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CIVIL SERVICE COMMISSION

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TO: Commissioners
FROM: Mary Holguin, CSC Recorder
SUBJECT: CSC AGENDA ITEM #4, SUPPORTING DOCUMENTATION
DATE: August 4, 2016

Please find attached copies of the following supporting documentation as requested by Commissioner Williams to be provided to the Commission for CSC Agenda Item# 4.

- Rule 8; Section 8 (See attachment #1)
- El Paso City Charter Section: (See attachment#2)
6.13-2
- Disciplinary Matrix and Policy (See attachment #3)

ATTACHMENT #1

RULE 8; SECTION 8

RULE 8

Suspension. Reduction. Discharge

Section 1. Causes of Suspension. Reduction or Discharge.

The following may constitute causes for discharge, suspension or reduction of regular employees: That an officer or employee in the Civil Service: (Amended 7/31/07)

- a. Has been convicted of, or entered a period of deferred adjudication with community supervision for, a felony or Class A or B misdemeanor; or (Amended 9/17/13)
- b. Has willfully, or through culpable negligence been guilty of brutality or cruelty to an inmate or prisoner of a city institution or to a person in custody, provided the act committed was not necessarily or lawfully done in self defense, or to protect the lives of others, or to prevent the escape of a person lawfully in custody; or (Amended 3/6/12)
- c. Has been under the influence of intoxicants or drugs or the use thereof while on duty; or
- d. Has contracted a disease or has some physical or mental ailment or defect which makes him unfit for Civil Service, to the extent permissible under federal and state laws. (This subsection may not be availed in any case to effect the discharge of an employee where such employee is entitled to and intends in due course to seek leave of absence for the purpose of procuring proper treatment for such disease if it is curable within the maximum of 12 month time allowed hereunder for leave of absence. Action hereunder will not in anywise affect the right of one suffering physical injury or disability arising from course of employment in the Civil Service to retirement or disability payments under any existing retirement or disability payments, or to participate in any retirement or disability plan adopted by the City); or (Amended 11/13/84, 8/25/09, 9/17/13)
- e. Is wantonly offensive in his conduct or language towards the public, an elected or appointed official, the head of any department, or his fellow employees; is abusive, threatening, or uses coercive treatment to another employee or a member of the public, or provokes or instigates violence; or abusive to an animal in the care or control of the employee; or (Amended 8/25/09, 3/6/12, 9/17/13)
- f. Is incompetent or negligent in the performance of duties, including but not limited to, failure to perform assigned tasks, or failure to discharge duties in an accurate, prompt, competent, or responsible manner; or (Amended 8/25/09, 9/17/13)
- g. Is dishonest, commits theft, violates a law, or violates policies relating to the handling or procurement of property, or negligent in care or misuse of City property; or (Amended 7/31/07, 3/6/12, 9/17/13)
- h. Abandons his position, has repeated unexcused absences or tardies, abuses leave privileges, or is absent without notification or without the provision of a valid or acceptable reason for the absence; or (Amended 9/17/13)
- i. Fails to meet or maintain qualifications, including but not limited to, failing to obtain or maintain required certificates, licenses or other credentials established for the employee's position or classification; or (Amended 9/17/13)
- j. Has induced, or has attempted to induce an officer or employee in the service of the City to commit an unlawful act or to act in violation of any lawful departmental or official regulation or order; or has taken any fee, gift, or other valuable thing in the course of his work or in connection with it, for his personal use from any person, when such fee, gift or other valuable thing is given in the hope or expectation of receiving a favor or better treatment than accorded other persons; or (Amended 8/25/09)

k. Deliberately or carelessly acting in a manner that endangers the safety of self or others; or (Amended 9/17/13)

l. Except as permitted in paragraph (q) below, engaging in the following political activity is prohibited and the employee will be subject to disciplinary action for the following conduct (Amended 1/20/15):

