

404.00 DISCIPLINE AND APPEAL PROCEDURES

404.01 Policy:

Disciplinary actions will comply with polices contained in the City's Employee Handbook and city administrative rules.

The supervisor contemplating disciplining a subordinate shall contact the Professional Standards Unit to determine the previous range of discipline for a particular type of misconduct.

When misconduct is determined to have occurred, the employee's supervisor will recommend what type of corrective measures should be administered and that recommendation will be reviewed by his/her Chain of Command.

The Chief of Police has the authority to terminate department employees. The Chief of Police may delegate the responsibility to a Deputy Chief.

404.02 Progressive Discipline:

The concept of progressive discipline shall be followed, except that serious infractions may receive more severe disciplinary action commensurate with the severity of the infraction. Degrees of discipline that may be utilized shall include verbal warning, written reprimand, and suspension without pay, disciplinary demotion and discharge.

404.03 Positive Discipline:

Positive discipline may be defined as training or counseling which may be used to reinforce desired conduct or alter behavior without invoking punishment.

Training provides a positive mechanism of altering the behavior of the affected departmental member by providing insight or review into the correct methods of police operation and conduct. As an alternative to more punitive disciplinary actions, training should not be administered as a punishment, rather as a positive learning experience for the employee. The supervisor will document the remedial training provided to the employee in his/her "comments file" or log.

Counseling also provides a positive method for seeking change in employee behavior. Counseling may be used by the supervisor to determine the extent of any persona or job problems that may be affecting performance, and to offer assistance and guidance or to discuss minor and infrequent rule violations, and to discuss the substance and importance of the rules with the employee. This process should involve certain procedural steps:

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- A determination by the supervisor that he/she is capable of providing the counseling required.
- The supervisor needs to apprise himself of all the pertinent facts as they relate to the employee such as: work history, prior disciplinary actions and counseling, and present levels of performance.
- The supervisor then may conduct a counseling session, with the primary objective of helping the employee improve. The sessions should be private, and be of sufficient duration to define the problem and define necessary improvement.
- The goal of the supervisor is to have the employee realize the problem and on his own initiative institute corrective action.
- The supervisor will document the counseling session and maintain the documentation in the employee's "comments file" or employee log. The log or comments file will be maintained for evaluation purposes. The employee may request the destruction of the file after his or her annual evaluation and after any processes that are attached to the evaluation are completed.
- Positive discipline may be employed alone or in addition to other disciplinary measures.
- A supervisor may seek advice from Human Resources for other counseling or assistance sources.

404.04 Disciplinary Procedure:

A. Notice of disciplinary action.

If disciplinary action is being considered, the Professional Standards Unit Sergeant will prepare or assist in preparation of documents for the notification to the employee.

For disciplinary recommendations of Letters of Reprimand, the letter will contain the information indicated in Section C of this general order. The employee may appeal a Letter of Reprimand to the Chief of Police, only.

If the contemplated discipline is a suspension or higher, and may involve an employee's due process rights, the employee will be issued a "Letter of Potential Discipline and Hearing Notice." This letter will include:

- A statement advising the employee of potential disciplinary action.
- The date, time and location of the alleged incident.
- A brief narrative of the incident.
- A citation of the specific charges and findings.
- A statement informing the accused employee that he/she will attend the scheduled meeting with the person who signed the "Letter of Potential Discipline and Meeting Notice."

B. Contemplated Disciplinary Meeting (Also referred to as Loudermill Meeting).

The employee may elect to waive the Potential Discipline meeting by notifying the supervisor in writing. If the employee waives the meeting, the findings will stand and the supervisor will determine disciplinary recommendations.

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If the employee elects to attend the meeting with the supervisor, he/she will be provided the opportunity to respond to the supervisor's findings prior to a final decision being made. Sworn employees may have one representative of his/her choice present at the meeting. The representative may be an attorney, Union representative or other Police Department employee.

In disciplinary matters, involving the employee not waiving a Loudermill meeting and that fulfill the requirements for such a meeting, the administering supervisor will complete the "Finding" portion of the review with a notation indicating the employee's non-waiver of a Loudermill meeting. The review will be forwarded by the administering supervisor through the Chain of Command, to include an advisement of the Chief of Police. Ultimately, the review will be forwarded to the Professional Standards Unit.

