

ITEM 3

Discussion on Disciplinary Matrix used for appeal of suspension Gregory Walter - Community Center Supervisor (Suspension date 7/2/13) from CSC Meeting of 12/12/13.

1. Disciplinary Matrix used for above suspension was for 2011 (attached with policy approved 12/6/11), which suspension occurred on 7/2/2013; in which there is a revised Disciplinary Matrix which has been used in other appeals dated 4/11/13 (attached with policy approved 5/2/13).
2. The Disciplinary Matrix that should have been used should have been the one for 4/11/13.
3. If the Matrix for 2011 was used for this appeal a 10-day suspension should have been imposed (see copy of Notice of Suspension history) that reflects the following:
 - On June 16, 2011 you were given a formal counseling for reporting to work late and opening the Recreation Center over an hour late (1st incident)
 - On June 30, 2012 (2nd incident) opened the facility late to the public and were issued a 3-day suspension dated 8/16/12
 - On March 19, 2013 (3rd incident) you were an hour late reporting to work, causing delay in opening the facility to the public and were issued 15-day suspension dated 7/2/13

ACCORDING TO MATRIX 2011 A LEVEL 1 UNDER TIME AND ATTENDANCE VIOLATIONS WOULD BE A 10-DAY SUSPENSION.

**ACCORDING TO PARKS & RECREATION GUIDELINES (104) EFFECTIVE DATE: 08/09/2011 UNDER CONSEQUENCES SECTION (C.) STATES:

C. Steps may be taken to TERMINATE an employee's employment if there are two attendance suspensions within 24 MONTHS of the most recent attendance suspension (first suspension dated 8/16/12 and most recent suspension is dated 7/2/13 (11 MONTHS APART)).

***This will show how departments DO NOT even follow their own Departmental Policies they have established. ***

ACCORDING TO MATRIX 2013 A LEVEL 1 UNDER TIME AND ATTENDANCE VIOLATIONS WOULD BE A 10- DAY SUSPENSION, but again this reflects that the department does not follow their own Departmental Policies they have established.

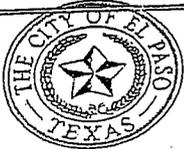
**But what is more astounding is the other disciplinary history reflecting offensive conduct or language toward public in which he should have been TERMINATED on March 6, 2012.

1. On July 18, 2007 you were given a 3-day suspension for offensive conduct and language (1st violation)
2. On September 3, 2009 you were given a formal counseling for unprofessional conduct for becoming argumentative with a parent and offended her when you implied that she was lazy. (2nd violation)

3. On July 1, 2010 you were given a 2-day suspension for being offensive in conduct and language. You became angry at your supervisor and loudly shouted an expletive as you were exiting her office. (3rd violation)
4. On March 6, 2012 you received a 5-day suspension for wantonly offensive conduct or language toward the public and for refusal to follow the lawful order of a superior or supervisor. (4^A violation)

ACCORDING TO MATRIX FOR 2011 UNDER LEVEL 1 (BEING WANTONLY OFFENSIVE) THAT SHOULD HAVE BEEN APPLIED TO THE 3/6/12 SUSPENSION AS THE 4th VIOLATION TERMINATION SHOULD HAVE BEEN IMPOSED TO EMPLOYEE.

This reflects that this SUPERVISOR can get away with anything. It gives other City employees a great example how to conduct themselves knowing that they too can get away with this kind of behavior. It seems that the department ACCEPTS these qualities in a supervisor and it's OK.



CITY OF EL PASO, TEXAS
NOTICE OF SUSPENSION

Name:	Last 4 #'s of SS #:	Date: July 2, 2013
Position: Community Center Supervisor	Employee ID #:	

Level 2 Violation – Disobeying a Direct Order (insubordination)

Section 4. Any Department Head may, as provided in the Charter, suspend, discharge or demote any employee for insubordination, for failure to comply with departmental rules and regulations, for failure to comply with the Rules of the Commission or for failure to obey any lawful order of a superior officer. (Amended 7/11/06)

Parks and Recreation Guidelines on Attendance

Policy –

A. A chargeable absence under this policy is defined as any absence for which approval has not been granted.

E. Any unexcused absence under this policy will be referred to as an occurrence. Examples include, but are not limited to, tardiness, early departure, failure to report for any scheduled work (includes overtime and/or standby), failure to report for mandatory training.

SPECIFICATIONS:

You were scheduled to report to work at 8:30 a.m. on Tuesday, March 19, 2013 and open the Carolina Recreation Center; however, you were an hour late reporting to work. This caused a delay in opening the facility to the public, created a liability situation because the facility was opened without authorized personnel, and caused staff confusion in response to your late request for assistance.

This is the third incident being brought to the Department's attention whereby you have failed to open a City facility on time. Your supervisor, Veronica Myers, Recreation Centers Division Supervisor, made several attempts to contact you the morning of March 19, 2013. She tried reaching you at the Carolina Recreation Center a few minutes before 9 a.m. She then tried reaching you on your cell phone, and finally sent you a text message to find out who was opening the Center.