- (1) actively engaging in the management or organizational committee of any municipal campaign;
- (2) acting as a worker at the polls in a municipal election;
- (3) participating in the solicitation of money in a municipal election;
- (4) contributing money or other valuables for any political purpose in connection with municipal elections;
- (5) while on duty, engaging in the distribution of any political material;
- (6) while on duty, promoting or engaging in the candidacy of any candidate or political party during any election period, whether it be a partisan or municipal election;
- (7) using city time or resources for any political purpose;
- (8) while wearing a city uniform, engaging in any political activity;
- (9) attempting to influence the vote or political action of any city employee whether superior or subordinate, while on duty;
- (10) attempting to influence, through threat or coercion, the vote or political action of any city employee whether superior or subordinate, while on or off duty;
- (11) recruiting or encouraging other city employees to support or participate in municipal elections;
- (12) accepting political paraphernalia while on duty or on city property;
- (13) using your city title or position in an endorsement for any political election.

Anything not prohibited above is permitted, to include the following:

- (1) engaging in the organizational efforts of partisan elections;
- (2) participating in partisan election steering committees;
- (3) demonstrating their political preference in partisan or municipal elections by displaying political paraphernalia representative of their political preference, so long as the employee is off duty, not in uniform, and not in a city facility, and does not use his city position or title; (Amended 8/25/09)
- (4) participating in the dialogue of community forums in any election;
- (5) endorsing the candidate of their choice in any elections so long as the employee is off duty, not in uniform, and not in a city facility, and does not use his city position or title; (Amended 8/25/09)
- (6) participating in all matters related to their candidate's election in partisan elections;
- (7) joining political clubs and organizations;
- (8) participating in all partisan activities related to the election process.

(Amended 05/07/02)

m. Violates the City's Ethics Ordinance; or (Added 7/31/07)

- n. Refusal to follow the lawful order of a superior or supervisor; or (Added 7/31/07)
- o. Subjecting a fellow employee or subordinate to unlawful intimidation, harassment or retaliation; or (Added 7/31/07)
- p. For just cause; or (Added 7/21/07)
- q. As permitted by law, and as provided in Rule 10, an employee may become a candidate for public office while maintaining his or her employment with the City; however, the employee must continue to fulfill all the duties and responsibilities associated with his or her city employment. An employee is prohibited and will be subject to disciplinary action for campaigning or taking affirmative action for the purpose of gaining nomination or election to public office while on duty, while using city time or resources, and/or while in city uniform. (Added 1/20/15)

Section 2. Disciplinary Notice.

Disciplinary actions in the nature of a discharge, involuntary reduction, or suspension taken against a regular employee, other than at the end of a probationary period, will not become effective until the Department Head has first served upon such employee a written notice of discipline. The notice must contain one or more statutory reasons or grounds for discipline, together with such specifications of fact as will enable the employee to make an explanation and place him fairly upon his defense. The specifications of fact shall be of sufficient specificity so as to preclude the possibility of disciplinary action for the same act or omission in the future. Nothing contained herein shall prohibit the Department Head from using an employee's prior acts or omissions resulting in discipline in determining future disciplinary action against the employee. An employee may be disciplined for other acts or omissions not specified in the notice even if such acts arise from the same incident or event. A Department Head may not unilaterally reduce the discipline given once notice of discipline has been provided to the employee, without the employee's consent. A copy of such notice of discipline, together with the employee's explanation, if any, will be filed with the Human Resources Director. (Amended 06/24/03, 7/31/07, 8/25/09)

Section 3. Notice of Proposed Disciplinary Action. Procedure and Limitation of Action.