The Professional Standards Unit sergeant will prepare the "Letter of Potential Discipline and Meeting Notice." The Professional Standards Unit Sergeant will coordinate the conduct of the meeting and make the appropriate notifications to the City Attorney's Office and Human Resources. The purpose of the meeting is to allow the employee to present any previously unknown yet mitigating facts prior to a decision on discipline.

The employee will have an opportunity to review the internal investigation file prior to the disciplinary meeting by making a request of the Professional Standards Unit. The employee may review the investigation, in the presence of the Professional Standards Sergeant, to include:

- The Complaint Form.
- The accused employee's interview responses.
- Any written response provided by the accused employee.
- Any written statements or transcript from a citizen accuser.

After the meeting, the supervisor will consider information provided by the employee during the meeting and decide what effect the information may have on the investigative findings and, if appropriate, what disciplinary action should be taken. The supervisor will document the events that transpired during the meeting. This documentation including any additional submitted to the Chain of Command. A copy of the documentation, findings, and recommendations will be provided to the employee.

The Professional Standards Unit Sergeant will be notified of the results of the meeting or if a waiver was requested.

C. Disciplinary Letter.

If the supervisor determines that discipline is to be assessed, the Professional Standards Unit will prepare or assist in the preparation of the disciplinary letter over the signature of the individual administering the discipline.

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The Disciplinary Letter will include:

- A statement of the disciplinary action to be taken.
- The date, time and location of the incident.
- A brief narrative of the incident.
- A citation of the specific charges.
- Instructions relating to required improvement of performance or corrections in conduct, unless the discipline is dismissal.
- The cited warning “A copy of this Disciplinary Letter will be placed in your file in the Professional Standards Unit. Any future violation by you of the Police Code of Conduct, City personnel rules, or department rules and regulations issued by the Chief of Police will result in more severe disciplinary action as provided in the Chapter 3.16 of the City of Greeley Municipal Code and the City of Greeley Employee Handbook.”
- A statement setting forth the employees right to appeal the Disciplinary Letter, in accordance with Chapter 3.16 of the City of Greeley Municipal Code and the City of Greeley Employee Handbook.

All letters will require a signature by the employee acknowledging receipt. If refused, a supervisor will indicate refusal on the letter. The letter will be provided to the employee. The employee will receive the original letter whether he signs receipt or not. A copy of any disciplinary letter will be maintained in the employee’s Professional Standards file. A copy of any disciplinary letter also will be forwarded to the Human Resources Department for inclusion in the employee’s personnel file.

404.05 Appeal Procedures:

Sworn Employees: The appeal procedures for sworn employees will be in compliance with Chapter 3.16 of the City of Greeley Municipal Code and the City of Greeley Employee Handbook.

Non-Sworn Employees: The appeal procedures for non-sworn employees will be in compliance with the City of Greeley Employee Handbook.

404.06 Non-Discrimination

Employees shall not be discriminated or retaliated against for exercising their right to appeal and due process.

404.07 Disciplinary Records:

- A. Employee disciplinary records are considered “Personnel Records” as described in Article VII, subsection N, of the Employee Handbook. As such, they are considered confidential. Therefore, departmental members must exercise care when discussing individual disciplinary reviews or investigations and the results of those proceedings.

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- B. The criteria for discussion of these matters is based on the following:
 - a. The supervisor receiving such information has a “need to know”. This could be a situation involving an employee who is in the supervisor’s Chain of Command.
 - b. A supervisor is being asked questions by other departmental personnel, which constitute rumor. The supervisor may make a factual statement directed at stopping an inaccurate rumor. The supervisor must keep in mind that his/her response should be limited to and directed at correcting the misinformation in the rumor.
 - c. Matters already known to the public.

- C. There will be circumstances that arise involving disciplinary matters which create substantial concern either departmentally or with the general public. In such instances, the Chief of Police may in his judgement provide information involving disciplinary matters for the good of departmental operations or morale to restore the public’s faith in the department.

General Order 404.00	Reviewed: 03/19
<u>DISCIPLINE AND APPEAL PROCEDURES</u>	
Authorized by Jerry Garner, Police Chief	
Effective Date: March <u>11</u>, 2019	
<u>Mark Jones</u>	Date: <u>March 11, 2019</u>
Signature	