

**404.00 DISCIPLINE AND APPEAL PROCEDURES**

404.01 Policy:

Disciplinary actions will comply with policies 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, suspension without pay, disciplinary demotion, and discharge.

404.03 Positive Discipline:

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

Training provides a positive mechanism for 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 but 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 personal or job problems that may be affecting performance, offer assistance and guidance, discuss minor and infrequent rule violations, and 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 can provide 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 by advising the Professional Standards Unit sergeant.
- 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. A police discipline guideline is used to ensure fair and consistent discipline and to eliminate the appearance of disparities. The discipline guideline in Appendix A does not remove discretion; it provides a range of possible sanctions, thus providing clarity.
  - a. The guideline provides discipline Levels I through V, with Level I being the least severe and Level V being the most severe. It is understood that no document can list every possible situation that could happen. For violations not specified on the guideline, the discipline will be determined using the closest comparable item from the guideline as it pertains to the Greeley Police Department policy and procedure as well as the City of Greeley Handbook.
  - b. In cases where multiple violations occur, the imposed discipline must be at least as severe as the discipline for the most severe violation. To achieve consistency, these presumptive penalties are presumed to be the reasonable and appropriate penalties that should be given.
  - c. Supervisors may consider aggravating or mitigating factors expressed in writing and adjust discipline higher or lower than the recommended range. Any adjustment should be no more than one level below or above.
  - d. On limited occasions, there will be extraordinary circumstances that would justify a penalty beyond aggravating or mitigating factors. The authority to declare extraordinary circumstances is within the discretion of the Chain of Command.
  - e. Mitigating, aggravating, and extraordinary circumstances relied upon to deviate from the guideline must be articulated in writing.
    - i. Examples of mitigating factors include but are not limited to:
      - Lack of intent

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- Acts would not have come to light without self-report
- Employee new to assignment
- Prior work history and or lack of prior disciplinary history relative to the employee's years of service
- Training issue
- Receptive to correction/displayed proper attitude
- ii. Examples of aggravating factors include but are not limited to:
  - High degree of operational impact
  - Unreceptive to correction/displayed poor attitude
  - Uncooperative with the investigation
  - Delayed report or attempt to cover up
  - Injury, harm, or endangerment of a member of the public or another officer
  - The existence of an actual and demonstrable legal or financial risk to the Department or the City
  - Bias or harassment-based action
  - Supervisory or command rank, length of time in position
  - Constitutional implications
  - Intentional act or lack of due regard
  - Retaliatory conduct
  - The officer's prior disciplinary history (progressive discipline)
- f. Coaching, training, Performance Improvement Plan ("PIP"), or other tools may be included with any discipline in Levels I-IV.
- g. Reduction of rank or transfer may be included with discipline in Levels III-IV or under aggravating circumstances in Levels I-II.

### B. Notice of disciplinary action.

If disciplinary action is being considered, the Professional Standards Unit Sergeant will prepare or assist in the 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."

C. 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.

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 fulfills 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 Chain of Command will be notified of the supervisors' findings and request to hold a Loudermill meeting. 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 to 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. If information was presented during the meeting that was previously unknown and could affect the outcome of the investigation, the supervisor will investigate the new information further. The supervisor will document the events that transpired during the meeting.

After the Loudermill hearing, the information will be routed through the Chain of Command for review. If, during this review, the information previously gathered or information gathered during the Loudermill hearing indicates more potential policy violations occurred, and where discipline is contemplated for any new allegations or potential policy violations, another Loudermill hearing should be considered.

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The subsequent hearing(s) is for the purpose of informing the employee of new potential disciplinary action and to allow them an opportunity to offer any mitigating facts for the new alleged violations.

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.

### D. 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.

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 dismissed.
- 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 Sec. 4-95 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 Sec. 4-96 and 4-97 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 Sec. 4-96 and 4-97 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.

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### 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.
- B. The criteria for discussion of these matters are 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 constitutes a 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.
  - d. The supervisor receiving a release of information form signed by the officer whose information is being requested.
  - e. The Greeley Police Department receives a Colorado Criminal Justice Records Act request in compliance with C.R.S. 24-72-303(4).
- C. There will be circumstances that arise involving disciplinary matters that create substantial concern either departmentally or with the general public. In such instances, the Chief of Police may, in their judgment, provide information involving disciplinary matters for the good of departmental operations or morale to restore the public’s faith in the department.