a. When disciplinary action in the nature of a five (5) day suspension or greater, a reduction, or discharge is being contemplated by the Department Head, the employee must be served with a notice of proposed disciplinary action which shall conform with the notice requirements set forth in Section 2 and Section 3 (b) of this Rule. In addition to the notice of proposed disciplinary action, the employee shall be furnished with the written materials and tangible things in the possession of the Department Head that form the factual and evidentiary basis for the proposed disciplinary action. No matter may be withheld from the employee that is inconsistent with the theory of discipline or that could tend to mitigate the contemplated sanction. (Amended 8/25/09)

b. Within ten (10) working days of receipt of the notice of proposed disciplinary action, the employee may request a conference with the Department Head. Within five (5) working days of receipt of the employee's response, the Department Head shall meet with the employee, provided further that this period may be extended with the mutual consent of the Department Head and the employee. No witnesses may be called to testify as part of the employee's explanation or response. During the conference, the employee, their representative, and the Department Head shall engage in discussions with a view toward reaching a consensus and agreement relative to the proposed disciplinary action. No part of the discussions that take place during the conference may be offered into evidence at any subsequent hearing, except for the limited purpose of determining compliance or non-compliance with the provisions of this Rule as provided in paragraph "f" and for impeachment purposes. In the event such a consensus is

reached, the execution by the employee of documents finalizing the settlement agreement shall constitute a waiver of the employee's right to appeal to the Commission, and the employee shall be so advised in plain language. (Amended 09/09/03, 01/06/04, 8/25/09; 1/20/15)

c. Respecting discharge, those departments currently using a pre-termination hearing shall not be required to have a conference as contemplated hereinabove provided that the time between notification and hearing shall be at least five (5) days and further provided that there shall be no change to current practices regarding violations of applicable federal laws. (Amended 09/09/03, 01/06/04, 8/25/09)

d. The employee is entitled to have a representative of their choice assist them in the preparation and presentation of their response, provided further that in the event the representative is an employee of the City, he shall use vacation leave or personal days for such time as may be required for the representative to attend the conference. If the employee does not have any accrued vacation or personal days, the employee will be placed on unpaid administrative leave for such time as may be required for the representative to attend the conference. The employee must provide his Department Head with two days notice of the request to take the above leave. The Department Head may disapprove the request if the leave significantly interferes with the operational needs of the department. (Amended 09/09/03, 01/06/04, 8/25/09)

e. Disciplinary action must be taken against an employee within 80 working days after the occurrence of the incident giving rise to the discipline or from the date that the Department Head knew or should have known that disciplinary action is appropriate, whichever is later, provided however that this period of limitation shall be tolled if an investigation is being conducted by a law enforcement authority into criminal charges against the employee arising out of the same incident. Once a Department Head receives notice from the employee that charges have been preferred, through an indictment or information, or that the criminal investigation has been concluded without the preferal of charges, then the time period will resume running. (Amended 09/09/03, 01/06/04, 8/25/09)

f. Any issue of non-compliance with these provisions will be considered by the hearing officer and/or Commission upon the appeal of the disciplinary action. (Amended 01/06/04)

g. In computing any time periods set forth in this Rule, Saturdays, Sundays, and City Holidays shall not be included. (Amended 01/06/04)

h. Nothing in this Rule shall prevent suspension of the employee from service without pay in appropriate circumstances. (Amended 01/06/04)

i. A copy of this Rule shall be attached to each notice of proposed disciplinary action. (Passed 1/6/04)

Section 4. Resignation Before Appeal Decision.

The acceptance by Department Head of the resignation of a person discharged before final action on the part of the Commission will be considered a withdrawal of the charges and the separation of the employee concerned will be recorded as a resignation and the proceeding will be dismissed without judgment. (Amended 7/31/07)

Section 5. Disqualification for Reappointment.

Any employee who is dismissed for cause or who resigns while not in good standing will be disqualified from taking a Civil Service examination for two years thereafter. His name will be removed from all eligible lists, unless, in the judgment of the Commission the cause of his dismissal or resignation under charges will not affect the possibility of his usefulness in some other position. (Amended 8/25/09)

Section 6. Non-Certification of Suspended Persons.

The names of persons suspended will not be certified from eligible lists during the period of suspension.

Section 7. Election to Forfeit Annual Leave.

