

ARTICLE 13 - DISCIPLINARY ACTION

(A) Grounds for Disciplinary Action

The City will not take corrective or disciplinary action against an employee except for just cause, as defined below. The City shall follow the disciplinary procedures set forth below in enforcing any discipline. Any such disciplinary action must be initiated within thirty (30) calendar days of the incident. An employee may appeal any written reprimand, demotion, suspension, or other form of discipline through the grievance procedure of this contract, which shall be the exclusive remedy for the appeal of disciplinary actions. Oral reprimands may not be grieved. Written reprimands may be grieved up to and through the Step 3 - City Manager level of the grievance procedure. LVCEA representation shall be allowed at every level of discipline.

(B) Progressive Disciplinary Action - The City and the Association recognize the principle of progressive discipline as the form of discipline to be used in the City. Discipline involves timely actions by the employee's supervisors in situations where specific job-related employee behavior or performance is unacceptable and there is a clear intent to create a record of discipline. Discipline shall be progressive from a minor form of discipline to major disciplinary actions. Serious disciplinary offenses may result in the disciplinary procedure starting at some level other than an oral warning.

(C) Progressive Discipline Steps - The usual steps of progressive discipline are:

1. Oral Reprimand or Warning - This is the first disciplinary step taken by a supervisor which puts an employee on notice that the employee's behavior or performance is not acceptable in specific and identifiable areas and that further unacceptable behavior or performance in the same area may result in more severe disciplinary action. An oral reprimand does incorporate counseling in that proper specific procedures that must be followed with the employee and suggestions made as to how to correct the unacceptable behavior or performance. The intent is to give the employee a clear notice that the specific behavior or performance should be corrected. Oral reprimands are to be documented in memo form with the supervisor and employee each signing and keeping a copy for their record. Copies of the memo are not to be placed in the employee's Department or Human Resources personnel file. There shall be no reference of the oral reprimand in the employee's personnel file or performance evaluation. Oral reprimands are valid for a period of up to six (6) months.

2. Written Reprimand - This is the first level of discipline which is documented and which may be placed in the employee's personnel file. Documentation is done on an Employee Interview form. The statements on the form must clearly outline the specific unacceptable performance or behavior, the specific violation(s) of the department rules, regulations and/or procedures which is alleged to have occurred and that the discipline proposed is a written reprimand. The employee will be shown a copy of the Employee Interview form, will be allowed to read it, may make any comments desired, and will then sign the form acknowledging receipt. The employee will be given a copy of the

Employee Interview form and may prepare a response to the allegations contained therein. That response, if prepared, shall be attached as a permanent part of the written reprimand.

3. Suspension - Suspension may be used after a written reprimand has apparently not corrected the specific unacceptable performance or behavior or rule violations. Suspensions shall be limited from one (1) to five (5) days, depending on the severity of the offense, at the Department Director level. Department Director recommendations for suspensions longer than five (5) days may only be imposed after approval by the City Manager or designee. Documentation is done on an Employee Interview form, as described in paragraph 2, above.

4. Other Disciplinary Actions - After an employee has been suspended, if there is a continuation or recurrence of the problem that caused the suspension, the employee may be subject to more serious discipline. The same procedure regarding documentation and rebuttal must be followed, as in the case of a written reprimand or suspension. Examples are:

a) Reduction in Classification - This involves the individual reducing in classification from the position currently held to one in a lower pay grade or one of lesser responsibility. This step would be used when the difficulties the employee is experiencing appear to stem from the level of duties and/or responsibilities of the position currently held.

b) Reduction in Salary Step - When it can clearly be shown that a monetary punishment other than a suspension is appropriate, the employee's

salary step may be reduced by one step, for a maximum of twenty six (26) pay periods.

5. Termination - Termination is the final step of the progressive disciplinary process. Termination is used when other efforts to correct a disciplinary situation have failed or when the offense committed by the employee is of a severe enough nature so as to warrant immediate separation from employment.

(D) Records - Investigations of allegations which do not result in a corrective or disciplinary action shall not become part of the employee's personnel file or department file under any circumstances. Employees shall be entitled to the retraction of any document that is proven to be in error or was placed in the employee's personnel files without the employee receiving a copy of the document.

Material which has been retracted, due to error, must be corrected or destroyed. Any record destroyed, due to error, may not be referenced or be made the basis for, or be used in, any discipline or other adverse personnel action against the employees referred to in such retracted material.

Employees' permanent personnel files are private and confidential and must not be reviewed or otherwise seen by any person other than an authorized employee of the Department of Human Resources, the City Manager or designee, the City Attorney or designee assigned to work on personnel matters, and/or the employee's current Department Director or designee without the prior approval of the employee.

