighting services, or emergency medical services for any area within the City.
6. **“Suspension”** is a mandatory absence from work, assigned by the department.
7. **“Termination”** is an involuntary ending of employment which may be imposed for major infractions or gross misconduct, multiple infractions, or unsatisfactory performance.

RESOURCES:

Administrative Regulation:

1. [Investigations](#)
2. [Reporting Improper & Unlawful Disclosure](#)

3. [Non Union Grievance Procedure](#)

Forms:

1. [Coaching Record Template](#)
2. [Corrective Action Template](#)
3. [Garrity Warning](#)
4. [Corrective Action Guidance](#)
5. [Investigation Expectations Form](#)
6. [Personal Action Form \(PAF\)](#)