Regular employees suspended for not more than ten (10) working days may elect to forfeit annual leave for a period equal to the suspension, or to the extent of the employee's annual leave balance, subject to the approval of the Department Head. The election provided for herein, shall work a waiver of the employee's right to appeal the disciplinary action to the Commission, and the employee shall be so advised in plain English on a suitable form upon which the election shall be made, as developed by the Human Resources Director and appended to the notice of suspension. The Department Head shall not unreasonably withhold approval of the employee's election. (Added 05/11/04, Amended 7/31/07)

Section 8. Formal Counseling.

Formal Counseling is not within the type of disciplinary action specified in Section 6.13-2 of the Charter which may be appealed to the Civil Service Commission. A formal counseling is issued by the Department Head and considered a written counseling to address employee workplace conduct. Employees receiving a formal counseling shall have the right to place responses to the formal counseling into their personnel files which shall remain in the file so long as the formal counseling to which the response relates remains in the file.

Upon an employee's request, formal counselings shall be removed from an employee's personnel file after the expiration of twenty-four (24) months from the date of the last formal counseling, provided the employee has not received any disciplinary action during the twenty-four (24) month time period between the request and the last-received formal counseling. Formal counselings meeting the criteria above shall not be considered against the employee for purposes of determining progressive discipline or performance evaluations, regardless of whether or not the employee requested removal of the formal counselings. If a department-specific policy contains a look-back period for formal counselings that conflicts with this Rule's twenty-four (24) month look-back period, the department-specific policy supersedes this provision of the Rule for purposes of progressive discipline and performance evaluations. (Added 8/25/09)(Amended 11/2/10, 3/6/12, 1/20/15)

ATTACHMENT #2

EL PASO CITY CHARTER

ARTICLE VI

(CIVIL SERVICE COMMISSION)

SECTION 6.13-2

(DISCIPLINARY ACTION; REDUCTION)

CHARTER ARTICLE VI-CSC- SECT. 6.13-2

Director must be consistent with the provisions of this Article, the Civil Service Rules, and applicable state and federal laws.

- B. The City Manager may delegate to appropriate individuals the execution of the functions, duties and responsibilities set forth in this Article. Appropriate designees may include department directors and other persons able and assigned to execute the specific functions, duties or responsibilities.

Section 6.10 - LAY-OFF; LEAVE OF ABSENCE; AND REINSTATEMENT.

Section 6.10-1 - CONDITIONS FOR LAYOFF.

Whenever it becomes necessary through lack of work or funds, or through the abolishment of a position or class, or for any other reason not involving delinquency on the part of the employee, to reduce the number of employees in any class, the City Manager may order a layoff. The reduction will be made in accordance with the principles established in the Rules and the administrative procedures established by the Human Resources Director, consistent with the provisions of this Article and all applicable federal and state employment laws.

Section 6.10-2 - JOB RIGHTS.

Employees who are removed from their positions as the result of abolishment or a layoff (to include subsequent displacement action) will have the right to be appointed to any vacant position for which qualified, in accordance with the procedures established in the Rules.

Section 6.10-3 - LEAVE OF ABSENCE; REINSTATEMENT.

The City Manager shall establish administrative policies and procedures regarding the eligibility of employees to take a leave of absence and to be reinstated, consistent with the provisions of this Article and all applicable federal and state employment laws.

Section 6.11 - TRANSFER AND REDUCTION.

Section 6.11-1 - TRANSFER AND REDUCTION.

The Human Resources Director shall establish administrative policies and procedures for the transfer and reduction process, including transfer and reduction for physical incapacity, consistent with the provisions of this Article and all applicable federal and state employment laws.

Section 6.12 - STANDARDS OF EFFICIENCY.

The City Manager shall establish by written policy appropriate standards of efficiency for all positions in each class and grade in the classified positions.

Section 6.13 - DISCHARGE, APPEAL, HEARING.

Section 6.13-1 - DISCHARGE DURING PROBATION.

