

**LEGISLATIVE #**

**110520B**



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## Human Resources Policies

Number E-3

(Replaces Policy 19)

# Code of Conduct/Disciplinary Procedures

## I. Objective:

All employees in the City of Gainesville are members of a select group working together for the main purpose of serving the community. Any employee who fails to follow the necessary rules and regulations governing their conduct is not only penalizing themselves, but is also doing a disservice to all of the other City employees. The Code of Conduct Rules and Regulations are not intended to restrict or impose on the individual, but are designed to insure the rights and safety of all City employees and to provide working guidelines to assure equitable and businesslike department to efficiently service the community effectively.

## II. Administration:

In recognition of the fact that each instance differs in many respects from a somewhat similar situation, the City retains the right to treat each violation of the Code of Conduct on an individual basis without creating a binding precedent for other cases which may arise in the future. Examples that are given in any rule do not limit the generality of the rule. The Code of Conduct Rules and Regulations are not to be construed as a limitation upon the retained rights of the City, but rather serve as guidelines. These rules and regulations provide a minimum range of penalties which apply for the specific offenses. This means that a more severe penalty may be issued than that which appears in the standard procedure if sound discretion requires it. When a position has become designated as a Director of a Department (Article III of the City Charter), the provisions of this Policy, E-3, shall no longer be applicable to an employee holding such position as a regular employee, except that such employee shall remain protected by the provisions of City Charter Section III(G).

## III. Procedures:

### A. Written Instruction and Cautioning:

Whenever an employee's performance or attitude falls below an acceptable level, the supervisor should inform the employee promptly of such lapses in performance and give counsel and assistance to the employee. An Employee Notice form should be issued defining the nature of the infraction under the Code of Conduct and an explanation that future occurrences will result in progressive disciplinary action, up to and including dismissal. Instances of violations of the Code of Conduct should be specifically referred to by date and incident.

**B. Employee Notice Form:**

In all cases of disciplinary action, the Department Head, Division Head or Supervisor initiating the process is required to complete an Employee Notice form (available online under HR forms) informing the employee of the action taken. An Employee Notice Form which requires suspension, demotion or termination must be signed as reviewed by the Human Resources/Organizational Development (HR/OD) Department prior to issuance and a copy of such notice must be sent immediately to the HR/OD Department following the discussion with the employee for placement in the employee's personnel folder. The employee's immediate supervisor usually initiates an Employee Notice.

**C. Suspensions:****1. In General:**

An employee may be suspended indefinitely or for any specified period of time without pay for offenses as defined by the Code of Conduct or for violation of departmental rules and regulations by the immediate supervisor or other superiors subject to the approval of the HR/OD Department and the appropriate Department Head. In the case of a public safety agency, the immediate supervisor or other superior may suspend an employee and later obtain the necessary review by the HR/OD Department and approval of the Department Head. Only in extraordinary circumstances and with the express approval of the Human Resources Director/Designee shall employees be suspended with pay.

In all cases of suspension, an Employee Notice form must be completed, signed as reviewed by the HR/OD Department and submitted to the employee along with a copy to the Human Resources Director.

**2. Normal Suspensions:**

Except in cases of suspensions in contemplation of termination, and except where the employee's presence poses a continuing danger to persons or to the orderly operation of City government, the employee shall be notified orally or in writing of the accusations/charges against the employee and the factual basis therefor prior to the effectiveness of the suspension. Prior to issuance of said notice, and prior to a suspension, the Supervisor, Superior, or Department Head must give the accused employee a reasonable opportunity to explain the employee's version of the facts surrounding the accusations. Immediately thereafter, the Supervisor, Superior, or Department Head may take such action as is deemed appropriate.

3. Extraordinary Suspensions:

In cases where the employee's presence poses a continuing danger to persons or to the orderly operation of City government, the employee may be immediately suspended, but shall be notified in writing of the charges against the employee and shall be given an opportunity to rebut same within ten (10) days after the suspension.

