



11.1 GENERAL

- A. Each employee is expected to familiarize themselves with his or her job performance expectations and standards; with the rules, procedures and standards of conduct established by the Town Council, Town Manager, and their department. Any employee who does not meet his or her job standards set out by such performance criteria, rules, procedures, and standards of conduct may be subject to adverse personnel actions.
- B. The Town's disciplinary policy and procedures are designed to provide a structured corrective action process and prevent a recurrence of the undesirable and/or performance issue. The Town's discipline procedures are generally progressive, however the seriousness of the offense may lead to immediate dismissal. In addition, any combination of disciplinary actions may be used.
- C. All disciplinary actions set forth in this section are governed solely by the due process procedures set forth herein. Disciplinary actions set forth in this section are not subject to the grievance procedures set forth in Personnel Policy 18.
- D. Coverage
 - 1. The disciplinary process is not available to employees who are on his or her original probation period or are classified as part-time at-will non-benefit eligible employees.
- E. Relief From Duty
 - 1. Nothing in this section shall preclude the Department Head from immediately placing an employee on paid administrative leave pending application of these disciplinary actions and procedures.
- F. Responsibility of the Town Manager
 - 1. the Town Manager, or designee, may exercise the powers of the Department Head provided for in this section and must be notified of any suspensions without pay, demotions or involuntary dismissals prior to these actions being taken by the Department Head. For court employees, the Town Magistrate will exercise the autonomy required to maintain proper separation of powers.

11.2 CONDUCT OR PERFORMANCE that may REQUIRE DISCIPLINE for CAUSE:

- A. Depending on the seriousness of the situation and surrounding circumstances, including repeated offenses or chronic poor performance, the Department Head may authorize any disciplinary action deemed appropriate.



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- B. When considering or enforcing discipline, the supervisor is required to comply with Federal and State laws.
- C. Employees may be disciplined for the following reasons:
 - 1. Dishonesty.
 - 2. Falsification of Town documents or records, including application for employment.
 - 3. Inefficiency.
 - 4. Neglect of duty.
 - 5. Unauthorized absenteeism.
 - 6. Unauthorized tardiness.
 - 7. Malingering.
 - 8. Insubordination, including, but not limited to, conduct which is unruly.
 - 9. Commission or conviction of a crime.
 - 10. Misuse of Town property.
 - 11. Failure to perform job duties and responsibilities.
 - 12. Failure to maintain minimum qualifications for position.
 - 13. Incompetence.
 - 14. Engaging in prohibited political activities.
 - 15. Discrimination or failure to abide by Equal Employment Opportunity regulations.
 - 16. Any action, on or off the job that brings discredit to the Town.
 - 17. Possessing, dispensing, or being under the influence of alcohol, a narcotic, barbiturate, marijuana, or a tranquilizing or hallucinogenic drug, while on duty, except in accordance with medical authorization or in the lawful performance of the employee's regular assigned duties.
 - 18. Violation of any Town codes, policies, procedures, administrative directives, ordinances, or State or Federal law.
 - 19. Negligence.
 - 20. Sexual or other workplace harassment.
 - 21. Fraud in securing appointment or securing or attempting to secure Worker's Compensation benefits.
 - 22. Discourtesy to another employee or member of the public.
 - 23. Any other reason deemed valid by Town Administration.

11.3 DISCIPLINARY ACTIONS

A. Informal Discipline

Informal discipline includes immediate actions taken by supervisors to correct undesirable actions or to address employee performance issues. Informal disciplinary actions are not appealable or grievable.



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1. Verbal counseling. A supervisor may engage in verbal counseling with an employee at any time to address an issue with performance or conduct. The verbal counseling session is to be documented by the supervisor and acknowledged by the employee. The document will then be recorded in the employee's department supervisor file.
 2. Letter of counseling. A supervisor may issue a letter of counseling to an employee at any time to correct or improve improper conduct or performance. The letter shall contain the specifics of the improper conduct or performance; a plan for improvement; and the date for a follow-up meeting. A copy of the letter, with the employee's acknowledgement and written response, shall be recorded in the employee's department supervisor file.
- B. Formal discipline.
1. Letter of reprimand.
 - a. A Department Head or designee may issue a letter of reprimand to an employee to admonish an employee for serious or repetitive deficient performance or misconduct. The letter will contain:
 - i. The specifics of the deficient performance or misconduct;
 - ii. The action plan for improvement;
 - iii. The consequences of repeated infractions; and
 - iv. The date of the follow-up meeting.
 - b. A copy of the letter, with the employee's acknowledgement and/or response, will be recorded in the employee's official personnel file in Human Resources. The letter of reprimand is not appealable or grievable.
 2. Performance improvement plan
 - a. This is a formal written plan to help the employee improve performance or modify behavior. Through the plan, the supervisor should identify the performance or behavior issues that need to be corrected and define the plan of action to guide the improvement and/or corrective actions.
 - b. An effective written plan includes the following parts:
 - i. Clear identification of the performance to be improved or the behavior to be corrected
 - ii. Clear expectations and metrics about the work to be performed or behavior that must change
 - iii. Identify the support and resources available to help the employee make the required improvements
 - iv. Establish a plan for reviewing the employee's progress and providing feedback to the employee for the duration of the plan
 - v. Specify the possible consequences if performance as identified in the plan are not met.



