

## Discipline

### 312.1 PURPOSE AND SCOPE

To set forth the policy and procedures relating to discipline. This policy applies to all employees.

#### 312.1.1 DEFINITIONS

(a) **Pre-Discipline** :

1. **Directive Memorandum** - Informs employee how to complete a task and directs employee to perform correctly in the future.
2. **Corrective Memorandum** - Warns employee that even after previous direction task is still being completed incorrectly. Requires correction of performance.
3. **Corrective Counseling Memorandum** - Pre-disciplinary formal counseling process, with dialogue between supervisor and employee. Confirmed with a memorandum to employee. Last pre-discipline step.
  - Directive Memorandums, Corrective Memorandums and Corrective Counseling Memorandums do not go in the official personnel file unless later included with a performance evaluation.

(b) **Discipline** :

1. **Disciplinary Action** - Written reprimand, dismissal, demotion, reduction in compensation, suspension, or any other action taken for disciplinary reasons, that directly affects the wages, hours, or working conditions of a permanent employee.
2. **Written Reprimand/Disciplinary Letter** - A formal notice to an employee that further disciplinary action will be taken unless his/her behavior or performance improves. Letter placed in personnel file.
3. **Suspension** - Disciplinary action requiring the employee to take time off work without pay.
4. **Reduction (Demotion)** - Disciplinary action requiring the removal of an employee from his/her present position to a lower paying position or salary step.
5. **Reduction in Compensation** - A change within the salary range from the existing step to a lower step for a specific duration of one or more full pay periods, but not to exceed 13 pay periods.
6. **Discharge/Dismissal** - Permanent removal of an employee from service.
7. **Resignation: An Alternative to Disciplinary Action** - An employee may offer to resign instead of facing disciplinary action. By doing so, the employee loses the right to appeal.

### 312.2 AUTHORITY AND REFERENCES

- Executive Team;
- Board of Supervisors Policy C-23;

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- Peace Officer's Bill of Rights § 3300;
- Employee MOU's.

### **312.3 POLICY**

It is the policy of the Riverside County Probation Department to inform employees of the behavior expected of them and of the rules, regulations, policies, procedures, and practices by which they must abide. Any disciplinary action shall be consistent and in accordance with Ordinance 440 and the current employee MOU's.

### **312.4 PROCEDURE**

- (a) Basis for Discipline - Any of the following acts of an employee who has permanent status shall be good cause for dismissal, demotion, reduction in compensation, suspension, or any other action taken for disciplinary reasons deemed appropriate by the Chief Probation Officer:
1. Dishonesty;
  2. Incompetence;
  3. Inefficiency or negligence in performance of duties;
  4. Neglect of duty;
  5. Insubordination or willful violation of an employee regulation prescribed by the Board of Supervisors or the head of the department which the employee is employed;
  6. Absence without leave;
  7. Conviction of either a felony, or any offense, misdemeanor or felony, involving moral turpitude, or any offense in connection with or affecting the employee's duties other than minor traffic violations. Conviction means a plea of guilty or nolo contendere or a determination of guilt in a court of competent jurisdiction;
  8. Discourteous treatment of the public or other employees;
  9. Political activity in violation of federal or state law;
  10. Physical or mental unfitness to perform assigned duties;
  11. Making a material misrepresentation in connection with obtaining or maintaining employment or position;
  12. Conduct either during or outside of duty hours which adversely affects the employee's job performance or operation of the department in which he/she is employed.
  13. Failure to maintain the license, registration, certificate, professional qualifications, education, or eligibility required for the employee's classification when the failure of the employee to maintain such requirements adversely affects the employee's ability to perform his or her job or the performance of

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the department. The department shall prescribe procedures to ensure that employees affected by the requirements are informed of them.