D. Demotion and Decrease in Pay:

Department Heads may demote an employee in pay grade with a decrease in salary and job responsibilities, as appropriate, for such time as is necessary to correct deficiencies in job performance or job qualifications. The duration of such demotion and reduction in pay and responsibilities, as appropriate, may be temporary or permanent, as appropriate, under the circumstances. A permanently demoted employee is entitled to advance under the pay plan as any other employee based upon job performance. Prior to the proposed demotion, the employee shall be given written notice of the reasons for the proposed demotion and further shall be given the opportunity to rebut said reasons before the appropriate Department Head.

If the Department Head determines demotion is proper, an Employee Status Maintenance Transaction (ESMT) form shall be completed which shall include the specific reasons for the demotion.

E. Terminations:

1. In General:

These procedures for dismissal are promulgated to minimize the risk of improper terminations associated with any such processes. The term "Charter Officer" as used herein shall refer to the City Manager, the General Manager, the Clerk of Commission, the Equal Opportunity Director, the City Auditor and the City Attorney for employees under general direction of those offices. Such terminology shall also include a duly authorized designee of the Charter Officer.

A probationary or temporary employee may be dismissed with or without cause at the sole discretion of the Department Head (if any) with review by the HR/OD Department. A regular employee may be dismissed only for cause as outlined in the Code of Conduct and Disciplinary Procedures and this policy by the Department Head (if any) with review by the HR/OD Department.

Other than probationary or temporary, such dismissals shall be accomplished by means of an Employee Status Maintenance Transaction

(ESMT) form accompanied by a full and detailed Employee Notice form prepared by the Supervisor and Department Head, copies of which shall be submitted to the employee, and the Human Resources Department.

2. Normal Termination Procedure:

Prior to the proposed termination, the employee shall be suspended without pay pending the outcome of the informal conference and shall concurrently, or immediately thereafter, receive written notice of the reasons for the proposed termination either by hand delivery or by registered U.S. mail. Such notice shall also specify a time, no sooner than two (2) working days nor later than five (5) working days, following the employee's receipt of such notice, for an informal conference to be held before the appropriate Department Head to afford the employee an opportunity to rebut the charges made against the him/her. The employee will also be allowed to respond in writing to the appropriate Department Head and/or to bring a representative of the employee's choosing to the meeting with the appropriate Department Head. After such informal conference and after considering all evidence before the Department Head, the appropriate Department Head shall take such action upon the dismissal as the Department Head deems appropriate with the Charter Officer's approval. Failure of an employee to attend said informal conference after being given notice of same shall waive any rights of the employee hereunder. The appropriate Department Head's decision shall be forthwith furnished the employee.

3. Special Employee's Termination Procedure:

For employees in the City Manager's Office, the City Attorney's Office, the General Manager's Office, the City Auditor's Office, the Equal Opportunity Office and the Clerk of Commission's Office, and for employees who are Department Heads, the procedures in this subsection #3 and not those in subsection #2, shall apply. For these special employees, prior to the proposed termination, the employee shall be suspended without pay pending the outcome of the hearing specified below and shall concurrently, or immediately after such suspension, receive written notice of the reasons for the proposed termination either by hand delivery or registered U.S. mail. Such notice shall also specify a time, no sooner than two (2) working days nor later than twenty (20) working days following the employee's receipt of such notice, for an evidentiary hearing to be held before the Charter Officer. At such evidentiary hearing, the employee may present witnesses, testimony, briefs, or other evidence to support the employee's position. The employee may also have a representative of the employee's own choosing present. Thereafter, the Charter Officer shall consider all evidence which the Charter Officer has before him/her, both from the employee and from any other source, and shall render the Charter Officer's written decision to terminate or not to terminate the employee within ten (10) days of the

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hearing. The employee may thereafter appropriately appeal to the courts within sixty (60) days of the Charter Officer's decision. The appeal procedure provided in Section F below shall not apply in situations involving special employees.

F. Appeals:

1. In General:

If an employee is aggrieved at any disciplinary action specified herein, except termination, the employee must pursue any applicable grievance procedure.

If an employee is aggrieved at a termination hereunder and said employee desires to appeal same, the employee must either pursue the grievance procedure or serve a notice within ten (10) days after the effective date of termination by hand delivery to the Charter Officer, which notice shall request a full evidentiary hearing on the action. The employee's election to pursue one course of review under this provision shall preclude and waive the use by that employee of any other method or review (i.e., either grievance procedure or evidentiary hearing).