It wasn't until 9:17 a.m. that you returned her call to let her know that you had woken up late, but you were on your way. You informed her that your cell phone wasn't working but you had spoken to Eddie Aguilar, Recreation Specialist for the Happiness Senior Center and asked him to open the Carolina Recreation Center for you. Once the Carolina Recreation Center had been opened, Mr. Aguilar returned to his own work location. This meant there was no staff on site at the now opened Carolina Recreation Center. You called Ms. Myers from the Carolina Recreation Center at 9:41 a.m. to tell her that you had arrived.

Mr. Gonzalez, a contracted janitor, stated that his wife had called him and told him that you had called to ask him to open the Carolina Recreation Center because you were running late. Ms. Myers states that Mr. Gonzalez told her that he refused to open the Carolina Recreation Center this time because of her previous directive for him not to. Ms. Myers also states that Mr. Gonzalez told her that he doesn't carry his cell phone anymore because you would call him at times to open the Center for you whenever you would be running late.

When your supervisor asked why you hadn't contacted her as you had previously been instructed to do, you replied that your main concern was to get the facility open for the public. She states that you then appeared to become upset and told her there were more important things to worry about.

Prior to this latest incident, you had been given a formal counseling on June 16, 2011 for opening the Carolina Recreation Center late when you were over an hour late to work. You were warned that the janitor was not responsible for

EMPLOYEE'S INITIALS gn



CITY OF EL PASO, TEXAS
NOTICE OF SUSPENSION

Name:

Last 4 #'s of SS #:

Date: July 2, 2013

Position: Community Center Supervisor

Employee ID #:

supervising the building and that this could not happen again. You were also told that you should alert your supervisor immediately if a situation should arise that would cause the Carolina Recreation Center to open late.

The second incident occurred on Monday, June 30, 2012. Once again, you opened the facility late to the public when you were almost an hour late to work. You did not contact your supervisor as you had been directed to do following the previous incident. Even though you had been warned about contacting the janitorial service to open the facility in your absence, you contacted them again anyway to open the facility. You were warned that your failure to follow instructions was seen as a deliberate and flagrant act of insubordination and would not be tolerated. You were warned that your failure to open the Carolina Recreation Center on time from that point forward, as well as any further acts of insubordination would result in further discipline up to and including termination. You were issued a Notice of Suspension on August 16, 2012 and suspended for three days.

Following your suspension for the second incident, you provided a punctuality pledge to your supervisor in which you pledged to 1) arrive to work on time and open the Carolina Recreation Center when you were scheduled to do so, 2) notify your supervisor immediately if you were going to be late, and 3) make it your personal goal to try to arrive at work early to ensure you are to work on time. You have failed to keep your own pledge because on March 19, 2013 you failed to open the Carolina Recreation Center on time for a third time. You also failed to follow instructions to notify your supervisor. This is considered to be the third violation in which you have failed to follow a direct order of your supervisor.

You have been given numerous opportunities to improve so that you could succeed as a City employee; however, as your disciplinary history shows, you have failed to follow direct orders repeatedly.

Your disciplinary history reflects the following:

On January 19, 2013 you were given a 3-day suspension for negligence in care or misuse of City property.

On August 16, 2012 you were given a 3-day suspension for refusal to follow lawful order of a superior or supervisor.

On March 6, 2012 you received a 5-day suspension for wantonly offensive conduct or language toward the public, and; for refusal to follow the lawful order of a superior or supervisor.

On June 16, 2011 you were given a formal counseling for reporting to work late and opening the Recreation Center over an hour late.

On July 1, 2010 you were given a 2-day suspension for being offensive in conduct and language. You became angry at your supervisor and loudly shouted an expletive as you were exiting her office.

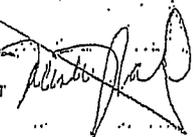
On September 3, 2009 you were given a formal counseling for unprofessional conduct for becoming argumentative with a parent and offended her when you implied that she was lazy.

On July 18, 2007 you were given a 3-day suspension for offensive conduct and language.

Based on the above, the City of El Paso Parks and Recreation Department has determined that your services should be suspended for fifteen (15) days.



ATTENDANCE

Relationships To Adopted Policies, Ordinance, Other Departments: City of El Paso Sick Leave Policy; CSC Rule 13; CSC Rule 15	Effective Date: 08/09/2011
Author: Ada Hatten, Departmental HR Manager	Revised Date: N/A
Approval: Nanette Smejkal, Parks and Recreation Director 	Review Cycle: Annual

Purpose

Good attendance is important for optimal operating efficiency of the Department and is expected of all Parks and Recreation employees. Unnecessary or excessive absenteeism or tardiness reduces that efficiency and impacts the Department as well as the services it provides to the general public. Poor attendance has a negative impact on co-workers and other employees. When hired, employees are given a schedule and are to report to their assigned work location as scheduled. Employees are to be mindful of their attendance record throughout their employment.

Policy

- A. A chargeable absence under this policy is defined as any absence for which approval has not been granted.
- B. For the purpose of administering this policy, a chargeable absence is further defined as being unexcused for:
 - Failure to appear for a scheduled shift
 - Being tardy for the start of a scheduled shift
 - Quitting or leaving early from a scheduled shift
 - Failure to call the immediate supervisor (or their designee) within the first 30 minutes preceding the scheduled start time

Direct communication to the immediate supervisor (or designee) is required from the employee requesting sick leave or a modified work schedule. The employee is not excused unless verbal approval is granted by the supervisor or other approving authority. The supervisor is required to follow up by written confirmation to the employee. Exceptions will only be considered in cases of verifiable emergencies. Communicating through a third party is not an acceptable notification of absence.