14. Substance abuse in violation of the County of Riverside Alcohol and Drug Abuse Policy.
  15. Violation of the County Anti-Violence in the Workplace Policy.
  16. Violation of the County's Harassment Policy.
    - As expressed in the department's Code of Ethics, included in this manual, a high level of performance and conduct is expected of employees in their respective work assignments, as well as demonstrated good citizenship away from work. Acceptance of employment with the department signifies a commitment to these principles.
- (b) An employee may be terminated as a result of a reduction in force or abolition of a function.
- (c) Level of Discipline - The level and/or extent of discipline shall be determined by the Chief Probation Officer, or as delegated, after a complete investigation of the facts pertinent to the matter. In arriving at a disposition of a matter indicating discipline, consideration will be given to: (1) an evaluation of the impact of the activity on the department, the courts, allied agencies and the public; (2) the circumstances and the gravity of the activity; (3) the prior performance and attitude of the employee; and (4) any other pertinent information. All formal disciplinary action shall be permanently recorded in the employee's departmental personnel file.
- (d) Involuntary Leave of Absence
1. Pending investigation by the Department Head of accusation against an employee alleging employee misconduct, covered under Article XI, Memorandum of Understanding, the Department Head may place the employee on a leave of absence for a period of time not to exceed fifteen (15) working days with pay.
    - (a) If the department head is unable to complete the investigation within the fifteen (15) days referenced above, the leave of absence may be extended to a combined maximum of ninety (90) calendar days. In such cases, and except for good cause as solely determined by the department head, the department head will notify the employee as to what specific allegations are being investigated. The Union will also be notified as to the extension only. Additional leave may be granted subject to the approval of the Human Resources Director. In the event the Human Resources Director does not approve the request for additional leave, the employee shall be returned to duty pending the completion of the investigation and the imposition of any disciplinary action provided, however, the department head may alter the employee's duties or assignment until the investigation is completed when he/she determines it is in the County's best interest. Except for investigations of employment related issues that are also the subject of on-going criminal investigations, leave shall not extend beyond a maximum of one hundred eighty (180) days.

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- (b) The administrative leave provisions of this Section do not apply to investigations related to, or resulting from, Fitness for Duty or Workers' Compensation related issues.
  - (c) An employee placed on Administrative Leave pursuant to the provisions of this Section shall, unless otherwise directed, be required to contact his or her supervisor, or other designated party(ies) at the start of each shift he or she would otherwise have been required to work and shall be required to return to work within twenty-four (24) hours notice by an authorized department representative. It is also the employee's responsibility to ensure the department has his or her current address and, if applicable, home telephone number.
- 2. If disciplinary action is not taken on or before the date such a leave is terminated, the employee shall be deemed to have been on duty.
  - 3. If disciplinary action is taken on or before the date such leave is terminated, the disciplinary action may be taken retroactive to any date on or after the date the employee went on leave. Anyone employed in the Probation Officer, Probation Corrections Officer or Group Supervisor/Instructor series, if convicted of a felony, shall be terminated immediately. Anyone employed in other classifications may be terminated based on the review and decision of the Chief Probation Officer.

#### 312.4.1 NOTICE OF DISCIPLINARY ACTION

- (a) For permanent employees written notice of intent to take disciplinary action shall be served on the affected employee, except as previously provided, at least seven (7) working days prior to the effective date of the action and shall include:
  - 1. A description of the action(s) to be taken and the expected effective date(s);
  - 2. A clear and concise statement of the specific grounds and particular facts upon which the disciplinary action is based;
  - 3. A statement that a copy of the materials upon which the action is based is attached or available for inspection upon request; and
  - 4. A statement informing the employee of the right to respond either verbally or in writing to the Department Head prior to the effective date of the disciplinary action(s).
- (b) After considering the response or if the time to respond has elapsed without the employee responding, written notice that the disciplinary action will be implemented shall be served on the employee on or before the effective date of the action and shall include:
  - 1. A statement informing the employee of the disciplinary action(s) taken, the effective date(s) of the action(s), and that the action is being taken for the acts specified in the letter of intent; and
  - 2. A statement informing the employee of the right to appeal within 10 working days of the date the letter is served on the employee.

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### 312.4.2 AMENDED NOTICE OF DISCIPLINARY ACTION

- (a) At any time before an employee's appeal is submitted to the Conciliator or Arbitrator for decision, the Department Head may, with the consent of the Employee Relations Manager, serve on the employee and file with the Employee Relations Manager an amended or supplemental notice of disciplinary action.
- (b) If the amended or supplemental notice presents new causes or allegations, the employee shall be afforded a reasonable opportunity to prepare a defense thereto. The employee shall not be required to file a further appeal. Any objections to the amended or supplemental causes or allegations may be made orally or in writing at the hearing.