Any employee who has received any specified disciplinary action shall be immediately advised of the employee's right to appeal the action through the use of the grievance procedure or the procedures hereunder.

2. Terminations - Evidentiary Hearings:

If the employee files notice as specified above within ten (10) days after the termination, the Charter Officer shall hold an evidentiary hearing within thirty (30) days of the request whereat the discharged employee may present witnesses, testimony, briefs, or other evidence to support the employee's position. The employee may also have a representative of the employee's own choosing present. Thereafter, the Charter Officer shall consider all evidence which the manager has before him/her, both from the employee and from any other source, and shall render the Charter Officer's decision in writing within twenty (20) days of the hearing. The employee may thereafter appropriately appeal to the courts within sixty (60) days of the Charter Officer's decision.

G. Employees are protected against reprisal for the lawful disclosure of information which the employee reasonably believes evidences:

1. Violation of any law, rule, policy or regulation, or

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2. Mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

Any such disclosure shall be submitted directly to the Charter Officer for investigation and may be submitted orally or in writing. In the event the disclosure involves a Charter Officer, such disclosure shall be submitted to any member of the City Commission. The name of the employee making such disclosure shall not be unreasonably revealed.

- H. Any employee who has authority to take, direct others to take, recommend or approve any personnel action shall not, with respect to authority, take a personnel action with respect to any employee as a reprisal for the lawful disclosure of information as set forth in Section G, as stated above.

### III. Code of Conduct:

The Code of Conduct is not intended to supersede departmental rules and regulations approved by the Charter Officer, such as police and fire employees, but is intended to supplement them.

### IV. Use of Past Record:

In imposing disciplinary measures by incremental steps based on successive deficiencies in job performance, on a current charge the Department Head will not take into consideration prior infractions of the same rule which occurred more than two (2) years previously, except in discharge cases in which the overall disciplinary record of the employee may be taken into consideration.

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**Code of Conduct/Disciplinary Procedures****Number E-3****CODE OF CONDUCT AND MINIMUM DISCIPLINARY ACTIONS**

<b>RULE NUMBER</b>	<b>OFFENSES and DEFICIENCIES ON/OFF JOB</b>	<b>FIRST OFFENSE</b>	<b>SECOND OFFENSE</b>	<b>THIRD OFFENSE</b>	<b>FOURTH OFFENSE</b>
1	Gambling, lottery or engaging in any game of chance at City work stations at any time.	Written Instruction and Cautioning	Written Instruction and 3 days suspension	Written Instruction and 5 days suspension or dismissal	Dismissal
2	Engaging in horseplay, scuffling, wrestling, throwing things, malicious mischief, distracting the attention of others, catcalls or similar types of disorderly conduct.	Written Instruction and Cautioning	Written Instruction and 3 days suspension	Written Instruction and 5 days suspension	Dismissal
3	Sleeping during working hours unless otherwise provided as in the Fire Service.	Written Instruction and Cautioning	Written Instruction and 5 days suspension or dismissal	Dismissal	
4	Disregarding job duties by loafing or neglect of work during working hours.	Written Instruction and Cautioning	Written Instruction and 3 days suspension	Written Instruction and 5 days suspension or dismissal	Dismissal
5	Wasting time, loitering or leaving assigned work area during working hours without authorization.	Written Instruction and Cautioning	Written Instruction and 3 days suspension	Written Instruction and 5 days suspension or dismissal	Dismissal
6	Threatening, intimidating, coercing, or interfering with fellow employees or supervisors at any time, including abusive language.	Written Instruction and Cautioning	Written Instruction and 3 days suspension	Written Instruction and 5 days suspension or dismissal	Dismissal
7	Unauthorized distribution of written or printed material of any description.	Written Instruction and Cautioning	Written Instruction and 5 days suspension or dismissal	Dismissal	
8	Unauthorized vending, soliciting, or collecting contributions for any purpose whatsoever at any time on City premises.	Written Instruction and Cautioning	Written Instruction and 5 days suspension or dismissal	Dismissal	