- C. A non-chargeable absence under this policy includes the following:
 1. approved vacation
 2. City-observed holidays or building closures
 3. jury duty for period of jury service only
 4. approved funeral leave
 5. military duty (e.g., reserve training)
 6. workers compensation leave
 7. approved leave of absence under the Family and Medical Leave Act (FMLA)
 8. other approved leave (i.e., SPD, SLF, SLD, SLP)
- D. Proper documentation is required in the following situations:
 1. Jury duty, funeral leave, military leave, leave under the Family Medical Leave Act (FMLA), or leave of absence (LOA).
 2. Sick leave that occurs the day before, the day of, or the day after a City designated or approved holiday will not be granted without a medical certificate.

3. Sick leave that occurs the day before or the day after the employee's vacation will not be granted without a medical certificate.
 4. Documentation will also be required in cases of suspected sick leave abuse. In such cases, employees will be required to present the proper medical certification each time they return to work following an absence.
 5. If an employee misses mandatory Department training, they will be required to present the proper medical certification or other appropriate documentation upon their return to work following the absence.
- E. Any unexcused absence under this policy will be referred to as an occurrence. Examples include, but are not limited to, tardiness, early departure, failure to report for any scheduled work (includes overtime and/or standby), failure to report for mandatory training.
 - F. Except in cases of a verifiable emergency, if a situation arises that will require the employee to be absent, tardy, or depart early, the immediate supervisor must be contacted prior to the start of the scheduled shift. If unable to reach the supervisor, proceed through the chain of command and contact the next supervisor/manager in charge. If unable to reach any of these individuals, the section manager should be contacted.
 - G. Employees are to notify the immediate supervisor each day of their absence unless a doctor's note has been provided that indicates all inclusive dates the employee will be absent. Failure to do so may result in the absence being charged as unexcused.
 - H. If absent three or more consecutive days because of injury or illness, a medical certificate must be provided upon return to work.
 - I. If absent for three consecutive days (for any reason) and the supervisor is not notified, the employee will be considered absent without leave (AWO). The employee will be released from employment for job abandonment.
 - J. Two occurrences of unexcused absence while on probation following hire or rehire, may result in termination.

Consequences

- A. After each unexcused absence the employee's attendance record for the preceding 180 calendar days will be reviewed to determine the total number of occurrences within the period and what action to take, if any.
- B. The following actions will be taken to correct unexcused absences:
 - 1st occurrence - formal counseling
 - 2nd occurrence - 3-day suspension without pay
 - 3rd occurrence - 10-day suspension without pay
 - 4th occurrence - termination
- C. Steps may be taken to terminate an employee's employment if there are two attendance suspensions within 24 months of the most recent attendance suspension. An employee may also be terminated if they incur three suspensions for any reason within two years following the suspension.

This policy does not replace any existing City Policy.

I have read and understand the Parks and Recreation Attendance Policy and a copy has been given to me. This policy is not all inclusive and does not change the employment relationship between the employee and the City of El Paso Parks and Recreation Department.

Greg Walter
Print name

Greg Walter
Signature

8-22-11
Date

Levels of Discipline

City of El Paso Disciplinary Matrix December 6, 2011

Violation	1st Violation	2nd Violation	3rd Violation	4th Violation
Level 4	Demotion/Termination			
Level 3	15 Day Suspension Termination			
Level 2	3 Day Suspension 10 Day Suspension Termination			
Level 1	Formal Counseling 3 Day Suspension 10 Day Suspension Termination			

Discipline crossing Department lines will be presented by the City Manager or his representative

Repeated violations at any level may subject you to discipline at a higher level

Description of Levels

Level 4
<p>At fault motor vehicle/equipment accident/incident resulting in substantial property damage</p> <p>Sexual Harassment - Assault</p> <p>Job duty possession/use/consumption/distribution of alcohol or illegal substances</p> <p>Positive test for alcohol or illegal substances</p> <p>Theft</p> <p>Violations/Workplace Violence Policy</p> <p>Accessing/distributing/displaying pornography**</p>
Level 3
<p>Conviction of a DUI affecting job related driving duties</p> <p>Sexual Harassment - Incident of a sexual nature</p> <p>Conviction of a Misdemeanor involving Moral Turpitude</p> <p>Possession of pornography electronically or physically**</p> <p>Deliberate falsification of reports or official documents</p> <p>Refusal to obey a direct order during an Administrative investigation</p> <p>Displaying/Possession/Distribution of inappropriate images not deemed to be pornographic</p> <p>Safety violations resulting in substantial property damage/serious injury</p> <p>Intentional release of confidential information</p> <p>Retaliation****</p> <p>Major loss/misplacement/damage to City property</p>
Level 2
<p>AWOL 2 consecutive days**</p> <p>Not available when on call</p> <p>Disobeying a Direct Order (subordination)</p> <p>At fault motor vehicle/equipment accident/incident resulting in minor property damage/injury</p> <p>Misuse of City resources</p> <p>Failure to report for line duty overtime/call back</p>
Level 1 *
<p>AWOL 1 day or less***</p> <p>Inappropriate use of the City's e-mail or Internet</p> <p>Being wantonly offensive</p> <p>Time and Attendance Violations/Unauthorized Overtime</p> <p>Creating Employee Dissension</p> <p>Minor Loss/Misplacement/Damage to City Property</p> <p>Dress Code/Uniform Policy violation ****</p> <p>Violation of the Outside Employment Policy</p> <p>Driving on behalf of the City without current Defensive Driving Certification (DDC)</p> <p>Poor Customer Service/Unprofessional Conduct</p> <p>Failure to attend scheduled training</p> <p>Prohibited Political Activity</p> <p>Failure to report driver license revocation/suspension</p> <p>Negligent operation of a motor vehicle (non accident or injury)</p> <p>Failure to enforce City/Department Rules</p> <p>Safety Violation (non injury or property damage)</p> <p>Solicitation Policy violation</p>