### 312.4.3 APPEALS

Any employee may appeal any disciplinary action taken against the employee. The appeal shall be in writing and filed with the Director of Employee Relations within ten (10) working days after the date of notification of action against which the appeal is made. An appeal shall:

- (a) Be accompanied by a copy of intent and final decision notice of disciplinary action served on the employee;
- (b) A brief statement of the facts and reasons for the appeal; and
- (c) A brief statement of the relief requested.

### 312.4.4 WAIVER

If an employee fails to appeal the disciplinary action within the time specified, or after appealing, withdraws the appeal, the right to review is waived.

### 312.4.5 HEARING PROCEDURE - MINOR DISCIPLINE

- (a) When disciplinary action results in a suspension of eighty (80) working hours or less, pay reduction equal to eighty (80) hours or less of gross salary, or a written reprimand, the appeal shall be determined under the following provisions:
  - 1. Appeals shall be heard by a person assigned by the State Conciliation Service, or another third party neutral (hereinafter referred to as a conciliator) agreed to by the parties. The conciliator's decision may be verbal or in writing. The conciliator's decision shall be binding on both parties, neither of which shall have the right of further appeal.
  - 2. Only the employee and one (1) non-attorney representative and the department head or a designee and the Human Resources Director or a non-attorney designee shall take part in the presentation of any appeal, unless the employee is an attorney who is self represented. Nothing herein shall prevent an attorney testifying to facts of which the attorney has personal knowledge and that which the attorney may be competent to testify.
  - 3. The appeal hearing and disposition of the appeal shall be informal, the object being to settle the appeal promptly by the parties. The parties shall have the right to offer evidence by witnesses at the hearing subject to the discretion of

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the impartial party. The conciliator may consult with witnesses informally and otherwise investigate the controversy.

4. The conciliator may modify the disciplinary action, but in no event shall have the authority to increase the disciplinary action imposed to be greater than in Section 7(A) herein.
5. The judgment of the conciliator shall be rendered within five (5) working days of submission of the controversy to him/her. Provided, however, the parties may mutually agree to extend the time in which the judgment may be rendered.
6. The conciliator's authority shall be limited to deciding the issues submitted by the parties. The conciliator shall have no jurisdiction or authority to add to, delete from, or modify any written provisions herein.
7. All costs for the service of the conciliator, if any, including but not limited to, per diem expenses, travel and subsistence expenses, a transcript, and the cost of the hearing room will be borne equally by the County and the employee.

### 312.4.6 HEARING OFFICER - MAJOR DISCIPLINE

- (a) Appeals filed in cases of termination, suspension exceeding eighty (80) Working hours, or pay reductions exceeding eighty (80) hours of gross salary shall be heard by an arbitrator.
- (b) The parties shall maintain a jointly negotiated list of no fewer than seven nor more than eleven arbitrators who shall be selected by the striking method. The only remaining name after the striking process shall serve as the arbitrator. If unable to agree on who should strike first, the first name shall be struck by the party winning the toss of a coin. If the arbitrator chosen is unable to serve within a time frame acceptable to both parties, the last name struck will serve as the arbitrator. As soon as possible, a representative from RSA and the County shall meet to establish the list of up to eleven Arbitrators.
- (c) The hearing shall be set by the Director of Employee Relations, or designee, and the employee representative, or employee, within a reasonable period based on the arbitrator's availability and other scheduling factors.
- (d) The employee and the department head may be represented by counsel or other representative, provided, however, if the employee is in a representation unit wherein an Employee Organization has been awarded exclusive recognition pursuant to the Employee Relations Resolution, unless represented by counsel, the employee may be represented only by the exclusive employee organization.
- (e) It shall be the duty of any County Officer or employee to attend a hearing and testify upon the written request of either the employee, the department head, or the arbitrator, provided reasonable notice is given the department employing the officer or employee. The Director of Employee Relations shall arrange for the production of any relevant County record. The arbitrator is authorized to issue subpoenas.
- (f) All appeal hearings involving the dismissal of an employee shall be reported by a stenographic reporter. All other appeals need not be reported but either the employee or the department head may, at their own expense, provide a reporter for the hearing.