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9	Deliberately destroying, misusing, or damaging public property or any City property or equipment or the property and equipment of any employee.	Written Instruction and 5 days suspension or dismissal	Dismissal		
10	Unauthorized use, possession or operation of any City property or equipment or the property and equipment of any employee.	Written Instruction and Cautioning	Written Instruction and 5 days suspension or dismissal	Dismissal	
11	Tardiness ( <b>Guide:</b> three (3) times in a thirty day period)	Written Instruction and Cautioning	Written Instruction and 3 days suspension	Written Instruction and 5 days suspension or dismissal	Dismissal
12	Excessive absenteeism ( <b>Guide:</b> three (3) times in a thirty day period)	Written Instruction and Cautioning	Written Instruction and 3 days suspension	Written Instruction and 5 days suspension or dismissal	Dismissal
13	Productivity or workmanship not up to required standard of performance.	Written Instruction and Cautioning	Written Instruction and 3 days suspension	Written Instruction and 5 days suspension or dismissal	Dismissal
14	Reporting to work under the influence of intoxicating beverages or drugs.	Written Instruction and 3 days suspension	Written Instruction and 5 days suspension or dismissal	Dismissal	
15	Being in possession of intoxicating beverages or narcotics during the time while on duty.	Written Instruction and 3 days suspension	Written Instruction and 5 days suspension or dismissal	Dismissal	
16	Using intoxicating beverages or narcotics during the time while on duty.	Written Instruction and 5 days suspension or dismissal	Dismissal		
17	Fighting, provoking or instigating a fight.	Written Instruction and 5 days suspension or dismissal	Dismissal		

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18	Insubordination by the refusal to perform work assigned or to comply with written or verbal instructions of the supervisory force or discourtesy to persons with whom he/she comes in contact while in the performance of his/her duties.	Written Instruction and 5 days suspension or dismissal	Dismissal		
19	Immoral, unlawful, or improper conduct or indecency, whether on or off the job which would tend to affect the employee's relationship to his/her job, fellow workers' reputations or goodwill in the community.	Written Instruction and 5 days suspension or dismissal	Dismissal		
20	Absence without authorized leave or permission. If the absence is for 3 consecutive workdays, the employee will have been deemed to have abandoned the position and resigned from City employment.	Written Instruction and 3 days suspension	Written Instruction and 5 days suspension or dismissal	Dismissal	
21	Falsification of personnel or City records including but not limited to: employment applications, accident records, purchase orders, time sheets, or any other report, record or application.	Written Instruction and 3 days suspension	Written Instruction and 5 days suspension or dismissal	Dismissal	
22	Theft or removal from City locations without proper authority <u>any</u> City property or property of any employee.	Written Instruction and 5 days suspension or dismissal	Dismissal		
23	Carelessness which affects the safety of personnel, equipment, tools, or property or causes materials, parts, or equipment to be damaged or scrapped.	Written Instruction and Cautioning	Written Instruction and 5 days suspension or dismissal	Dismissal	

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24	Wanton or willful neglect in their performance of assigned duties.	Written Instruction and 3 days suspension	Written Instruction and 5 days suspension or dismissal	Dismissal	
25	Wanton or willful violation of statutory authority, rules, regulations or policies.	Written Instruction and 3 days suspension or dismissal	Written Instruction and 5 days suspension or dismissal	Dismissal	
26	Continual and willful failure to pay just debts or continual and willful failure to make provision for the payment of just debts.	Written Instruction and Cautioning	Written Instruction and 3 days suspension	Written Instruction and 5 days suspension or dismissal	Dismissal
27	Failure to work overtime, special hours or special shifts after being scheduled according to overtime and stand-by duty policies or failure to respond to call during adverse weather conditions or emergencies.	Written Instruction and Cautioning	Written Instruction and 3 days suspension or dismissal	Written Instruction and 5 days suspension or dismissal	Dismissal
28	Taking more than specified time for meals or rest periods.	Written Instruction and Cautioning	Written Instruction and 3 days suspension	Written Instruction and 5 days suspension or dismissal	Dismissal
29	Where the operations are continuous, an employee shall not leave his/her post at the end of his/her scheduled shift until he/she is relieved by his/her supervisor or his/her relieving employee on the incoming shift.	Written Instruction and Cautioning	Written Instruction and 3 days suspension	Written Instruction and 5 days suspension or dismissal	Dismissal
30	Violating a safety rule or safety practice.	Written Instruction and Cautioning	Written Instruction and 3 days suspension	Written Instruction and 5 days suspension or dismissal	Dismissal
31	Failure to report an accident or personal injury in which the employee was involved while on the job.	Written Instruction and Cautioning	Written Instruction and 3 days suspension	Written Instruction and 5 days suspension or dismissal	Dismissal