*Violations not involving Rules or Policies will be addressed with a Formal Counseling and subsequent repeat violations would be a violation of a Direct Order

** The Human Resources Director will determine whether material is pornographic or not.

*** Applicable to Departments with rules addressing AWOL less than 3 days

**** As defined in the Violence in The Workplace Policy. ***** Employees will be sent home to change into appropriate attire on their own time for each incident



ADMINISTRATIVE POLICIES AND PROCEDURES

Policy ID: Human Resources
Subject: Disciplinary Policy and Matrix
Creation Date: April 6, 2011
Revision Date: September 4, 2012
Prepared By: Human Resources Department
Approved By: City Manager
Legal Review Date: November 8, 2011
Legal Review: John Batoon

DESCRIPTION:

Disciplinary Policy and Matrix

I. POLICY:

The City of El Paso is committed to a goal of high performance by all employees in order to fulfill its mission of outstanding customer service to the citizens of our community. The purpose of this policy and matrix is to provide City leaders and supervisors with a guideline and reference for corrective and disciplinary action. The City of El Paso Human Resources Department accepts and investigates all allegations of employee misconduct and imposes corrective and progressive disciplinary action in a timely and consistent manner as appropriate. This policy outlines the procedure for investigating allegations of employee misconduct and disposition of corrective action.

II. PROCEDURES:

A. Basis for Discipline

1. Failure to report a violation of Policy is a violation of Policy.
2. Employees are subject to discipline for violations of law, Civil Service Commission Rules and Regulations, City policies, Departmental policies and procedures and verbal or written directives from supervisory personnel.
3. All disciplinary actions taken under this policy are subject to, and shall be consistent with, applicable federal and state law, local ordinances, administrative directives and Civil Service Commission Rules and Regulations.

B. Information Gathering and Processing

1. It is the duty of all supervisory employees to assist those who express the desire to report allegations of misconduct against any City employee. The informant need not be the aggrieved party, but is anyone who witnessed or otherwise became aware of an incident of misconduct. Information regarding allegations of misconduct must be immediately reported to the Department Head and/or the Human Resources Director.
2. Supervisory personnel shall assist their Departmental Human Resources Manager and/or Human Resources Director with administrative investigations to determine what violation of rule or policy has been committed. This may involve preliminary data gathering of evidence, preparing questions to ask witnesses or employees, and/or interviewing and collecting affidavits (notarized statements) from employees, witnesses and/or citizens and determining employee work status. The central contact during an administrative investigation and disciplinary matters is the Departmental Human Resources Manager, where they exist, or the Human Resources Director. For those departments that do not have a Departmental Human Resources Manager, the Human Resources Director shall assign an investigator to conduct the administrative investigation.
3. Employees are required to provide a statement or answer questions during administrative investigations. Employees who withhold information, thwart, impede or fail to cooperate with administrative investigations will be considered insubordinate and subject to disciplinary action up to and including termination. Upon conclusion of the administrative investigation, the Departmental Human Resources Manager or Human Resources Director will advise the Department Head of any findings from the investigation and recommend disciplinary or corrective action as appropriate. However, it is the Department Head's responsibility to make the final determination and defend the discipline to be administered as a result of any review.
4. Employees interviewed during administrative investigations are prohibited

from discussing the nature or details of the investigation with anyone. Nothing in this policy would prevent an employee from discussing the investigation with their attorney if they have such representation.

III. Corrective Action

The following types of corrective action may be issued to an employee prior to utilizing the disciplinary matrix. A review of documented corrective action may be considered in the determination of the appropriate level of disciplinary action.

1. Counseling: A verbal counseling will be provided by supervisory personnel to the employee informing the employee of the infraction or problem, corrective measures or what is expected of the employee, and consequences of continued infractions. The verbal counseling is an opportunity to discuss work-related problems in private with the employee. The supervisor should administer the verbal counseling. If a supervisor requests assistance with issuing a verbal counseling, the Human Resources Director will provide further assistance or guidance. Supervisors must document and maintain the counseling in a performance file for a full annual performance cycle, using the Record of Verbal Counseling Form.
2. Formal Counseling: A Formal Counseling must contain specific language that informs the employee of the infraction, what is expected of the employee, and consequences of continued infractions. The Formal Counseling shall be administered by the Department Head on official City letterhead. The Department Head, along with supervisors, shall work with the Departmental Human Resources Manager or the Human Resources Director, when drafting the Formal Counseling. The Formal Counseling will be placed in the employee's personnel file by submitting the written document to the Human Resources Director no later than 120 days following the issue of the Formal Counseling.

