

## **SECTION 24 DISCIPLINE**

- A. PURPOSE:** To provide guidance regarding disciplinary action being taken against career service employees and to outline the procedure that must be followed when imposing discipline.
- B. PROCEDURE:**
1. Discipline shall be for cause including, but not limited to: violation of the County Personnel Management Act or Tooele County Personnel Policies and Procedures, violation of the statutory ethical and disclosure requirements, malfeasance, nonfeasance, neglect of duty, insubordination, misconduct, inefficiency or inability to satisfactorily perform assigned duties, unprofessional conduct at the workplace or at anytime while performing job duties, or acts inimical to the public service.
  2. The usual sequence of discipline shall be verbal warning, written warning, suspension, and termination. A disciplinary evaluation period with interim performance evaluations may be a part of the progressive discipline process. Deviations from the usual sequence of discipline may be justified depending on the severity and circumstances of the action(s) to be disciplined. Reduction in pay and demotions may also be used for disciplinary purposes.
    - a. Verbal Warnings: Verbal warnings are informal discussions between a supervisor and an employee in an attempt to change behavior. Supervisors need to make clear to the employee that a verbal disciplinary warning is being given.
      - (1) Verbal warnings shall be recorded in the supervisor's own record. This record should include the date the warning was given; a description of the inappropriate behavior, including the date, time, and location, if applicable; and a brief description of the discussion with the employee. The Employee Disciplinary Notice form can be used for this purpose. A copy of this record shall be given to the employee to ensure it is clear that a verbal warning has been given. The record of the verbal warning is not sent to the Human Resource Department for inclusion in the employee's official personnel file.
      - (2) In cases of a verbal warning, the employee shall be advised that a copy of Personnel Policies and Procedures Section 25A, Procedures for Employee Complaints, is available on the Tooele County website.
    - b. Written Warnings: A written warning can be given to an employee who has not appropriately responded to a previous verbal warning or for behavior that the employee should have known was inappropriate.
      - (1) Documentation for the written warning must follow the guidelines provided in Subsection 24.B.3 below.

- (2) In cases of a written warning, the employee shall be advised that a copy of Personnel Policies and Procedures Section 25B, Procedures for Career Service Employee Grievances, is available on the Tooele County website.
- c. Disciplinary Evaluation Period: When the discipline involves the employee's ability to perform their job, a supervisor may review and evaluate the employee's performance more often than others. The purpose of this closer focus on the employee's performance is to clarify expectations and to provide coaching and feedback in an attempt to help the employee turn his or her performance around to a satisfactory level.
- (1) Documentation for the disciplinary evaluation period must follow the guidelines provided in Subsection 24.B.3 below.
- d. Suspension: When an employee has failed to adequately respond to prior disciplinary measures, a suspension without pay may be appropriate. Suspension may also be the appropriate first step in the disciplinary process depending on the severity of behavior involved.
- (1) No employee may be suspended for more than thirty (30) calendar days for a single disciplinary incident nor for more than sixty (60) calendar days in one (1) calendar year.
    - (a) Employees designated as exempt from the Fair Labor Standards Act (E-FLSA) shall not be suspended for a period of less than one entire work week.
  - (2) Documentation for the suspension must follow the guidelines provided in Subsection 24.B.3 below.
  - (3) In cases of suspension, the supervising department head, elected official, or designee shall notify the employee in writing of the discipline at least seven (7) calendar days before the effective date of such discipline. The employee may waive this requirement in writing. The notice shall be delivered, in person, to the employee or the employee's last known home address by certified mail or personal service. The employee shall be advised that copies of Personnel Policies and Procedures Section 25B, Procedures for Career Service Employee Grievances, and Personnel Policies and Procedures Section 25C, Procedures for Career Service Employee Appeals, are available on the Tooele County website.
  - (4) If the supervising department head or elected official so determines, he or she may place the employee in a leave-with-pay status between the notice and the proposed effective date of the suspension or any portion thereof.
    - (a) An employee suspended-with-pay under the above circumstances shall remain on-call and available to the suspending division, department, or elected office during normal county working hours throughout the

suspension-with-pay period and provide the division, department, or elected office with a telephone number at which the employee may be reached.

e. Reduction in Pay: Employees can have their pay reduced as a form of discipline.