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- c. Performance improvement plans will be for no less than 30 working days and no more than 180 working days.
 - d. The plan, after signatures are obtained, will be forwarded to Human Resources to be recorded in the employee's official file.
3. Disciplinary Suspension
- a. A suspension is considered to be a significant disciplinary action and may be used by a Department Head or designee for more serious incidents or repetitions of improper performance or conduct.
 - b. A Department Head or designee may suspend any employee without pay for cause. Employees may be suspended for any appropriate length of time in full day increments not to exceed 30 working days. The Department Head or designee must follow the pre-action meeting process as outlined below.
4. Demotion
- a. A demotion for a disciplinary reason is considered to be a significant disciplinary action and may be used for more serious incidents or repetitions of improper performance or conduct.
 - b. A Department Head or designee may demote an employee, for disciplinary reasons provided the employee meets the minimum qualifications of the assigned classification. The Department Head or designee will follow the pre-action meeting process as outlined below.
 - c. Except as otherwise provided in these rules, a demoted employee shall not be required to serve a probationary period in the position to which he or she was demoted.
5. Dismissal
- a. Dismissal for a disciplinary reason is the most serious disciplinary action and must be used for the most serious incidents or repetitions of improper performance or conduct.
 - b. A regular status employee may be dismissed from employment by a Department Head or designee. The Department Head or designee must follow the pre-action meeting process as outlined below.

11.4 INVESTIGATORY SUSPENSION

- A. Department Head or designee may suspend an employee with pay to effect an investigation or resolution of conduct. The Department Head, Human Resources Director and Town Manager must be notified of such investigatory suspensions before taking action if possible or within 24



hours if not possible due to the seriousness or expediency of the situation. Investigatory Suspension with pay is not a disciplinary action and is not subject to the Town's grievance procedure. The employee shall be contacted by the Human Resources Director, or designee, with information about the investigation and any further actions to be taken at that time.

- B. Upon consultation with the Human Resources Director and with the approval of the Town Manager, a paid administrative suspension may be extended.

11.5 INVESTIGATORY INTERVIEWS OF EMPLOYEES

- A. If an employee or the Department Head or designee reasonably believes that an investigation interview could result in suspension, demotion or dismissal, the employee may request to have a representative present.

1. The representative must be available on reasonable notice and be of no cost to the Town.
2. The representative must be an employee and shall not be an attorney.
3. The representative shall participate in the interview only as an observer; however the employee shall be permitted reasonable breaks of limited duration for telephonic or in person consultation with others, including an attorney, who is immediately available.
4. At the conclusion of the interview, the employee will be permitted to consult with the representative and may make a statement not to exceed five minutes.

- B. Prior to the interview the employee shall be provided a written notice containing the following:

1. all alleged facts that are the basis of the investigation;
2. the specific nature of the investigation;
3. the employee's status in the investigation;
4. all known allegations of misconduct that are the reasons for the interview; and,
5. The employee's right of representation.

- C. An interview does not have to be stopped in order to issue another written notice of allegations based on information provided by the employee during the interview.

- D. The Department Director or designee does not have to disclose any fact that would impede the investigation.

- E. The rights listed in both a. and b. above do not apply to an interview of an employee that is:



1. In the normal course of duty, counseling or instruction or an informal verbal admonishment by, or other routine or unplanned contact with, a supervisor or any other Department Head.
2. Preliminary questioning to determine the scope of the allegations or if an investigation is necessary.
3. Conducted in the course of a criminal investigation.
4. Conducted in the course of a polygraph examination.

11.6 PRE-ACTION MEETING

A. Notice of charges

1. Before an employee can be suspended, demoted, or dismissed, the Department Head or designee in consultation with Human Resources will prepare a written notice of charges in sufficient detail to apprise the employee of the specific reasons formal disciplinary actions against the employee are pending. The notice of charges will contain:
 - a. an explanation of the department's evidence;
 - b. the rules, policies and/or procedures that were violated;
 - c. the date, time and location of the meeting; and
 - d. A summary of the employee's rights for the pre-action meeting.
2. The notice of charges will be delivered to the employee either by personal delivery or by certified mail to the employee's last known address on file with human resources. A copy of the notice of charges will be filed with Human Resources.
3. Employees will be provided at least three days' notice in advance of any pre-action meeting.