IV. Disciplinary Matrix

The attached matrix serves as a guide to supervisory personnel and Department Heads of the categories of discipline that shall be imposed when an infraction occurs that violates law, a Civil Service rule, policy, and/or regulation of the

department. The final determination for discipline rests with the Department Head as defined in CSC Rule 8.

The following are the categories of discipline:

1. Suspension: A suspension without pay for a definite period of time must be completed in an appropriate Notice of Suspension form in accordance with Civil Service Commission Rules. The Notice of Suspension must (1) identify which state and federal laws, rules, policies, and/or regulations were violated, (2) contain narrative specifications (charges) and (3) include a record of previous discipline, if any. The Notice of Suspension shall be administered by the Department Head. The Department Head, along with supervisors, shall work with the Human Resources Director, or designee when drafting the narrative specifications. The Notice of Suspension must always be reviewed by the City Attorney's Office before being administered to the employee.
2. Demotion: A demotion as a result of disciplinary action is a reduction into a lower graded position that may result in a loss of pay to the employee. It must be completed in an appropriate Notice of Demotion form in accordance with Civil Service Commission Rules. The Notice of Demotion must (1) identify which state and federal laws, rules, policies, and/or regulations were violated, (2) contain narrative specifications (charges) and (3) include a record of previous discipline, if any. The Notice of Demotion shall be administered by the Department Head and must always be reviewed by the City Attorney's Office before being administered to the employee.
3. Termination: A termination is separation of employment and must be completed in an appropriate Notice of Separation form with effective date for dismissal in accordance with Civil Service Commission Rules. The Notice of Separation must (1) identify which state and federal laws, rules, policies, and/or regulations were violated, (2) contain narrative specifications (charges) and (3) include a record of previous discipline, if any. The Notice of Separation must always be reviewed by the City Attorney's Office before being issued to the employee by the Department Head.

V. Application of Matrix

1. The application of progressive discipline is designed to take into account any instance of

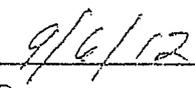
corrective action or previous discipline of a similar nature. The Department Head shall choose the appropriate range of disciplinary action in each level for each offense. Additionally, unrelated disciplinary and/or performance history may result in an upward adjustment in the amount and/or level of discipline, where appropriate. Multiple violations occurring at the same time will result in appropriate disciplinary action at the discretion of the Department Head. Additionally, the consequences of any violation will be taken into account and shall result in an adjustment in the amount of discipline.

2. The Department Head in accordance with CSC Rule 11 retains the right to promulgate rules and regulations regarding the operation of his department, and may depart from the matrix guidelines when circumstances exist that would cause the imposition of the stated discipline to be inappropriate. Similarly, situations may arise that are not included in the policy; in such a circumstance, an appropriate level of discipline will be imposed. Nothing in this policy shall prohibit a Department Head from departing from utilizing a higher form of discipline, to include termination, if the circumstances warrant such action.
3. The attached disciplinary guidelines are standard recommendations and not meant to be an all inclusive list of possible infractions. The Human Resources Director retains the right to modify, or amend this policy and matrix as needed without advanced notice. It should be understood that these guidelines may be deviated from at the discretion of the Department Head and/or the Human Resources Director based on individual circumstances.

APPROVED BY:



Joyce Wilson, City Manager



Date

CITY OF EL PASO DISCIPLINARY MATRIX

4-11-13

OFFENSE
(CAUSE OF ACTION)

1ST OFFENSE PENALTY 2ND OFFENSE PENALTY 3RD OFFENSE PENALTY 4TH OFFENSE PENALTY

OFFENSE (CAUSE OF ACTION)	1 ST OFFENSE PENALTY	2 ND OFFENSE PENALTY	3 RD OFFENSE PENALTY	4 TH OFFENSE PENALTY
LEVEL 4 VIOLATIONS				
At fault motor vehicle/equipment accident/incident resulting in serious injury or death.	TERMINATION			
AWOL (3 consecutive days)	TERMINATION			
Felony Conviction affecting job related duties	TERMINATION			
Violation of a departmental policy that mandates termination ***	TERMINATION			
Loss of required License/Certificate where required in Job Description	TERMINATION			
Sexual Harassment-Assault	TERMINATION			
On Duty use/consumption/distribution of alcohol or illegal substances	TERMINATION			
Positive test for alcohol or illegal substances/Refusal to submit to testing	TERMINATION			
Accessing/distributing/displaying pornography **	TERMINATION			
LEVEL 3 VIOLATIONS				
Conviction of a DUI affecting job related driving duties	10 DAY SUSPENSION	15 DAY SUSPENSION	DEMOTION/ TERMINATION	
Inducing or assisting another to commit an unlawful act or to act in violation of any lawful departmental or official regulation or order	10 DAY SUSPENSION	15 DAY SUSPENSION	DEMOTION/ TERMINATION	
At fault motor vehicle/equipment accident/incident resulting in substantial property damage.	10 DAY SUSPENSION	15 DAY SUSPENSION	DEMOTION/ TERMINATION	
Has been convicted of a felony or misdemeanor involving moral turpitude	10 DAY SUSPENSION	15 DAY SUSPENSION	DEMOTION/ TERMINATION	
Deliberate falsification of reports or official documents	10 DAY SUSPENSION	15 DAY SUSPENSION	DEMOTION/ TERMINATION	