- (1) Documentation for the reduction in pay must follow the guidelines provided in Subsection 24.B.3 below.
- (2) In cases of reduction in pay, the supervising department head, elected official, or designee shall notify the employee in writing of the discipline at least seven (7) calendar days before the effective date of such discipline. The employee may waive this requirement in writing. The notice shall be delivered, in person, to the employee or the employee's last known home address by certified mail or personal service. The employee shall also be advised that copies of Personnel Policies and Procedures Section 25B, Procedures for Career Service Employee Grievances, and Personnel Policies and Procedures Section 25C, Procedures for Career Service Employee Appeals, are available on the Tooele County website.

f. Demotion: Employees can be moved to a position with a lower grade as a form of discipline. The salary of the demoted employee shall not exceed the new pay range maximum without express authorization by the County Commission.

- (1) Documentation for the demotion must follow the guidelines provided in Subsection 24.B.3 below.
- (2) In cases of a demotion, the supervising department head, elected official, or designee shall notify the employee in writing of the discipline at least seven (7) calendar days before the effective date of such discipline. The employee may waive this requirement in writing. The notice shall be delivered, in person, to the employee or the employee's last known home address by certified mail or personal service. The employee shall also be advised that copies of Personnel Policies and Procedures Section 25B, Procedures for Career Service Employee Grievances, and Personnel Policies and Procedures Section 25C, Procedures for Career Service Employee Appeals, are available on the Tooele County website.
- (3) If the supervising department head or elected official so determines, he or she may place the employee in a leave-with-pay status between the notice and the proposed effective date of demotion or any portion thereof.
  - (a) An employee on leave-with-pay under the above circumstances shall remain on-call and available to the demoting division, department, or elected office during normal county working hours throughout the leave-with-pay period and provide the division, department, or elected office with a telephone number at which the employee may be reached.

- g. Termination: When an employee has failed to adequately respond to prior disciplinary measures, termination may be appropriate. Termination may also be the appropriate first step in the disciplinary process depending on the severity of behavior involved.
- (1) Documentation for the termination must follow the guidelines provided in Subsection 24.B.3 below.
  - (2) In cases of potential termination, the supervising department head, elected official, administrator, or designee shall notify the employee in writing of the potential discipline and the date for the pre-termination hearing at least two (2) calendar days before the effective date of such potential discipline. The notice shall be delivered, in person, to the employee or the employee's last known home address by certified mail or personal service. The employee shall also be given copies of Personnel Policies and Procedures Section 25B, Procedures for Career Service Employee Grievances, and Personnel Policies and Procedures Section 25C, Procedures for Career Service Employee Appeals.
  - (3) If the supervising department head or elected official so determines, he or she may place the employee in a leave-with-pay status between the notice and the proposed effective date of termination.
    - (a) An employee on leave-with-pay under the above circumstances shall remain on-call and available to the terminating division, department, or elected office during normal county working hours throughout the leave-with-pay period and provide the division, department, or elected office with a telephone number at which the employee may be reached.
  - (4) A pre-termination hearing must be scheduled no sooner than two (2) working days nor later than seven (7) calendar days after the termination notice is given.
    - (a) The purpose of the pre-termination hearing is not to definitively and finally resolve the propriety of the termination, but to determine whether there are reasonable grounds to believe that the charges against the employee are factual.
    - (b) The pre-termination hearing is held between the employee and the supervising department head, elected official, or designee. An audio recording of the pre-termination hearing shall be made and kept until all formal post-termination proceedings are completed. The employee shall not be represented by legal counsel. Witness statements may be informally presented by the parties in writing or orally. The employee may have an attorney observe the hearing. If an employee wishes to waive the pre-termination hearing, he or she may do so by notifying the supervising department head or elected official in writing of his or her wish to waive the hearing.

- (c) The supervising department head or elected official shall give his or her decision in writing regarding the termination within two (2) working days after the hearing. The decision by the supervising department head or elected official shall be delivered to the employee, by certified mail or personal service, and to the Human Resources Director for placement in the employee's personnel file.
  - (d) The pre-termination hearing does not eliminate a formal post-termination grievance proceeding, as set forth in Personnel Policies and Procedures Section 25B, Procedures for Career Service Employee Grievances, and Personnel Policies and Procedures Section 25C, Procedures for Career Service Employee Appeals.
  - (5) Temporary withholding of payment for accumulated vacation leave may be authorized when an employee is being terminated under circumstances in which the employee may owe money to the county or is holding county property.
  - (6) No employee shall be removed from employment covered under the Career Service System by means of job reclassification or transfer of job function where the job reclassification or transfer of job function is primarily for the purpose of dismissing the employee.
3. Documentation: Notice of any disciplinary action shall be communicated in writing to the employee.
- a. A disciplinary notice may be made by:
    - (1) Completing an "Employee Disciplinary Notice" form, available from the Human Resource Department, signed by the employee's supervisor; OR
    - (2) Preparing a letter addressed to the employee containing the following information:
      - (a) notification that the letter is a disciplinary notice;
      - (b) date of warning;
      - (c) type of violation;
      - (d) date, time, and place of violation;
      - (e) number and types of previous warnings;
      - (f) what is needed to correct the violation;
      - (g) type of disciplinary action being imposed and the date of action, if appropriate; and