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32	Creating or contributing to unsafe and unsanitary conditions or poor housekeeping.	Written Instruction and Cautioning	Written Instruction and 3 days suspension	Written Instruction and 5 days suspension or dismissal	Dismissal
33	Failure to keep the department and/or Human Resources notified of proper address or telephone number (if any).	Written Instruction and Cautioning	Written Instruction and 3 days suspension	Written Instruction and 5 days suspension or dismissal	Dismissal
34	Making or publishing of false, vicious, or malicious statements concerning any employee, supervisor, the City or its operations.	Written Instruction and Cautioning	Written Instruction and 5 days suspension or dismissal	Dismissal	
35	Posting or removing any material on bulletin boards or City property at any time unless authorized.	Written Instruction and Cautioning	Written Instruction and 5 days suspension or dismissal	Dismissal	
36	Refusal to give testimony in accident investigations	Written Instruction and Cautioning	Written Instruction and 5 days suspension or dismissal	Dismissal	
37	Habitual failure to punch your own time card (Guide: three (3) times in a thirty (30) day period.	Written Instruction and Cautioning	Written Instruction and 3 days suspension	Instruction and 5 days suspension or dismissal	Dismissal
38	Knowingly punching the time card of another employee; having one's time card punched by another employee or unauthorized altering of a time card.	Written Instruction and 5 days suspension or dismissal	Dismissal		
39	Making false claims or misrepresentations in an attempt to obtain sickness or accident benefits, workers' compensation benefits.	Written Instruction and 5 days suspension or dismissal	Dismissal		

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40	Unauthorized possession of firearms, explosives, or weapons on City property.	Written Instruction and 5 days suspension or dismissal	Dismissal		
41	Failure to return from an authorized leave of absence. If the absence is for three (3) consecutive workdays, consider the employee to have abandoned the position and resigned from the City.	Dismissal			
42	Knowingly harboring a communicable disease.	Dismissal			
43	Concerted curtailment or restriction of production or interference with work in or about the City's work stations, including, but not limited to, instigating, leading, or participating in any walkout, strike, sit-down, stand-in, slow-down, refusal to return to work at the scheduled time for the scheduled shift.	Dismissal			
44A	Pleading guilty or nolo contendere to, or being found guilty by a jury or court of a misdemeanor involving physical violence, theft, driving under the influence of alcohol or drugs or possession or sale of drugs, regardless of whether or not adjudication is withheld and probation imposed.	Written Instruction and 5 days suspension or dismissal	Dismissal		
44B	Pleading guilty or nolo contendere, or being found guilty by a jury or court of a felony, regardless of whether or not adjudication is withheld and probation imposed.	Written Instruction and 10 days suspension or dismissal	Dismissal		
45	Use of bribery or political pressure to secure appointment or advantages.	Dismissal			
46	Continual abuse of Personnel Policies and safety rules.	Dismissal			

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47	No employee shall request, use, or permit the use of, whether directly or indirectly, any publicly owned, public-supported property, vehicle, equipment, or labor service, or supplies (new, surplus, scrap or obsolete) for the personal convenience or the private advantage of said employee or any other person.	Written Instruction and 5 days suspension or dismissal	Dismissal		
48	Engaging in any act(s) of sexual harassment.	Written Instruction and 5 days suspension or dismissal	Written Instruction and Suspension or dismissal		
49	Violation of the City's Code of Ethics.	Written Instruction and 3 days suspension or dismissal	Written Instruction and Suspension or dismissal		
50	Violation of Drug Free Workplace Program and/or Addenda thereto by any covered employee. This rule/penalty is in addition to any other action required by the Program or Addenda and supersedes any other Rules of Conduct applicable to the same conduct.	Written Instruction and 5 days suspension or dismissal	Dismissal		