CITY OF EL PASO DISCIPLINARY MATRIX

4-11-13

**OFFENSE
(CAUSE OF ACTION)**

1ST OFFENSE PENALTY 2ND OFFENSE PENALTY 3RD OFFENSE PENALTY 4TH OFFENSE PENALTY

Major loss/Misplacement/Damage to City property	10 DAY SUSPENSION	15 DAY SUSPENSION	DEMOTION/ TERMINATION	
Intentional release of confidential information	10 DAY SUSPENSION	15 DAY SUSPENSION	DEMOTION/ TERMINATION	
Sexual Harassment - incident of a sexual nature	10 DAY SUSPENSION	15 DAY SUSPENSION	DEMOTION/ TERMINATION	
Violent and/or threatening behavior/Possession of unauthorized weapon	10 DAY SUSPENSION	15 DAY SUSPENSION	DEMOTION/ TERMINATION	
Safety violation resulting in substantial property damage/serious injury	10 DAY SUSPENSION	15 DAY SUSPENSION	DEMOTION/ TERMINATION	
Possession or retention of pornography electronically or physically that is not personally obtained **	10 DAY SUSPENSION	15 DAY SUSPENSION	DEMOTION/ TERMINATION	
Refusal to obey a direct order during an Administrative Investigation	10 DAY SUSPENSION	15 DAY SUSPENSION	DEMOTION/ TERMINATION	
Misappropriation	10 DAY SUSPENSION	15 DAY SUSPENSION	DEMOTION/ TERMINATION	
LEVEL 2 VIOLATIONS				
Dishonesty	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/ TERMINATION	
Disobeying a Direct Order (Insubordination)	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/ TERMINATION	
Not available when on-call	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/ TERMINATION	
Retaliation	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/ TERMINATION	
Inefficient performance	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/ TERMINATION	
LEVEL 1 VIOLATIONS				

CITY OF EL PASO DISCIPLINARY MATRIX

4-11-13

OFFENSE
(CAUSE OF ACTION)

1ST OFFENSE PENALTY 2ND OFFENSE PENALTY 3RD OFFENSE PENALTY 4TH OFFENSE PENALTY

AWOL/Failure to report for mandatory overtime/callback	FORMAL COUNSELING	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/TERMINATION
Being offensive in conduct or language	FORMAL COUNSELING	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/TERMINATION
Creating Employee Dissension	FORMAL COUNSELING	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/TERMINATION
Dress Code/Uniform Policy violation ***	FORMAL COUNSELING	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/TERMINATION
Driving on behalf of the City without current Defensive Driving Certification (DDC)	FORMAL COUNSELING	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/TERMINATION
Failure to attend scheduled training	FORMAL COUNSELING	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/TERMINATION
Failure to report driver license revocation/suspension	FORMAL COUNSELING	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/TERMINATION
Failure to enforce City/Department Rules	FORMAL COUNSELING	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/TERMINATION
Failure to report a violation of policy	FORMAL COUNSELING	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/TERMINATION
Failure to follow City/Department Rules or Policies	FORMAL COUNSELING	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/TERMINATION
Misuse of City resources	FORMAL COUNSELING	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/TERMINATION
At fault motor vehicle/equipment accident/incident resulting in minor property damage/injury	FORMAL COUNSELING	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/TERMINATION
Inappropriate use of the City's e-mail or Internet	FORMAL COUNSELING	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/TERMINATION
Time and Attendance Violations/Unauthorized Overtime	FORMAL COUNSELING	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/TERMINATION
Minor Loss/Misplacement/Damage to City Property	FORMAL COUNSELING	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/TERMINATION

CITY OF EL PASO DISCIPLINARY MATRIX

4-11-13

OFFENSE
(CAUSE OF ACTION)

1ST OFFENSE PENALTY 2ND OFFENSE PENALTY 3RD OFFENSE PENALTY 4TH OFFENSE PENALTY

Violation of the Outside Employment Policy	FORMAL COUNSELING	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/TERMINATION
Poor Customer Service/Unprofessional Conduct	FORMAL COUNSELING	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/TERMINATION
Prohibited Political Activity	FORMAL COUNSELING	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/TERMINATION
Negligent operation of a motor vehicle (non-accident or injury)	FORMAL COUNSELING	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/TERMINATION
Safety Violation (non-injury or property damage)	FORMAL COUNSELING	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/TERMINATION
Solicitation Policy violation	FORMAL COUNSELING	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/TERMINATION
Safety Violation resulting in minor injury or minor property damage	FORMAL COUNSELING	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/TERMINATION
Displaying/Possession/Distribution of inappropriate images not deemed to be pornographic **	FORMAL COUNSELING	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/TERMINATION