A new employee may be discharged at any time during the probation period for any reasons but, for the record, a full statement of those reasons must be filed with the Human Resources Director within three days of the discharge.

Section 6.13-2 - DISCIPLINARY ACTION; REDUCTION.

A regular employee may be discharged, suspended or reduced in rank or position as provided in this Charter or further defined in the Rules.

Section 6.13-3 - CAUSES OF SUSPENSION, REDUCTION OR DISCHARGE.

The following, which may be further defined in the Rules, may constitute causes for discharge, suspension or reduction in grade of regular employees:

- A. Conviction of, or deferred adjudication community supervision for, a felony or of a Class A or B misdemeanor;
- B. Abusive, threatening, or coercive treatment of another employee or a member of the public, the provocation or instigation of violence, brutality to a City prisoner, or abusive treatment to an animal in the care or control of the employee;
- C. Being under the influence of intoxicants or drugs or the use thereof while on duty;
- D. Being physically or mentally unfit for City service to the extent permissible under federal and state laws;
- E. Being wantonly offensive in conduct or language;
- F. Incompetency or negligence in the performance of duties, including but not limited to, failure to perform assigned tasks, or failure to discharge duties in an accurate, prompt, competent, or responsible manner;
- G. Dishonesty, theft, violation of a law, or violation of policies relating to the handling or procurement of property, or negligence in care or misuse of City property;
- H. Abandonment of position, repeated unexcused absence or tardiness, abuse of leave privileges, or absence without notification or the provision of a valid or acceptable reason for absence;
- I. Failure to meet or maintain qualifications, including but not limited to, failing to obtain or maintain required certificates, licenses or other credentials established for the employee's position or classification;
- J. Inducing or assisting another to commit an unlawful act;
- K. Deliberate or careless conduct endangering the safety of self or others;
- L. Engaging in improper political activity;
- M. Violates the City's Ethics Ordinance;
- N. Refusal to follow the lawful order of a superior or supervisor;
- O. Subjecting a fellow employee or subordinate to unlawful intimidation, harassment or retaliation; and
- P. For just cause.

Section 6.13-4 - APPEALS.

Any regular classified employee may appeal to the Commission any order which is believed to violate the rights granted employees by this Charter. This appeal must be filed with the Commission within thirty days from the date of the alleged violation and may be in any form clearly directing the attention of the Commission to the order complained of and the rights or provisions violated.

Section 6.13-5 - HEARING OPTIONS.

Upon receiving notice of appeal, the Commission may in its discretion hear the appeal directly or refer it to a Hearing Officer.

Section 6.13-6 - ACTION BY COMMISSION.

- A. If the Commission hears the appeal in a disciplinary case it will, by majority vote of its members present and voting, determine whether the evidence sustains the charges. If the Commission determines that the charges are sustained, in whole or in part, it will at once determine whether the good of the service requires that the appealed action be upheld or reduced. If the Commission

ATTACHMENT #3

DISCIPLINARY MATRIX

AND

POLICY

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 (3consecutive 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 morals 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

OFFENSE (CAUSE OF ACTION)	1 ST OFFENSE PENALTY	2 ND OFFENSE PENALTY	3 RD OFFENSE PENALTY	4 TH 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)	1 ST OFFENSE PENALTY	2 ND OFFENSE PENALTY	3 RD OFFENSE PENALTY	4 TH 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: City of El Paso Discipline Policy and Matrix

Creation Date: April 6, 2011

Revision Date: May 2, 2013; May 30, 2015

Prepared By: HR Department

Approved By: City Manager

Legal Review: Elizabeth Ruhmann

POLICY: 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) 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.

- A. 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.

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:

- A. 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.
- B. 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 for specifications. The Notice of Suspension must always be reviewed by the City Attorney's Office before being administered to the employee.
- C. 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.

D. 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

- A. 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.
1. 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.

2. 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.
3. 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 advance notice.

APPROVED BY:



TOMAS GONZALEZ, City Manager

DATE: 9/17/15