

Personnel Rule 1.3 – Progressive Discipline

1.3.0 Authority

SMC 4.04.050 and subsequent revisions thereto, Rule-making Authority

SMC 4.04.230 and subsequent revisions thereto, Progressive Discipline

SMC 4.20.065 and subsequent revisions thereto, Administrative Reassignment

SMC 4.77 and subsequent revisions thereto, Drug-free Workplace and Drug and Alcohol Testing

City Charter Article XVI, Section 7, Suspension or Dismissal

Drug-free Workplace Policy, last revised February 25, 2002

1.3.1 Definitions

- A. "Administrative reassignment" shall mean the removal of an employee from the workplace without loss of pay, paid leave or benefits, authorized by the appointing authority when the employee is the cause or subject of, or otherwise significantly affected by an active investigation related to alleged violations of Personnel Rules, City ordinances, or state or federal laws or regulations, or an investigation intended to determine the employee's medical fitness for duty.
- B. "Appointing authority" shall mean the head of an employing unit, authorized by ordinance or City Charter to employ others on behalf of the City. The term includes and can be used interchangeably with department head, department director, superintendent and chief.
- C. "Classified service" shall mean all employment positions in the City that are not excluded by ordinance, City Charter or State law from the provisions of Seattle Municipal Code Title 4 or Personnel Rules passed pursuant thereto.
- D. "Demotion" shall mean the movement of an employee from his or her current classification to a classification with a lower maximum salary rate, for justifiable cause.
- E. "Discharge" shall mean separation from employment, for justifiable cause.
- F. "Disciplinary action" shall mean an action taken by the appointing authority or a designated management representative in response to a proven act of employee misconduct or uncorrected poor work performance. Disciplinary actions include verbal warnings, written reprimands, suspension, demotion and discharge.
- G. "Personnel Director" shall mean the head of the Personnel Department or his or her designated management representative.
- H. "Pre-disciplinary hearing" shall mean an opportunity for an employee to respond to the charges made against him or her that may result in the appointing authority's decision to impose a suspension, demotion or discharge.

- I. "Probationary employee" shall mean a regularly appointed employee who has not completed a probationary period.
- J. "Progressive discipline" shall mean a process of applying and documenting disciplinary actions progressing from less to more serious depending on the employee's history and the nature of his or her offense.
- K. "Regular employee" shall mean an employee who has been regularly appointed to a position in the classified service who has completed a 1-year probationary period.
- L. "Regularly appointed employee" shall mean an individual with an exempt, probationary or regular appointment to a position of City employment.
- M. "Salaried employee" shall mean an employee who is not covered by the Fair Labor Standards Act who regularly receives each pay period a predetermined amount constituting all or part of compensation. This base salary cannot be reduced because of variations in the quality or quantity of work performed.
- N. "Suspension" shall mean the temporary discontinuation without pay of an employee from employment for a specified period of time, for justifiable cause.
- O. "Verbal warning" shall mean a verbal notification from the appointing authority or designated management representative to an employee that specified activities or conduct are inappropriate for the work place and that continuation thereof will result in more severe discipline, up to and including discharge.
- P. "Written reprimand" shall mean a written notification from the appointing authority or designated management representative to an employee that specified activities or conduct are inappropriate for the work place and that continuation thereof will result in more severe discipline, up to and including discharge.

1.3.2 Application of this Rule

- A. The provisions of this Rule apply to regularly appointed employees in the classified service.
- B. For regularly appointed employees who are represented under the terms of a collective bargaining agreement, this Rule prevails except where it conflicts with the collective bargaining agreement, any memoranda or agreement of understanding signed pursuant to the collective bargaining agreement, or any established and recognized practice relative to the members of the bargaining unit.
- C. This Rule does not apply to employees who are exempted by state law, the City Charter or SMC Chapter 4.13 from compliance with the Personnel Rules or SMC Title 4 related to selection, discipline, termination or appeals of personnel actions to the Civil Service Commission.
- D. This Rule does not apply to individuals who are hired under the terms of a grant that includes provisions that conflict with this Rule.
- E. This Rule does not apply to individuals hired by the City on a temporary, intermittent, or seasonal basis, or for a work schedule of fewer than 20 hours per week, nor does it apply to individuals hired under contract to the City.
- F. Appointing authorities may establish written policies and procedures for the implementation of this Rule to facilitate the management of the personnel system

within their employing units, provided that such policies and procedures do not conflict with the provisions of this Rule.

