

ADMINISTRATIVE REGULATIONS

Number: 404
Sections: 1-7
Effective Date: August 1, 1982
Revision Date: October 12, 1994

SUBJECT: Exercise of Discipline Leading to Dismissal, Demotion or Reduction in Pay

1. Purpose. To establish a uniform method and procedure for imposing discipline on permanent employees
2. Authority. City Charter Section 401.
3. References. Huntington Beach Personnel Rules, Rule 7.
4. Application. This regulation applies to all permanent employees of the City.
5. Policy. Positive, corrective, consistent and constructive discipline is encouraged in order to insure that all employees comply with the City's rules and regulations regarding employee conduct and behavior.

5.1 Probationary employees shall be carefully evaluated during probation in order to minimize the necessity for dismissal, demotion or reduction in pay after probation.

6. Responsibility. The primary responsibility for discipline rests with department heads and their subordinate supervisors.

7. Procedure. Each supervisor shall make every effort to discuss any disciplinary problems with the employee in an attempt to assist the employee in resolving the problem or problems that may indicate unsatisfactory performance and/or behavior. The supervisor shall make positive and constructive efforts to assist the employee in improving to achieve satisfactory performance and/or behavior. In the event such constructive efforts fail and improvement is not forthcoming, it may become necessary to impose negative or punitive discipline on the employee. In this event, the following may be considered by the supervisor in formulating the kind and degree of negative discipline to be imposed:

7.1 Whether the proposed disciplinary action reasonably relates to the seriousness of the problem or action which precipitates the need for discipline, and whether the discipline will appear reasonable to an outside disinterested third party (arbitrator or the Personnel Commission).

7.2 Whether the discipline to be imposed is consistent with the concept of progressive discipline, that is, the discipline imposed becomes progressively more



ADMINISTRATIVE REGULATIONS

severe. For example, verbal warnings with a note to the employee's file, written warning, written warning with time off without pay, and, ultimately, termination. Of course, there are situations where progressive discipline is inappropriate and initial, serious discipline is necessary.

7.2.1 Department heads shall maintain complete documentation in writing of matters requiring disciplinary action and a continuing file of all verbal counseling including date, time and subject matter.

7.2.2 Every attempt should be made to counsel employees with work difficulties, pointing out specific problems and specific requests for improvements.

7.2.3 In the event dismissal, demotion or reduction in pay becomes necessary, the department head shall prepare a complete file including the "written statement of the reasons" for the dismissal, demotion or reduction in pay which is provided under Personnel Rule 7.

7.2.4 The file and proposed action shall be reviewed with Personnel and the City Attorney prior to a proposed termination.

7.3 The following procedure, commonly known as a "Skelly Notice", shall be utilized for giving notice and imposing severe discipline (termination, demotion, or loss of pay):

- a) The employee must receive, in advance, A Notice of Proposed Adverse Action (See attachment A).
- b) The notice must state the reasons upon which the proposed action is based.
- c) The notice must contain the charges upon which the proposed action is based.
- d) The employee must be given copies of, or allowed access to the materials upon which the proposed action is based.
- e) The employee must be given the right to respond orally and/or in writing to the authority initially proposing the action.

7.4 In cases of severe discipline, the employee should be given at least seven calendar days to review and respond to charges. Lesser discipline should allow a reasonable time for response. These time limits should precede the disciplinary action. The employee may remain on the job pending a decision unless the employee's continued presence on the job would create an emergency situation or prove harmful to the safety



ADMINISTRATIVE REGULATIONS

and welfare of citizens or other employees. In any event, the employee is entitled to pay until the written decision is made.

7.5 Prior to taking severe disciplinary action (e.g., more than a 5-day suspension), the supervisor, Department Head or designee shall request, in writing, a review of the matter with the Personnel Director and the City Attorney.

7.6 Approval of the City Administrator shall be obtained prior to termination of any permanent employee.


City Administrator



SAMPLE NOTICE OF PROPOSED ADVERSE ACTION
(To inform employee to intended disciplinary action prior to taking such action,)

TO: Employee's Name
FROM Name of Disciplinary Authority
SUBJECT: Notice of Intent to Terminate (or Suspend or Demote)

DATE:

This is to advise you that I am proposing that you be terminated from your position of (job title) effective at the end of your regular work shift on (date—at least 7 calendar days from date letter is given to employee).

The action is proposed to be taken for the following listed grounds: (List all applicable rules or ordinance numbers).

1. Violation of Personnel Rule 7-2 (7) - Insubordination
2. Violation of Personnel Rule 7-2 (13) - Unexcused absence without leave.

The above grounds are based on the following acts or omissions:(Set forth clearly and specifically all of the details, dates, places, events which give rise to the action).

As you will recall, on (date) (list all previous oral reprimands, written reprimands, and suspensions relevant to this disciplinary action).

Copies of the following documents which I considered in making this recommendation are attached:

(list of documents)

(or)

Copies of all documents, your personnel file, and other material which support the proposed action will be made available in the (location) upon request during regular office hours.

If you believe this action is not appropriate, you have the right to respond to (name/title of official) either orally or in writing by (date—at least 7 calendar days from date letter is delivered to employee, if termination is proposed), or be represented by counsel or other representative, at your expense. Your response will be considered before final action is taken.

If you wish to respond orally, please contact (person's name) so that a specific time can be set for your oral response. Written responses must be sent to (person's name) at (address).