

## *Organizational Policy*

# DISCIPLINARY ACTION

### **Purpose**

The purpose of this policy is to establish a framework for the disciplinary action process pertaining to employee conduct, performance, and responsibilities within the scope of employment with the City of Rochester. Establishing parameters for appropriate conduct is intended to help individuals work effectively together in accordance with the organizational objectives and standards. All City employees are expected to satisfactorily perform the duties listed in their job description and to follow the City's established policies, procedures, standards of conduct and ethical requirements. When serving as a representative of the City, employees should act in a manner that consistently reflects the City's core values and standard when interacting with the City's customers, other City employees, contractors or vendors providing services to the City, and the general public.

Nothing stated in this policy creates an employment contract between the City of Rochester and its employees.

### **Grounds for Disciplinary Action**

The primary reasons leading to disciplinary action may be failure to meet acceptable performance standards, job requirements of a position, harm to others, or misconduct. The employee may be subject to disciplinary action depending on the nature, frequency, and severity of the offense and the employee's overall work record. The City reserves the right to determine appropriate discipline, up to and including termination, for any unacceptable conduct.

For the purposes of this policy, "employee" is defined consistent with Minnesota Statute 179A.03. Employees working in a temporary, seasonal, limited part-time (under 14 hours per week), or in a probationary period are considered "at will" and may be terminated at the sole discretion of the City.

The following list serves as a guide for conduct that may warrant disciplinary action, however, it is not meant to be all-inclusive as various other circumstances may arise which warrant disciplinary action:

1. Conviction of any criminal offense<sup>1</sup> committed during or arising out of the scope of employment.
2. Conviction of any criminal offense<sup>2</sup> committed outside of the scope of employment, but which interferes with or adversely affects the employee's ability to competently perform their job duties.
3. Improper conduct, committing any act which discredits or reflects negatively upon the City.

---

<sup>1</sup> Employees are responsible for reporting their criminal convictions to their supervisor or the Human Resources Director as soon as practical, but no later than five business days following the conviction. The failure to report a conviction could result in disciplinary action, up to and including termination of employment.

<sup>2</sup> Same as 1

4. Violation of any City of Rochester rule, policy, procedure, standard of conduct or ethical requirement.
5. Violation of the City's core value statements and/or Respectful Workplace policy (which includes, but is not limited to, incivility and bullying behaviors).
6. Engaging in violent, threatening or harassing behaviors.
7. Violation of the Minnesota Government Data Practices Act.
8. Taking leave without authority, failing to notify a supervisor of an intended absence, taking rest or meal breaks in excess of what is provided within contract or policy (including combining break periods), walking off the job without permission, tardiness, abuse of sick leave benefits, or failure to maintain regular, reliable at-tendance.
9. Inaccurately recording hours worked including misrepresentation of a start time, end time and/or not appropriately recording unpaid meal periods.
10. Dishonesty, including the theft of City property or falsification of applications, reports or documents prepared on behalf of the City, questionnaires or time records. Providing false statements during an investigation.
11. Unauthorized recording by any means.
12. Misuse of City work time.
13. Unauthorized use of City vehicles, equipment, tools, or other materials for personal benefit.
14. Careless, negligent, inefficient or incompetent behavior occurring during the scope of employment.
15. Preventable accidents leading to the damage of city vehicles, equipment or facilities.
16. Exhibiting offensive behavior or using offensive, inappropriate or discourteous language, gestures or actions toward the public, city officials, or other employees.
17. Insubordinate or disobedient behavior, failure to comply with a reasonable directive given by an employee's supervisor or another City supervisor in a position of authority over the employee.
18. Inefficiency or inability to satisfactorily perform the essential functions/responsibilities of an assigned position or failure to meet the requirements of the position (i.e. maintaining required license/certification requirements).
19. Reporting to work while under the influence of, or impaired by drugs, alcohol or cannabis; or using and/or possessing such substance(s) on the job.
20. A violation of a City or departmental safety rule or practice.