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- (g) The expenses of the arbitrator and transcripts, if required, shall be shared equally by the parties. Each party shall make arrangements for and pay expenses of witnesses that are called by such party, except that any County employee called as a witness shall be released from work without loss of compensation or other benefits to attend the disciplinary hearing.
- (h) Any arbitration expense incurred as the result of a postponement or cancellation of a hearing shall be borne by the postponing or canceling party.
- (i) Within 21 days following the submission of the appeal, the arbitrator shall submit written findings of fact, conclusions of law, and the decision to the parties together with a copy of the appeal and a summary of the evidence taken at the hearing. The decision of the arbitrator shall be final subject to the right of either party to seek judicial review under Section 1094.5 of the California Code of Civil Procedure.
  - 1. The arbitrator shall confine the decision to issues raised by the statement of charges and responses. The arbitrator shall act in judicial, not legislative manners. The arbitrator shall not amend, modify, nullify, ignore, add to or subtract from the provisions of these terms and conditions of employment but, rather, shall interpret and apply its terms.
  - 2. If the arbitrator finds that the disciplinary action was appropriate, the action shall be sustained.
  - 3. In the case of suspension/reduction in compensation or demotion, if the action is modified or rescinded, the appellant shall be entitled restoration of pay and/or fringe benefits in a manner consistent with the arbitrator's decision.
  - 4. In the case of discharges, if the arbitrator finds the order of discharge should be modified, the appellant shall be reinstated to a position in the classification held immediately prior to discharge subject to forfeiture of pay and fringe benefits for any period of suspension imposed by the arbitrator.
  - 5. If the arbitrator finds the order of discharge should be rescinded, the appellant shall be reinstated to a position in the classification held immediately prior to discharge and shall receive pay and fringe benefits for all of the period of time between the discharge and reinstatement.
  - 6. The County shall not be liable for restoring pay and fringe benefits for any period(s) of time the appellant was reduced or removed from duty which results solely from the appellant's request for written briefs in the arbitration proceedings.
  - 7. Restoration of pay benefits shall be subject to deduction of all Unemployment insurance and outside earnings which the appellant received since the date of discharge which would not have been earned had the appellant not been disciplined. The appellant shall supply such outside employment earning records during the period of time in question when requested.

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### 312.4.7 EVIDENCE AND PROCEDURES APPLICABLE TO ALL HEARINGS

- (a) Hearings need not be conducted according to technical rules of evidence. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs.
- (b) Hearsay evidence shall be admitted and may be used for the purposes of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support disciplinary action as defined in Section 1.a. herein, unless it is the type of hearsay admissible over objection in a civil action. The rules of privilege shall apply to the same extent to which they are recognized in civil actions.
- (c) Irrelevant and unduly repetitious evidence shall be excluded.
- (d) The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions. In addition, communications between Human Resources Department employees, non-attorney advocates, Management or employees of County departments involved in an arbitration, and communications between the union representative and the employee who is the subject of a personnel action shall be confidential and not subject to disclosure in a personnel hearing.
- (e) Oral evidence shall be taken only on oath or affirmation.
- (f) Employees not testifying in their behalf may be called and examined as on Cross examination.
- (g) The employee and the Department Head shall have these rights:
  - 1. To call and examine witnesses;
  - 2. To introduce exhibits;
  - 3. To cross-examine opposing witnesses on any matter relevant to the issue, even though the matter was not covered in the direct examination;
  - 4. To impeach any witness regardless of which party first called the witness to testify; and
  - 5. To rebut any derogatory evidence.
- (h) The hearing shall be a private proceeding among the County, the employee and the employee organization.