1.3.3 Order of Severity of Disciplinary Action

- A. In order of increasing severity, an appointing authority or designated management representative may take the following disciplinary actions against an employee for misconduct or poor work performance:
 - 1. A verbal warning, which shall be accompanied by a notation in the employee's personnel file. A verbal warning is appropriate only when the supervisor determines that there are sufficient mitigating factors related to the employee's conduct or performance that suspension, demotion or discharge is unwarranted.
 - 2. A written reprimand, a copy of which must be placed in the employee's personnel file. A written reprimand is appropriate only when the supervisor determines that there are sufficient mitigating factors related to the employee's conduct or performance that suspension, demotion or discharge is unwarranted.
 - 3. Suspension up to 30 calendar days.
 - 4. Demotion.
 - 5. Discharge.
- B. The disciplinary action imposed depends upon the seriousness of the employee's offense and such other considerations as the appointing authority or designated management representative deems relevant. In the absence of mitigating circumstances, a verbal warning or a written reprimand shall not be given for a major disciplinary offense.
- C. A regular employee may be suspended, demoted or discharged only for justifiable cause. This standard requires that:
 - 1. The employee was informed of or reasonably should have known the consequences of his or her conduct;
 - 2. The rule, policy or procedure the employee has violated is reasonably related to the employing unit's safe and efficient operations;
 - 3. A fair and objective investigation produced evidence of the employee's violation of the rule, policy or procedure;
 - 4. The rule, policy or procedure and penalties for the violation thereof are applied consistently; and
 - 5. The suspension or discharge is reasonably related to the seriousness of the employee's conduct and his or her previous disciplinary history.
- D. The appointing authority may suspend an employee with justifiable cause pending the implementation of a demotion or discharge.

1.3.4 Major Disciplinary Offenses

- A. The following is a nonexclusive list of major disciplinary offenses where a verbal warning or written reprimand will not be appropriate in the absence of mitigating circumstances:

1. Committing an act of workplace violence, including but not limited to verbal assault, threatening behavior or physical assault occurring in or arising from the workplace;
 2. Testing positive for or being impaired or affected by alcohol or other controlled or illegal substance during working hours;
 3. Possession or sale of alcohol for use in the workplace or during working hours;
 4. Possession without a lawful prescription for or sale of a controlled or illegal substance in the workplace or during working hours.
 5. Reporting to work while taking a lawfully prescribed controlled substance or over-the-counter medication without obtaining a recommendation in writing from a health care provider, if the substance could affect the employee's ability to work safely;
 6. Use of City time, equipment or facilities for private gain or other non-City purpose;
 7. Falsifying or destroying the business records of the employer at any time or place, without authorization;
 8. Knowingly making a false statement on an application for employment or falsifying an employment-related examination document;
 9. Intentional damage to or theft of the property of the City, another employee, or others;
 10. Carrying or otherwise possessing firearms or any type of dangerous weapon and/or ammunition or similar devices or materials in the course of employment or on City property, except as authorized by the appointing authority;
 11. Making a bribe, accepting a bribe, or soliciting a bribe;
 12. Unauthorized absence;
 13. Endangering the safety of, or causing injury to, the person or property of another through negligence or intentional failure to follow policies or procedures;
 14. Conviction of any felony or misdemeanor crime or release from imprisonment for such conviction within the last 10 years when such conviction is work-related or may impair the employee's ability to perform his or her job duties;
 15. A knowing or intentional violation of the City Code of Ethics or other ordinances, the Personnel Rules, or the employing unit's adopted policies, procedures and workplace expectations;
 16. Acts of harassment or acts of discrimination that are prohibited by federal, state or local laws, or a failure to fulfill a responsibility to report incidents of harassment or discrimination to an appropriate City management representative;
 17. Acts of retaliation against City employees or members of the public.
 18. Other offenses of parallel gravity.
- B. In determining the level of discipline to impose, the appointing authority or designated management representative shall consider factors that he or she deems