- (h) probable consequences of not correcting the violation.
- b. A copy of the “Employee Disciplinary Notice” form or written disciplinary notice letter shall be given to the employee and, in cases other than a verbal warning, a copy forwarded to the Human Resource Department for placement in the employee’s personnel file, and a copy retained by the supervisor. Supervisors shall discuss the contents of the disciplinary notice form or letter with the subordinate.

**C. STANDARDS OF CONDUCT:**

1. Types of behavior Tooele County considers to be in violation of county policies or inappropriate include, but are not limited to, the following:
  - a. falsifying any documents to be received or used by county government including, but not limited to, employment applications and related documents, work related records, time cards, etc.;
  - b. accepting gratuities or compensation from customers, clients, or vendors in violation of Personnel Policies and Procedures Section 17, Ethics;
  - c. excessive absenteeism, tardiness, or violation of county leave policies;
  - d. use of county property for personal purposes unless otherwise permitted by a written, established department or county policy;
  - e. reporting to regularly scheduled work intoxicated or otherwise in violation of Personnel Policies and Procedures Section 18, Alcohol and Drug Use Screening, Testing, and Treatment, and Section 18A, Alcohol and Drug Use Screening, Testing, and Treatment for Commercial Driver License Holders;
  - f. the illegal use, sale, possession, distribution, or transportation of drugs;
  - g. bringing or using alcoholic beverages on county property while on-duty, in violation of Personnel Policies and Procedures Section 18, Alcohol and Drug Use Screening, Testing, and Treatment, or Section 18A, Alcohol and Drug Use Screening, Testing, and Treatment for Commercial Driver License Holders;
  - h. engaging in violence or behavior that carries the potential for violence including, but not limited to, fighting or using obscene, foul, abusive, or threatening language or gestures towards county staff and others;
  - i. possession of firearms or other weapons on county property or while on county business, except as permitted by state law;
  - j. disregarding safety regulations or policies;

- k. insubordination by either refusing to follow a reasonable order or by engaging in rude or disrespectful behavior toward any supervisor in the employee's chain of command, as defined as follows: disrespectful behavior includes, but is not limited to, using obscene, foul, or abusive language or showing anger through physical gestures such as slamming doors or throwing office documents or supplies;
- l. theft of county property or theft from co-workers, customers, or other persons;
- m. destroying, damaging, vandalizing, or threatening to damage or destroy county property;
- n. destroying, damaging, or threatening to damage or destroy work-related documents, work stations, personal belongings, or personal property of others while on county premises;
- o. soliciting political support or contributions in violation of Personnel Policies and Procedures Section 17, Ethics;
- p. failure to comply with the uniform, dress, or grooming policy of a county agency or division;
- q. failure to comply with the non-smoking regulations of county government and State laws;
- r. engaging in behavior of a sexual nature in violation of Personnel Policies and Procedures Section 20, Sexual Harassment;
- s. engaging in behavior or using language or terminology in the workplace that reflects a discriminatory perception based on gender, sexual orientation, marital status, race, color, age, religion, national origin, or disability in violation of applicable county ordinances and State and Federal laws;
- t. bringing to work, disseminating, or displaying any materials that are offensive and which could give rise to or form the basis for the following types of employee or citizen complaints: a sexual harassment complaint, an allegation of hostile work environment, a discrimination claim, or a violation of county policy;
- u. using e-mail, voice mail, fax, or the internet to harass or discriminate on the basis of sex, race, religion, color, national origin, age, disability, sexual orientation, or marital status;
- v. failure to follow established parking rules;
- w. engaging in rude or discourteous behavior towards co-workers or members of the public;