### 312.4.8 DISCIPLINARY PROCEDURE

Any notice required to be given by this procedure shall be in writing and shall be deemed served when personally delivered to the person to whom it is directed or when deposited in the United States mail, registered or certified postage prepaid, and addressed to the designated recipient at the last known address. Whenever there is an interrogation of an employee where the significant purpose is to investigate facts to support disciplinary action there is a right for the employee to be represented.

- (a) The Director of Employee Relations may, for good cause, extend the time for performance of any act required or permitted by this procedure upon written request prior to expiration of the time fixed.



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- (b) Please refer to the current Memorandum of Understanding for Disciplinary Appeal Procedure, Hearing Procedure - Minor Discipline, Hearing Procedure - Major Discipline.

Date(s) revised:

08/30/2010

04/29/1997

Created: 07/01/1986

Attachments:

1. [Board of Supervisors Policy C23.pdf](#)

## Attachments

## **Board of Supervisors Policy C23.pdf**

**COUNTY OF RIVERSIDE, CALIFORNIA**  
**BOARD OF SUPERVISORS POLICY**

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DISCIPLINARY PROCESS POLICY

**OBJECTIVE:**

When employees become supervisors and managers, they acquire the responsibility for managing employees under their supervision. Implementing disciplinary action is an integral part of this management function. As disciplinary action is sometimes necessary and county-wide consistency is of the utmost importance, it is the intent of this policy to improve the effectiveness of the disciplinary process by ensuring that all agency/department heads, managers and supervisors receive the necessary training and support to implement appropriate disciplinary action when it is warranted.

The purposes of this policy includes the following:

1. Ensure that agency/department heads, managers, and supervisors are held accountable to manage poor employee performance by using the disciplinary process when disciplinary action is warranted. Performance evaluations of managers and supervisors will be based in part on compliance with this policy. Failure to comply may result in disciplinary action.
2. Ensure a consistent application of the disciplinary process by:
  - a. Maintaining a uniform training program and manual administered by the Human Resources Department.
  - b. Requiring all agency/department heads, managers, supervisors to attend the Disciplinary Process training program.
  - c. Requiring all agencies/departments to consult with the Human Resources when any form of disciplinary action may be necessary and to impose final discipline identified by Human Resources for all employees including permanent, temporary, per diem, TAP and probationary in accordance with paragraphs 3 and 4 below.
  - d. Provide sufficient support to agencies/departments to administer disciplinary actions in a timely and effective manner.

**POLICY:**

1. Agency/department heads, managers and supervisors shall attend a Disciplinary Process training program administered by the Human Resources prior to or within 90 days of appointment.

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DISCIPLINARY PROCESS POLICY

2. Effective immediately, agency/department heads, managers and supervisors shall notify and consult with the Human Resources whenever an event occurs that may warrant any form of disciplinary action.
3. Human Resources will investigate and make a determination as to the level of discipline if any.
4. Human Resources will also make determinations concerning investigative or administrative leave, fitness for duty evaluations, interviews, settlement and last chance agreements, and other issues that arise concerning the disciplinary investigation, disciplinary action and/or disciplinary appeal process.
5. Investigative interviews for employees not covered by the Peace Officer's Bill of Rights are not to be taped either by audio or video or transcribed without direct authorization by the Human Resources Director or designee.
6. In instances involving the use of alcohol, drugs, threats, violence, sexual harassment and /or other forms of discrimination in the workplace, final discipline shall be imposed as identified by Human Resources. In cases involving drugs and alcohol Human Resources may consult with the Employee Assistance Program concerning treatment and rehabilitation possibilities prior to making the final determination. The determination will address both discipline and rehabilitation concerns.
7. For disciplinary matters other than those identified in items 4 and 6 above, agency/department managers and supervisors shall consult with Human Resources and impose final discipline within reasonable parameters identified by Human Resources.
8. The Sheriff's Department is exempt from this policy, except that under no circumstances may the Sheriff's disciplinary policies be less strict than the County's general disciplinary policies.
9. No individual agency/department policy shall be promulgated to supersede, interpret or administer this policy other than operational rules developed by Human Resources.

Reference:

Minute Order 3.5 of 12/17/96  
Minute Order 3.23 of 02/04/97  
Minute Order 3.40 of 01/25/00  
Minute Order 3.3 of 04/10/07