- relevant to the employee and his or her offense, including but not necessarily limited to:
1. The employee's employment history, including any previously imposed disciplinary actions;
 2. The extent of injury, damage or disruption caused by the employee's offense;
 3. The employee's intent; and
 4. Whether the offense constituted a breach of fiduciary responsibility or of the public trust.
- C. While investigating an employee's alleged misconduct the appointing authority may remove the employee or other employees who are the cause of or otherwise significantly affected by such investigation from the workplace. The employee(s) may be temporarily reassigned to another work unit, or may be placed on administrative reassignment.
1. An employee who is reassigned to another work unit pending the outcome of an investigation shall not have his or her pay rate reduced as a result of such reassignment.
 2. The appointing authority shall place an employee on paid administrative reassignment only when he or she determines that the employee's absence from the workplace is in the best business interest of the employing unit and there is no workplace to which the employee may be reassigned.

1.3.5 Application of Discipline

- A. The appointing authority or designated management representative may suspend, demote or discharge a regular employee for justifiable cause.
- B. The appointing authority or designated management representative may suspend, demote or discharge a probationary employee without justifiable cause. A written statement of any such action shall be provided to the Personnel Director and the Civil Service Commission.
- C. An employee may be suspended without pay up to 30 calendar days for a single occurrence.
 1. Salaried employees shall be suspended in minimum increments of one workweek, except that suspensions for major safety violations may be imposed for at least 1 workday but less than 1 workweek.
 2. A supervisor may suspend an employee for up to 1 workday without the appointing authority's approval when the supervisor reasonably believes that the employee's conduct poses a threat to the health or safety of him- or herself, other employees or the public. No pre-disciplinary hearing is required under these circumstances; however, the supervisor shall immediately notify the appointing authority of the action taken. The appointing authority or his or her designated management representative shall evaluate the evidence presented by the supervisor and determine whether additional investigation or disciplinary action is warranted.
- D. The appointing authority may demote an employee to a vacant position in a lower-paying classification or title in the same employing unit for disciplinary

reasons. The employee must meet the minimum qualifications for the lower-paying classification or title. An employee who is demoted shall lose all rights to the higher class.

1.3.6 Pre-Disciplinary Hearing

- A. Except as provided by Personnel Rules 1.3.3 (D) and 1.3.5 C(2), prior to suspending, demoting or discharging a regular employee, the appointing authority shall conduct a pre-disciplinary hearing to permit the employee to respond to the charges made against him or her.
 - 1. The appointing authority shall provide the employee with oral or written notice of the charges made against him or her, an explanation of the evidence and the disciplinary action contemplated, and a reasonable opportunity for the employee to present an account of his or her conduct or performance.
 - 2. Upon receipt of a notice of recommended disciplinary action, an employee may choose to respond verbally or in writing. If the employee chooses to respond verbally, the appointing authority shall schedule a pre-disciplinary hearing.
 - 3. An employee may have a representative accompany him or her to a pre-disciplinary hearing. However, the pre-disciplinary hearing is not an evidentiary hearing, nor will the employee or his or her representative be permitted to cross-examine witnesses.
- B. Following his or her evaluation of the information presented by the employee, the appointing authority shall determine whether to impose or modify the disciplinary action contemplated against the employee.

1.3.7 Right of Appeal to Civil Service Commission

- A. A written notification signed by the appointing authority of a suspension, demotion or discharge shall be delivered to the affected employee not later than 1 working day after the action becomes effective. The notification shall include the reason for the action taken. In the case of a regular employee, the notification shall also include a description of the employee's rights for appeal of the action taken to the Civil Service Commission.
 - 1. In order to appeal the disciplinary action imposed, the employee must file a "Notice of Appeal" with the Civil Service Commission within 20 calendar days.
 - 2. The 20 calendar days begins to run on the date of delivery if the notice of disciplinary action and right to appeal is given to the employee personally or delivered by messenger to the employee's most recent address as shown on departmental records. If the notice of disciplinary action and right to appeal is mailed, the 20 calendar days begins to run on the third calendar day after the notice is mailed.

- B. A copy of the written notification to the employee shall be provided to the Civil Service Commission and to the Personnel Director concurrent with or prior to the effective date of the disciplinary action.