



Eric Hawkins
Chief of Police

ALBANY, NEW YORK
POLICE DEPARTMENT
165 HENRY JOHNSON BOULEVARD
ALBANY, NEW YORK 12210



1789

DISCIPLINARY PROCEDURES
GENERAL ORDER NO: 2.2.20

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Issuing Authority: Chief Eric Hawkins	

PURPOSE: The purpose of this policy is to identify personnel who have the authority to impose corrective and disciplinary actions, define considerations in determining the appropriate action to impose, define the administrative hearing and appeal processes, and to describe how related records are maintained.

POLICY: It is the policy of the Albany Police Department to ensure consistency in the manner in which corrective and disciplinary actions are administered. Personnel are subject to provisions outlined in their respective Collective Bargaining Agreement, if applicable. Nothing herein shall supersede an employee’s Collective Bargaining Agreement. All provisions are subject to the mandates and constraints of New York State law; including Section 75 of the New York State Civil Service Law. Counseling and training shall be considered positive in nature, and may be utilized as a tool to improve an employee’s productivity and effectiveness through positive and constructive methods.

DEFINITIONS: **Non-Punitive Corrective Action** – Non-punitive corrective action means a remedial component that is utilized to correct minor employee misconduct or to eliminate work performance deficiencies. It is considered positive in nature; therefore it is not subject to appeal. Non-punitive corrective action consists of counseling and/or training.

Punitive Action – Punitive action means a disciplinary component used to deter serious employee misconduct and to stop repeated work performance deficiencies. Punitive action consists of reprimand, loss of leave, suspension without pay, demotion, and/or discharge.

I. NEW YORK STATE CIVIL SERVICE LAW - SECTION 75

A. The Albany Police Department complies with Section 75 of the New York State Civil Service Law, which establishes disciplinary procedures for covered employees. Employees covered by Section 75 shall be afforded the opportunity for a hearing when the department pursues charges for incompetence or misconduct.

1. The disciplinary process for employees covered by a Collective Bargaining Agreement shall be in accordance with such Agreement.

2. Employees shall then refer to the following policies and procedures, in the designated order:
 - a. The Albany Police Department Policies and Procedures Manual.
 - b. The City of Albany Personnel Policy and Procedures Manual.
- B. Employees not covered by Section 75 shall refer to the following policies and procedures, in the designated order:
 1. The Albany Police Department Policies and Procedures Manual.
 2. The City of Albany Personnel Policy and Procedures Manual.
- C. The remainder of this policy will follow the above outlined coverage regarding matters pertaining to all aspects of the disciplinary system. Due to the varying degrees of coverage, (based on an employee's status, class, appointment, service, and/or position) the below sections of this policy are a guideline only and the above coverage shall be referred to in the designated order.

II. NON-PUNITIVE CORRECTIVE ACTION

- A. Non-Punitive Corrective Action Role and Authority:
 1. Supervisory and command level personnel are authorized to impose the following non-punitive corrective disciplinary actions:
 - a. Counseling (Oral or Written); and
 - b. Training.
- B. Procedures and Criteria for Using Non-Punitive Corrective Action:
 1. Counseling:
 - a. Counseling is a non-punitive corrective component designed to correct minor acts of employee misconduct and/or work performance deficiencies through the use of positive methods.
 - b. Counseling affords supervisors the opportunity to discuss improvement strategies with the employee in relation to work performance deficiencies and/or minor acts of misconduct.
 - c. Counseling may also serve as a notice of a possible administrative response to repeated acts of misconduct and/or continued work performance deficiencies.
 - d. Written counseling shall be documented on an Albany Police Department Counseling Form, APD Form # 457 shown on page 7 of this order.
 - i. The supervisor shall identify the area needing improvement, offer guidance as to how the improvement can be achieved, and ensure the employee understands the department's expectations.
 - ii. The original form shall be forwarded to the Office of Professional Standards (OPS) and placed in the employee's

personnel file.

- 1) Counseling memos shall be removed from an employee's personnel file upon the next performance evaluation.

- iii. A copy shall be given to the employee.

2. Training:

- a. Training is a non-punitive corrective component designed to improve an employee's productivity and effectiveness through the use of positive education and instructional methods.
- b. When training is implemented, the Training Unit shall be responsible for developing specified training plans.
 - i. The training plan shall be designed to address the specific deficiency noted.
 - ii. Training plans shall be documented on an Intra-Departmental Correspondence and placed into the employee's training file, as well as the employee's personnel file.

III. PUNITIVE ACTION:

A. Punitive Action Role and Authority:

1. The Chief of Police has the authority and responsibility pertaining to all matters of the department's discipline system.
2. Supervisory and command level personnel are authorized to recommend the following punitive measures for misconduct or incompetence:
 - a. Oral Reprimand/Warning;
 - b. Written Reprimand/Warning;
 - c. Loss of Leave Credits;
 - d. Suspension Without Pay;
 - e. Demotion; and/or
 - f. Discharge.
3. The commanding officer may impose summary discipline for an employee violating the following:
 - a. Absent Over Leave;
 - b. Absent Without Leave;
 - c. Grooming Code;
 - d. Uniform or Dress Code; and
 - e. Any and All Offenses by Agreement of the Parties in Writing.
4. Summary discipline imposed by the commanding officer shall be according to the following:

