

# ITEM 5

4-11-13

## CITY OF EL PASO DISCIPLINARY MATRIX

OFFENSE  
(CAUSE OF ACTION)

1<sup>ST</sup> OFFENSE PENALTY    2<sup>ND</sup> OFFENSE PENALTY    3<sup>RD</sup> OFFENSE PENALTY    4<sup>TH</sup> OFFENSE PENALTY

OFFENSE (CAUSE OF ACTION)	1 <sup>ST</sup> OFFENSE PENALTY	2 <sup>ND</sup> OFFENSE PENALTY	3 <sup>RD</sup> OFFENSE PENALTY	4 <sup>TH</sup> OFFENSE PENALTY
<b>LEVEL 4 VIOLATIONS</b>				
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			
<b>LEVEL 3 VIOLATIONS</b>				
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	

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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	
<b>LEVEL 2 VIOLATIONS</b>				
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	
<b>LEVEL 1 VIOLATIONS</b>				

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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

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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 1<sup>st</sup> Violation, 2<sup>nd</sup> Violation, 3<sup>rd</sup> Violation, and 4<sup>th</sup> 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

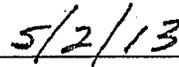
engages in failure to attend a scheduled training, the discipline range would be derived from the second violation level for the failure to attend the scheduled training. Also, various factors can combine to either enhance or mitigate a discipline selection. For example, the presence of multiple charges 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:

  
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Joyce Wilson, City Manager

  
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Date