Note: Discipline crossing departmental lines may be issued by the City Manager or designee

* Violations not involving Rules or Policies will be addressed with a Formal Counseling and subsequent repeat violations would be a violation of a Direct Order

** The Human Resources Director will make determination

*** Employees will be sent home to change into appropriate attire on their own time for each incident

**** Provided said policy has been approved by City Legal and City Human Resources



ADMINISTRATIVE POLICIES AND PROCEDURES

Policy ID: Human Resources
Subject: Discipline Policy and Matrix
Creation Date: April 6, 2011
Revision Date: May 2, 2013
Prepared By: Human Resources Department
Approved By: City Manager
Legal Review Date:
Legal Review: Elizabeth Ruhmann

DESCRIPTION: **City of El Paso Discipline Policy and Matrix**

I. POLICY:

The City of El Paso is committed to a goal of high performance by all employees in order to fulfill its mission of outstanding customer service to the citizens of our community. The purpose of this policy and matrix is to provide City leaders and supervisors with a guideline and reference for corrective and disciplinary action. The City of El Paso Human Resources Department accepts and investigates all allegations of employee misconduct and imposes corrective and progressive disciplinary action in a timely and consistent manner, as appropriate. This policy outlines the procedure for investigating allegations of employee misconduct, issuing corrective action, and applying the Matrix to impose discipline.

II. PROCEDURES:

A. Basis for Discipline

1. Employees are subject to discipline for violations of the law, City Charter provisions that constitute cause for discipline, Civil Service Commission Rules and Regulations, City policies, Departmental policies and procedures and verbal or written directives from supervisory personnel.
2. Failure to report a violation of anything listed under II(A)1 is considered a basis for discipline.
3. All disciplinary actions taken under this policy are subject to, and shall be consistent with, applicable federal and state law, local ordinances, administrative directives, El Paso City Charter, and Civil Service Commission Rules and Regulations.

B. Information Gathering and Processing

1. It is the duty of all supervisory employees to assist those who express the desire to report allegations of misconduct against any City employee. The informant need not be the aggrieved party, but may be anyone who witnessed or otherwise became aware of an incident of misconduct. Information regarding allegations of misconduct must be immediately reported to the Department Head and/or the Human Resources Director.
2. Supervisory personnel shall assist their Departmental Human Resources Manager (hereinafter "DHRM") and/or Human Resources Director or designee with administrative investigations to determine what violation of rule or policy has been committed. This may involve preliminary data gathering of evidence, preparing questions to ask witnesses or employees, and interviewing and collecting affidavits (notarized statements) from employees, witnesses and citizens, and determining an employee's work status. The central contact during an administrative investigation and disciplinary matters is the DHRM, where they exist, or the Human Resources Director or designee. For those departments that do not have a DHRM, the Human Resources Director shall assign a Human Resources professional to conduct the administrative investigation.
3. Employees are required to provide a statement or answer questions during administrative investigations. Employees who withhold information, thwart, impede or fail to cooperate with administrative investigations will be considered insubordinate and subject to disciplinary action up to and including termination. Upon conclusion of the administrative investigation, the DHRM or Human Resources Director or designee will advise the Department Head of any findings from the investigation and recommend disciplinary or corrective action as appropriate. However, it is the Department Head's responsibility to make the final determination and defend the discipline to be administered as a result of any review.
4. Employees interviewed during administrative investigations are prohibited from communicating the nature or details of the

investigation either directly or indirectly with anyone besides an attorney for the City, the DHRM, the Human Resources Director or designee, or the employee's supervisor or Department Head. Nothing in this policy would prevent an employee from discussing the investigation with their attorney or representative if they have such representation.

III. Corrective Action

The following types of corrective action may be issued to an employee prior to utilizing the disciplinary matrix.

1. Counseling: A verbal counseling may be provided by supervisory personnel to the employee informing the employee of the infraction or problem, corrective measures or what is expected of the employee, and consequences of continued infractions. The verbal counseling is an opportunity to discuss work-related problems in private with the employee. The supervisor should administer the verbal counseling. If a supervisor requests assistance with issuing a verbal counseling, the Human Resources Director or designee, or the DHRM, will provide further assistance or guidance. Supervisors must document and maintain the counseling in the employee's personnel file using the Record of Verbal Counseling Form. Upon an employee's request, a verbal counseling record shall be removed from an employee's personnel file after the expiration of twelve (12) months from the date of the verbal counseling, provided the employee has not received any other verbal counseling or disciplinary action during that time period.

IV. Disciplinary Matrix

The attached disciplinary matrix provides supervisory personnel and Department Heads with the parameters of discipline that shall be imposed on an employee when an infraction occurs that violates the law, a Civil Service rule, policy, or regulation of the department. The purpose of the matrix is to provide notice to employees of the types of conduct that will result in disciplinary action and to serve as a deterrent of such conduct so as to promote efficiency of service by ensuring high standards of City service and maintaining public confidence in the City of El Paso.

The matrix is intended for use as a guide to

selecting an appropriate level of discipline for actionable misconduct. This matrix does not substitute for supervisory judgment and does not dictate discipline. Rather, this matrix provides a framework within which supervisors exercise judgment on a case-by-case basis within the parameters provided. The final determination for discipline at the minimum level or higher rests with the Department Head as defined in Civil Service Rule 8 and Rule 11, or as defined in the Civil Service Rules and Regulations.