(E) Disciplinary Meetings

Employees shall be notified, prior to the beginning of any meeting called for disciplinary purposes with that employee, that the meeting could lead to disciplinary action and the possible nature of such action. If the employee is not notified, or if the employee comes to reasonably believe that a meeting or interview might lead to disciplinary action against him/her, the employee shall be given an opportunity to request, and adequate time to secure, the presence of a representative at such meeting, inquiry, or investigation.

Employees shall be questioned during their regular working hours or shall be compensated for the time spent in questioning as specified in this contract.

Employees shall be provided with at least twenty-four (24) hours advance notice of any scheduled disciplinary meeting which is likely to result in a written reprimand or other more severe discipline. The employee shall be provided with the name of the person conducting the meeting, the date, time, location, and topic of discussion of the meeting.

(F) Polygraphic Examinations

Applicants may be required to take a polygraph examination or a voice stress analyzer examination as a condition of employment for hire, rehire, transfer (voluntary or involuntary) or promotion to the Department of Detention and Enforcement. Transfer employees who fail to pass the voice stress analyzer or polygraph exam, would revert back to their previous or a comparable position. Employees may not be required to take a polygraphic examination or voice stress analyzer in conjunction with any disciplinary action. No reference of any

type may be made regarding polygraphic examinations or voice stress analyzer at any disciplinary hearing or process without the consent of the employee.

(G) Purging Files and Records

1. The record of any disciplinary action resulting in a written reprimand shall be removed from an employee's personnel file after a period of eighteen (18) months has elapsed. Any subsequent disciplinary action of a similar nature shall extend the period of retention of the original offense for twelve (12) months. Similar nature is defined as a disciplinary action in the same general area of discipline, such as performance, attendance, or rule violations. If retraction of a discipline has not been made, it may not be used against the employee at later disciplinary action.

2. Records of disciplinary actions resulting in a suspension of five (5) days or less, or an equivalent loss of pay, will be removed from an employee's personnel file after a period of thirty (30) months has elapsed. Any subsequent offense of a similar nature shall extend the period of retention of the original disciplinary action for six (6) months.

3. Provided that the above conditions are met, an employee may submit a written request to the Director of Human Resources to have an action removed from his/her personnel file. Human Resources staff will review the employee's personnel file, contact the employee's department to verify the record, and notify the employee of the results of the request. Additionally, the director will notify the employee's supervisor to destroy such disciplinary action

records. If disciplinary documents exist at the department level alone, those documents shall be returned to the employee for disposal.

4. These guidelines regarding the purging of records shall not apply in case of termination or resignation of the employee.

5. The City shall allow every employee the opportunity to review their own official employee personnel file and/or department file, at any reasonable time, upon request, and to request a copy of any needed documents in the file. The official personnel file shall remain under the control of the Department of Human Resources.

6. If an employee, upon examining their employee personnel file, has reason to believe there are inaccuracies in the documents in the personnel file, the employees may write a memorandum to the Director of Human Resources explaining the alleged inaccuracy and ask that the documents be corrected. The Director of Human Resources, or designee, shall investigate the employee's request, advise the employee's department, make any appropriate correction, if warranted, and advise the employee of the correction requested. The employee's memorandum shall be attached to the material in question and filed therewith if the documentation is not changed. Continuous absences in excess of thirty (30) calendar days, other than vacation or sick leave, shall not be credited towards the time necessary to purge records.

(H) Just Cause

Just cause exists when an employee commits an act of substance relating to the character or fitness of the employee to perform official duties that is

contrary to sound public practices or acceptable work performance. The following, although not all inclusive, shall constitute just cause:

1. Conviction of an offense which is punishable as a felony in the state of Nevada, conviction of an offense in any place other than the state of Nevada, which offense, if committed in the state of Nevada, would be punishable as a felony, or conviction of any offense which involves moral turpitude;

2. Violation of City or Departmental Rules and Regulations that do not conflict with the terms of this Agreement and have been properly approved by the City Manager or Deputy City Manager;

3. Solicitation of the public for money, goods, or services which has not been approved in accordance with established departmental procedures;

4. Acceptance of any substantial reward, gift or other form of remuneration, in addition to regular compensation for City related duties;

5. Repeated incompetency, repeated inefficiency, repeated carelessness, abuse of sick leave, neglect of duties, unexplained and unapproved absence from duty, excessive absenteeism or tardiness, misuse or theft of City property, continuing or life threatening safety violations, on the job alcohol, or other drug abuse, malfeasance, misfeasance, misconduct in office, conduct unbecoming an employee, or insubordination;

6. Physically striking or threatening any supervisory, managerial, or other employee;

7. Striking in violation of this Agreement, or of NRS 288;

The above grounds are not deemed all inclusive, but merely descriptive. Any other acts of substance relating to the character or fitness of the employee to perform official duties may be considered cause.