- a. For the first incident, the discipline shall be an oral reprimand;
 - b. For the second incident, occurrence shall be in accordance with the applicable Agreement, the discipline shall be a written reprimand;
 - c. For the third incident, occurrence shall be in accordance with the applicable Agreement, the discipline shall be a suspension or loss of leave credits of up to three (3) work days.
 - i. These procedures are optional, but shall be encouraged to correct deficiencies in an employee's work habits.
 - ii. If formal written charges are filed pursuant to this section, the formal disciplinary procedures shall be followed.
 - iii. No disciplinary action or measure beyond subsection b, outlined above, shall be imposed upon an employee prior to the exhaustion of the appeal procedure outlined in the employee's respective Agreement.
 - 1) An employee may, however, be suspended without pay pending the outcome of such proceedings only if the commanding officer determines that there is probable cause to believe that the employee's continued presence on the job represents an actual danger to persons or property, or would severely interfere with operations.
- 5. Any discipline administered pursuant to commanding officer discipline shall be subject to the grievance and arbitration procedure.
 - 6. An employee covered by a Collective Bargaining Agreement, shall be entitled to union representation during all stages of the disciplinary process.
 - 7. Personnel of this department may be charged with a violation of the rules of conduct when, in the opinion of a supervisor:
 - a. Such employee is negligent or derelict in the performance of official duties;
 - b. Such employee is incompetent or without capacity to perform an official duty;
 - c. Such employee is guilty of delinquency seriously affecting his/her general character; or
 - d. Such employee violates provision(s) of the policies and procedures established by this department.

B. Procedures and Criteria for Imposing Punitive Action:

- 1. When disciplinary charges are being preferred, the following shall apply:
 - a. The facts of the matter shall be detailed in an Intra-Departmental Correspondence, which shall be reviewed by the Unit/Station Commander, prior to submission to the Chief of Police.
 - b. Disciplinary charges shall be served within the context of the employee's respective Agreement, if applicable.

2. Upon approval of the Chief of Police, and upon preparation of formal charge papers by the Office of Professional Standards:
 - a. The serving of formal charge papers shall be completed by the Office of Professional Standards or by a supervisor other than the preferring supervisor.
 - i. A union representative shall be present during such presentation to the involved employee, if applicable.
 - ii. Upon receiving said charge(s), the involved employee shall choose an option as provided in the "Disciplinary Response and Appeal Section" of said papers.
3. After receiving and signing the formal charge papers, distribution shall be according to the following:
 - a. One (1) copy shall be given to the employee;
 - b. One (1) copy shall be forwarded to the designated union; and
 - c. The original and one (1) copy shall be forwarded to the Office of Professional Standards.
 - i. Disciplinary processes shall be within the designated time frames, as outlined in the employee's respective Agreement, if applicable.
4. Suspensions:
 - a. Employee suspensions shall be conducted in accordance with the employee's respective Agreement and/or when applicable, the following guidelines shall be followed:
 - i. The commanding officer shall inform the involved employee of the suspension and the reason for the suspension.
 - ii. Sworn personnel shall immediately surrender any duty weapon(s), shield, hat piece, identification card, and any non-authorized firearm(s) not allowed by law, to the commanding officer; with receipt given for such. Such property and property receipt shall be delivered to the Office of Professional Standards.
 - 1) Firearms carried on a "C" form (officer's badge) shall be surrendered.
 - 2) Firearms carried on a pistol permit are not required to be surrendered.
5. Appeal Procedures:
 - a. An employee whom disciplinary charges are brought shall have the right to appeal such action.
 - i. The employee shall utilize procedures set forth within the

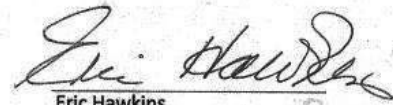
employee's respective Agreement or the procedures set forth in Sections 75 and 76 of the New York State Civil Service Law, where applicable.

C. Dismissal Procedures:

1. When an investigation of employee misconduct results in the dismissal of the employee, the employee shall be provided with a written notification, which shall include the following:
 - a. A written statement citing the reasons for dismissal;
 - b. The effective date of dismissal;
 - c. A statement of fringe and retirement benefits after dismissal; and
 - d. A statement as to the content of the employee's employment record relating to the dismissal.

D. Information Sharing with Corporation Counsel:

- d.1. Officer disciplinary information should also be given to the Corporation Counsel's office. OPS & the Corporation Counsel should consistently look for disciplinary patterns involving policing concerning the same officer.



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ALBANY POLICE DEPARTMENT
COUNSELING FORM

On _____ at _____ while at _____
Date Time Location/Address IP

_____ advised _____
Supervisor's Name Subordinate's Name

You are counseled to wit:

Your attention is directed to Section (s) _____ of the SOP, R & R, General Order #, Etc.

Supervisor's Signature and Date Employee's Initials and Date

A copy of this form shall be provided to the employee and a copy is ODS for personnel file. This form is not a request for oral disciplinary action. The initialing by the employee serves only as confirmation that they have conferred with the named supervisor. All rights and penalties preserved under the employee's respective Collective Bargaining Agreement, if applicable. This form shall be removed from the employee's personnel file upon completion of the next performance evaluation.

APD # 457 (Revised 12/2015)