11.7 PRE-ACTION Meeting

- A. The Department Head or designee will conduct the meeting in conjunction with Human Resources.
- B. The employee is not required to attend the meeting but must be allowed time away from their work responsibilities to attend without being charged any leave.
- C. The employee may respond in writing or in person to present reasons, along with information and documentation to refute the proposed disciplinary action and have a non-attorney representative who is from the same department present at the meeting. The meeting will not be unreasonably delayed to wait for the representative. The representative will serve in an advisory capacity only and may not speak for the employee or ask questions on the employee's behalf.



- D. The Department Head or designee will make a recommendation to support, modify or revoke the proposed actions listed in the notice of charges after the meeting has concluded.
1. If the Department Head or designee decides to take disciplinary action, the Department Head or designee will give the employee a written notice. the notice must include:
 - a. the specific action to be taken,
 - b. the specific reasons for the action,
 - c. the effective date of the action, and
 - d. The employee's right to appeal the decision within ten working days.
 2. The notice will be delivered to the employee either by personal delivery or by certified mail to the employee's last known address on file with Human Resources. A copy of the notice will be filed with human resources.

11.8 APPEAL OF A DISCIPLINARY ACTION

- A. Regular status employees may appeal a dismissal, demotion, and/or suspension.
1. The written appeal must be filed with the Human Resources Director and the Department Head within ten working days from the date of service of the disciplinary decision.
 2. The request for an appeal must state the facts, upon which the appeal is based, identify all people and agencies involved, contain all the documents to be reviewed, and the action requested of the Town Manager or designee.
 3. The appeal will be reviewed by the Town Manager or designee who may confer with others as required, investigate the appeal, and communicate a decision in writing to all concerned parties within ten working days upon receipt of the appeal.
- B. Final appeal
1. Regular status employees may appeal the decision of the Town Manager or designee within ten working days of the decision by submitting a written request to the Human Resources Director and copying the Legal Services Director.
 2. The Human Resources Director will select a hearing officer (HO) and set a hearing date.
 - a. In any appeal, the Town of Oro Valley or the grievant may request a change of hearing officer. The request must be granted the first time. Any subsequent requests may be granted only upon a showing that a fair and impartial review cannot be obtained due to the prejudice of the assigned ho. The Human Resources Director, with the consultation



of the Town Attorney, shall decide whether a showing of prejudice has been made.

3. Not less than ten working days prior to the hearing date, the appellant shall submit to the hearing officer, and copy the Legal Services Director, a position statement setting forth the arguments, potential witnesses and evidence they anticipate will be introduced for the review. All documentation that the appellant intends to present or rely upon for the hearing shall be attached to the position statement.
4. Not less than ten working days prior to the review, the Legal Services Director or designee shall submit to the hearing officer, and disclose to the appellant, a responding position statement including potential witnesses and evidence to be introduced or relied upon during the hearing.
 - a. The Legal Services Director may request a rescheduling of the hearing date if they do not receive the appellant's position statement 20 working days prior to the hearing.
5. Hearing procedures
 - a. The burden of proof shall be on the Town.
 - b. Technical rules of evidence do not apply other than privileges recognized by Arizona law.
 - c. The review shall be recorded and the record may be transcribed upon request.
 - d. The party requesting transcription shall be responsible for any costs incurred.
 - e. Unless requested otherwise by the appellant, reviews and hearings are conducted privately.
 - f. The hearing shall proceed as follows:
 - i. The HO will begin the hearing by introducing all parties, summarizing the issues, and identifying relief requested and outline the review sequence.
 - ii. The only people present during the hearing shall be the hearing officer, the appellant and their representative (if applicable), the Legal Services Director or designee, the Human Resources Director, the Town of Oro Valley representative and any witnesses the hearing officer requests be present.
 - iii. The appellant will present his/her evidence that the decision should be changed.
 - iv. The Legal Services Director will present their evidence and support findings.
 - v. Each witness for the Town of Oro Valley and the appellant may only be questioned by the hearing officer.
 - vi. The appellant or their representative may make comments or closing remarks.
 - vii. The Town's representative may make comments or closing remarks.
 - g. Hearing officer decision



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- i. A decision will be issued within 15 working days.
- ii. The hearing officer may order that the action of the town stand, that a lesser action or consequence be imposed, and/or that some or all of the relief requested by the appellant be granted.
- iii. Except when the decision affirms the dismissal of an employee, the appellant's seniority rights shall not be affected by the decision.
- iv. If the ho orders to reinstate an employee who has been suspended or discharged, they shall specify as part of their decision whether the employee shall receive back pay for all or part of any time lost as a result of Town action.
- v. Copies of the written recommendation shall be sent to the Legal Services Director, Human Resources Director and the appellant.
- vi. The HO's decision is final and there are no additional appeals available through the Town's appeals process.