The offenses listed under each level are not intended to be an exhaustive listing. No attempt has been made to list every possible cause for disciplinary or adverse action. The fact that specific misconduct is not listed as an offense does not mean discipline cannot be imposed. Supervisors should evaluate misconduct not listed to the offenses listed and use a form of discipline that most closely coincides with a comparable, listed offense.

The following are the categories of discipline:

1. Formal Counseling: A Formal Counseling must contain specific language that informs the employee of the infraction or problem, what is expected of the employee to correct the issue, and consequences of continued infractions. The Formal Counseling shall be issued by the Department Head to the employee on official City letterhead. The Department Head, along with supervisors, shall work with the DHRM or the Human Resources Director or designee when drafting the Formal Counseling. The Formal Counseling will be placed in the employee's personnel file by submitting the written document to the Human Resources Director or designee no later than 120 days following the issue of the Formal Counseling.
2. Suspension: A suspension without pay for a definite period of time must be completed on an appropriate Notice of Suspension form in accordance with Civil Service Commission Rules. The Notice of Suspension must (1) identify which State or Federal laws, rules, policies, and/or regulations were violated, (2) contain narrative specifications (charges) and (3) include a record of previous discipline, if any. The Notice of Suspension shall be administered by the Department Head. The Department Head, along with supervisors, shall work with the Human Resources Director or

designee when drafting the narrative specifications. The Notice of Suspension must always be reviewed by the City Attorney's Office before being administered to the employee.

3. Demotion: A demotion as a result of disciplinary action is a reduction into a lower graded position that may result in a loss of pay to the employee. It must be completed on an appropriate Notice of Demotion form in accordance with Civil Service Commission Rules. The Notice of Demotion must (1) identify which State or Federal laws, rules, policies, and/or regulations were violated, (2) contain narrative specifications (charges) and (3) include a record of previous discipline, if any. The Notice of Demotion shall be issued by the Department Head and must always be reviewed by the City Attorney's Office before being administered to the employee.
4. Termination: A termination is separation of employment and must be completed on an appropriate Notice of Separation form with effective date for dismissal in accordance with Civil Service Commission Rules. The Notice of Separation must (1) identify which State or Federal laws, rules, policies, and/or regulations were violated, (2) contain narrative specifications (charges) and (3) include a record of previous discipline, if any. The Notice of Separation must always be reviewed by the City Attorney's Office before being issued to the employee by the Department Head.

V. Application of the Disciplinary Matrix

1. The application of progressive discipline is designed to take into account any instance of corrective action or previous discipline. The Department Head shall choose the appropriate disciplinary action at the appropriate level for each offense.

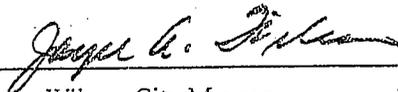
The four levels of discipline, set forth in the matrix, establish a range of offenses from least offensive (Level 1) to most offensive (Level 4). The levels are further divided into columns for 1st Violation, 2nd Violation, 3rd Violation, and 4th Violation. The discipline range typically becomes more severe as violations progress from first through fourth. To be considered a second or third violation, the subsequent offense does not have to be the same or similar type of offense. For example, if an employee who previously was disciplined for a first offense of absence without leave (AWOL) subsequently

engages in failure to attend a scheduled training, the discipline range would be derived from the second violation level for the failure to attend the scheduled training. Also, various factors can combine to either enhance or mitigate a discipline selection. For example, the presence of multiple charges would tend to enhance a discipline selection. On the other hand, the presence of a Level 3 violation prior to the presence of a Level 1 violation is not necessarily cause for discipline at the second level of Level 3, as the second violation is a lesser offense and may require Level 1 discipline. This will be a case-by-case determination.

2. A Department Head has a choice of severity of disciplinary action beginning from the floor for the specific type of offense, at the appropriate level. When significant mitigating or aggravating circumstances exist, the discipline range may be expanded upon in either direction. For example, if the matrix indicates a 10-day suspension, the Department Head may determine that a less severe consequence is more appropriate based on mitigating factors. Likewise, the discipline could be greater than a 10-day suspension if there are significant aggravating factors. Whenever prior violations are used to support a more severe discipline, those offenses shall be cited in the notice of discipline. When a series of offenses have been committed and action could not have been taken on each before another was committed, a more severe discipline may be assessed for the combined offenses rather than what would be appropriate for any single offense.
3. The Department Head in accordance with CSC Rule 11 retains the right to promulgate rules and regulations regarding the operation of his or her department. Similarly, situations may arise that are not written in a rule or policy; in such a circumstance, an appropriate level of discipline will be imposed. Nothing in this policy shall prohibit a Department Head from departing from utilizing a higher form of discipline, to include termination, if the circumstances warrant such action.

4. These disciplinary guidelines are standard recommendations and not meant to be an all inclusive list of possible infractions. The Human Resources Director retains the right to modify, or amend this policy and matrix as needed without advanced notice.

APPROVED BY:



Joyce Wilson, City Manager

5/2/13
Date