### **Types of Disciplinary Action**

The City generally adopts the principles of progressive discipline to promote corrective action in a fair and consistent manner. Relative to conduct of a serious nature, the City reserves the right to take action commensurate with the offense, which may or may not align with the progressive disciplinary steps. Further, the City recognizes that situations appearing similar in scope may have extenuating circumstances resulting in different disciplinary actions. The City retains the right to treat each disciplinary action independently without creating a precedent for other future cases.

The following progressive disciplinary steps are listed in order of increasing formality and severity. These disciplinary steps do not prescribe an order of issuance or guarantee that one step must precede another step when addressing issues. As previously stated, the City reserves the right to deviate from the process and skip any or all degrees of discipline at its discretion.

**A. Documented Verbal Warning**

A documented verbal warning may serve as a “jumping in point” for performance concerns that are minor in nature. Generally, a documented verbal warning is not used to address patterns of misconduct or in cases where performance expectations have been clearly communicated.

**B. Reprimand**

A reprimand is written notification given to the employee regarding unsatisfactory performance or other violations of City policies and/or practices. As noted above, this notification describes specific disciplinary infractions, such as inappropriate conduct, poor performance or violation of work rules/policies.

**C. Suspension**

A suspension is a form of disciplinary action, which results in removing an employee from the workplace, without pay, for a specified period of time. The supervisor, in consultation with Human Resources, will determine the period of suspension.

**D. Demotion**

This action removes an employee from their current position and into a lower job classification in which the employee is qualified. If an employee is demoted, their wage rate will be adjusted to be commensurate with the wage rate of the new position.

**E. Termination**

An employee may be permanently dismissed from employment with the City. Termination occurs by written notice in compliance with the Home Rule Charter and any other applicable laws. An employee who has completed their probationary period may have pre-termination hearing rights and post-termination appeal rights provided by the Home Rule Charter, Civil Service rules, collective bargaining agreement or applicable law.

Employees within the probationary period are considered “at will” and may be terminated at the sole discretion of the City at any time within the probationary period. Employees terminated within their probationary period do not have pre-termination hearing rights or grievance rights post-termination.

If an investigation<sup>3</sup> is warranted due to a serious allegation which may result in a suspension or termination, approval must be obtained by the City Administrator and Human Resource Director who will select the investigator and ensure a timely process. Prior to taking any disciplinary action for suspensions, demotions, or termination of employment, the supervisor shall consult with the Human Resource Department.

Supervisors, or other investigators, may meet with an employee for the purpose of gathering information that could lead to disciplinary action. In these situations, and as determined by HR, a Tennessee Warning may be provided to the employee.

#### **Placement on Administrative Leave<sup>4</sup>**

When it is necessary to remove an employee from their job duties, an employee may be placed on paid administrative leave. The length of this paid leave time may vary; decisions to start and end paid administrative leave are at the discretion of the Human Resources Director in consultation with the City Attorney as appropriate. There are a number of circumstances that may warrant paid administrative leave including:

1. An employee has been arrested for a crime the City deems to be serious, reflects negatively on the City, or would interfere with the employee's performance.
2. The employee is being investigated for misconduct.
3. A disciplinary action is pending.
4. When it is in the best interest of the City not to have the employee at work.

Supervisors must complete the Personnel Action Form indicating the employee's paid administrative leave status and submit this documentation to HR. The supervisor may also require the employee to return all City property including facility access cards, cell phones, computers (access may be deactivated), etc., and will notify the employee they should not come on City property unless requested by management.

An employee who is on paid administrative leave status must be available during business hours to meet if requested by the supervisor. All normal benefits will continue for the employee while in this status.

#### **Police Limitations**

Nothing in this policy is intended to restrict or limit employee rights that may exist under federal or state law, collective bargaining agreements, or other binding agreements regarding the terms or conditions of employment. Employees should consult applicable laws and/or agreements in evaluating any rights or avenues of recourse that they may have in addition to those described within this policy.

Policy revisions approved by City Administrator:

---

<sup>3</sup> Internal affairs investigations conducted with the Police Department are not subject to this approval process.

<sup>4</sup> Application of administrative leave may be different for sworn police officer positions.



\_\_\_\_\_  
Alison Zelms

\_\_\_\_\_  
11/9/2023  
Date

*Policy History*

Current Revision: 10/31/2023

Previous Revision(s): 08/2004; 04/2015; 01/2020