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Appendix A

Discipline Guideline

Vehicle Accidents	
Examples of Violations	Presumptive Discipline- Consider prior 3 years for level VA
Low-speed at-fault traffic collision without Injury (Less than \$2000)	Verbal Reprimand + Defensive Driving to Written Reprimand + Defensive Driving
Low-speed at-fault traffic collision without Injury (More than \$2000) or Preventable at-fault with minor injury	Written Reprimand + Defensive Driving to Suspension + Defensive Driving
Preventable at-fault collision with serious bodily injury	Suspension + Defensive Driving to Termination
Preventable at-fault collision resulting in death due to gross negligence or violation of pursuit and response-to-calls policies	Termination

LEVEL I Single minor policy violation Minimal negative impact on Department image or operations	
Examples of Violations	Presumptive Discipline- Consider prior 3 years for level I
Seatbelt violation	Training and Counseling to Written Reprimand
Non-criminal traffic infractions	
Rude comments, gestures, or lack of courtesy	
Tardiness	
Clothing or uniform violations	
Loss or damage of low value property of City or Public (less than \$1000)	
Loss of Badge	
Failure to advise of address or telephone change	
Late submission of report	
Failure to follow proper procedures in recovery or collection of evidence	
Failure to respond to radio	
Unauthorized ride-a-long	
Accidental discharge of weapon	

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LEVEL II Repeated minor policy infraction	
More than minimal negative impact on Department image or operations, relationships with other officers, or the community	
Examples of Violations	Presumptive Discipline- Consider prior 4 years for level II
Repeated violations from Level I	<b>Written Reprimand to Suspension</b>
Property damage/loss of department property (greater than \$1000)	
Improper recovery of found or abandoned property	
Unauthorized leave	
Failure to have secondary employment approved	
Improper storage or release of property	
Using Dept. equipment during secondary employment without prior authorization	
Failure to submit a report	
Failure to properly maintain issued equipment or gear	
Failure to follow procedures for preliminary or follow-up investigations	
Absent without leave or permission	
Failure to appear in court or lack of preparedness for court	
Loss of evidence	
Failure to identify self to civilian (Business Card)	
Carrying an unauthorized firearm or ammunition	
Leaving assignment without permission	
Sleeping on duty	
Improper pursuit without injury or damage	
Failure to ensure functional recording equipment	
Failure to activate body-worn camera when required	
Failure to perform assigned duties as a supervisor	
Failure to take appropriate action as a supervisor	
Failure to follow chain of command or obtain supervisor's approval	



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LEVEL III Major policy infraction	
Pronounced negative impact on Department operations, relationships with other officers, or the community	
Examples of Violations	Presumptive Discipline- Consider prior 5 years for level III
Repeated violations from Level I or II	<b>Suspension (1-10 Day)</b>
Loss of gun	
Insubordination	
Prohibited secondary employment	
Unauthorized or improper use of criminal history databases	
Ethical misconduct	
Failure to report an accident	
Failure to report firearm discharge	
Failure to secure firearm on or off duty	
Failure to take police action while on duty	
Abuse/misuse of authority	
Failure to make required arrest (Protection Orders/Warrants/Domestic Violence)	
Improper search, seizure, or entry	
Unauthorized, Deliberate weapon discharge that does not endanger self or others	
Unauthorized or improper access of DMV history or other law enforcement database	
Unauthorized or improper dissemination of Department information	
Accidental discharge of weapon	
Purchase or consumption of an intoxicant while on duty	

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LEVEL IV Major Misconduct	
Significant negative impact on Department operations, relationships with other officers, or the community	
Actions contrary to core City values or involve substantial risk of public or officer safety	
Examples of Violations	Presumptive Discipline- Consider prior 10 years for level III
Repeated violations from Level I or II or III	<b>Suspension (10 + Days) to Termination</b>
Failure to assist another officer while on duty	
Failure to obey a non-exigent order	
Arrest without probable cause	
Unauthorized or improper dissemination of investigation information or documents	
Improper storage or release of evidence	
Charged criminal misdemeanor criminal act	

LEVEL V Criminal or Severe Misconduct	
Major negative impact on Department operations, relationships with other officers, or the community	
Demonstrates serious lack of integrity, ethics, or character and includes conduct that would disqualify an officer from continued employment as a law enforcement officer	
Examples of Violations	Presumptive Discipline- Consider prior 10 years for level IV
Repeated violations from Level I or II or III or IV	<b>Termination</b>
excessive use of force or failure to intervene	
Deliberate weapon discharge outside of the use of force policy that endangers self or others	
Charged or Indited felony criminal act	
Loss of Colorado Law Enforcement POST certification	
Obstructing or hindering a criminal or internal affairs investigation	
Failure to obey order in exigent circumstances	
Untruthfulness or intentional misrepresentation in reporting	
Harassment or discrimination of a protected class	

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General Order 404.00

Reviewed: 06/24

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Authorized by Adam Turk, Chief of Police

Effective Date: June 11, 2024

*Adam F. Turk #241*



Date: June 11, 2024

**Signature**