- x. a violation of any criminal law, whether on or off-duty, which adversely reflects on the employee's ability to perform the county's job duties;
  - y. neglect of duty including failure to complete all scheduled work hours, inefficiency, or inability to perform assigned duties;
  - z. violating the County Personnel Management Act, Tooele County Code, Personnel Policies and Procedures, or department internal policies;
  - aa. malfeasance, nonfeasance, or acts inimical to the public service;
  - bb. refusal to respond to an official request for factual information or willfully impeding an internal formal investigation after notification and warning that such response is required in the investigation;
  - cc. refusal to appear for a Fitness for Duty Evaluation or follow through with the testing and evaluation process;
  - dd. filing a malicious, fraudulent, or frivolous complaint with the intent to cause harm, disrupt county services, or with reckless disregard or intent to harass;
  - ee. violating the Government Records Access Management Act or the Health Insurance Portability and Accountability Act, (45 CFR Parts 160 and 164), including the unauthorized or unlawful disclosure, issuance, abuse, intentional release of, or gaining unauthorized access to any private, controlled, or protected information, whether or not classified by the county, in records in the possession of any county agency; or
  - ff. bringing to work or intentionally disseminating, forwarding, or displaying pornographic materials, including intentional viewing or downloading of pornography from the internet.
2. The progressive discipline steps outlined in this policy will not be followed in cases where the violation justifies more severe disciplinary action.
    - a. Any case of misconduct involving violence, theft, or violation of criminal laws will justify termination of employment without progressive discipline.
  3. Employees who encounter threatening or violent behavior in the workplace, as described in Subparagraph C.1.h above, shall immediately notify any supervisor in the chain of command.
    - a. Employees may also notify security or law enforcement dependent upon the severity of the situation.
  4. A supervisor's immediate response to threatening or violent behavior will depend on the extent and severity of the behavior and how it compromises the safety of persons or

property. Supervisors who confront threatening or violent behavior in the workplace should follow the following steps in handling the situation.

- a. Immediately notify your supervising department head, elected official, or designee and, if applicable, security or law enforcement.
  - b. Document receipt of the threat, the behavior that was exhibited, and the supervisor's immediate response or handling of the situation.
    - (1) Supervisors may immediately remove from the work environment an employee whose behavior has the potential for violence against county property, employees, or other persons.
    - (2) Employees who are removed from the workplace shall be placed on administrative leave with pay pending further action.
  - c. Before further action is taken, the supervising department head, elected official, or designee shall complete a threat assessment in consultation with the Human Resources Director and a representative of the County Attorney's Office.
    - (1) If applicable, threatened personnel shall be notified.
  - d. Options available to the supervising department head or elected official may include taking legal action, placing the employee on leave, initiating a Fitness for Duty Evaluation, conducting an administrative investigation, etc.
    - (1) If applicable, a situation-specific security plan must be developed in coordination with security and law enforcement.
  - e. Confidentiality shall be maintained to the extent possible under the law.
5. Employees whose job performance, conduct, or demeanor becomes unsatisfactory based on violations of any of the above or of any other county, department, or elected office policy will be subjected to disciplinary action which may include termination.
- a. Certain violations may subject an employee to criminal prosecution.
6. In order to reduce the incidences of workplace violence, the county encourages any employee who applies for or obtains a protective order or restraining order, which lists county work locations as being protected areas, to provide as soon as possible to their supervising department head or elected official a copy of any temporary or permanent protective or restraining order which is granted.

**\* S A M P L E \***

**EMPLOYEE DISCIPLINARY NOTICE**

EMPLOYEE'S NAME: \_\_\_\_\_ DATE OF NOTICE: \_\_\_\_\_

DEPARTMENT/DIVISION: \_\_\_\_\_

TYPE OF DISCIPLINARY ACTION BEING IMPOSED AND DATE, IF APPROPRIATE:

\_\_\_\_\_

SUPERVISOR'S EXPLANATION OF VIOLATION:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

DATE OF VIOLATION: \_\_\_\_\_ TIME OF VIOLATION: \_\_\_\_\_

PLACE VIOLATION OCCURRED: \_\_\_\_\_

LIST ALL PREVIOUS DISCIPLINARY ACTIONS REGARDING THE SAME VIOLATION:

\_\_\_\_\_

\_\_\_\_\_

CORRECTIVE ACTION REQUIRED:

\_\_\_\_\_

\_\_\_\_\_

***Failure to correct violations could result in further disciplinary action including suspension, demotion, or termination.***

I have read this notice and understand a copy will be placed in my official personnel file.

\_\_\_\_\_  
Employee's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Supervisor's Signature

\_\_\_\_\_  
Date

Copy Distribution:  Employee  Supervisor  Personnel File (Official)