

**CITY OF STOCKTON, CALIFORNIA
CITY MANAGER ADMINISTRATIVE DIRECTIVE**

Subject: PROGRESSIVE DISCIPLINE POLICY	Directive No. HR-08	Page No. 1 of 35
	Effective Date: 12/01/08	Revised from: 03/19/07 07/01/81 10/15/78

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I. PURPOSE

- A. To ensure, whenever possible and appropriate, that an employee is given an opportunity to correct job-related behavior, performance, or attendance that is not consistent with the City of Stockton policies and procedures, rules, and regulations, or prudent personnel practices and philosophy.
- B. To set forth a step-by-step approach to prevent, correct, and/or eliminate unacceptable behavior, performance, or attendance, beginning with the least severe informal disciplinary measures, such as the documentation of counseling/discussion in the form of a memorandum of discussion or correction, and progressing to formal disciplinary measures up to and including discharge.
- C. To provide a fair and consistent approach to improving performance and correcting behavior of employees.
- D. To establish guidelines that will assist managers and supervisors in the counseling and disciplining of regular employees, consistent with applicable Memoranda of Understanding, the Stockton Civil Service Rules and Regulations, the Stockton City Charter, the Stockton Municipal Code, and any federal or state laws relating to municipal employment.

II. SCOPE

- A. This policy applies to all regular City employees, as defined in this policy, and is consistent with the Stockton Civil Service Rules and Regulations, the Stockton Municipal Code, the Stockton City Charter, and applicable collective bargaining agreements.
- B. This policy does not apply to at-will employees nor does it waive, modify, or diminish any managerial rights, rights that management has by law, or any other management discretion or right relating to the status of at-will employees.

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III. POLICY

- A. It is the administrative policy of the City of Stockton that formal discipline, which is defined as a letter of reprimand, suspension, reduction in base pay, demotion, or discharge, may be taken against an employee for cause. Nothing in this policy prohibits the City from imposing any level of formal discipline, up to including discharge, as the circumstances warrant.
- B. The department head shall administer and execute all levels of discipline, except matters involving suspension in excess of thirty (30) work days or discharge, which shall be approved and executed by the City Manager (Personnel Officer).
- C. It is the further policy of the City of Stockton that the Human Resources Department shall review all levels of formal discipline for the appropriateness of the discipline being imposed and to ensure consistent application of the policy and procedures.
- D. The disciplinary procedures may vary to comply with individual department rules and regulations, general orders, specific statutes governing a department, the terms of a collective bargaining agreement, and/or the requirements of City Charter article XXV (Civil Service System for Police and Fire).
- E. Nothing in this policy shall supersede applicable provisions of the Public Safety Officers Procedural Bill of Rights Act (Gov. Code, §§ 3300 – 3312.) or the Firefighters Procedural Bill of Rights Act (Gov. Code, §§ 3250, *et seq.*).
- F. This policy shall not abridge any rights to which an employee or the City may be entitled under the Stockton Employer-Employee Relations Ordinance (Stockton Municipal Code §§ 2-200, *et seq.*).
- G. This policy shall be implemented separately from the Employee Performance Evaluation Policy (HR-13).

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- H. The Director of Human Resources shall cause training classes to be scheduled and conducted for all managers and supervisors on the content of this policy.
- I. This policy shall be administered by the Director of Human Resources.

IV. DEFINITIONS

The following words and phrases shall have the meaning ascribed to them in this section:

A. Administrative Leave

The department head's ability to place an employee on paid leave depending on the severity of the alleged violation or misconduct pending the completion of an internal investigation and pre-disciplinary action. The department head shall establish the conditions of the administrative leave in accordance with the City Policy on Administrative Leave.

B. Administrative Review

The opportunity to respond to alleged behavior, performance, attendance and/or offense or rule violation with departmental management where *Skelly* is otherwise not applied.

C. Adverse Action

An action that results in an employee's loss of pay or loss of a property interest, such as a suspension, reduction in base pay, demotion, or discharge.

D. Appointing Authority

The City Manager, City Council department head or other City officer who, in an individual capacity, has the final authority to make an appointment.

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E. At-Will Employment/At-Will Employee

Employment with the City of Stockton is at-will, unless otherwise provided by the Stockton Civil Service Rules and Regulations, the Stockton Municipal Code, the Stockton City Charter, collective bargaining agreements, or other employment agreements. An at-will employee may be terminated at any time, without cause, without prior warning, and without right of appeal.

F. Cause

Any action or inaction that adversely affects the City, which shall include, but shall not be limited to, failure to adhere to policies and procedures, specified convictions, discriminatory acts, fraud, abuse of discretion, performance or inefficiency, dishonesty, harassment, or retaliation. Cause is further defined in section VI. of this policy.

G. Classified Represented

Employee positions included in the Civil Service System and represented by a collective bargaining unit.

H. Classified Service

The employment status created by the Civil Service Act contained in the Stockton City Charter and the Stockton Municipal Code, which is based on competitive examination.

I. Classified Unrepresented

Employee positions included in the Civil Service System, but not represented by a collective bargaining unit.

J. Discipline Action (Formal)

Letter of reprimand, suspension, reduction in base pay, demotion, or discharge, the documentation of which is filed in the official employee

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personnel file maintained in the Human Resources Department.

K. Due Process

The right to notice, the opportunity to be heard, and the right to be free from arbitrary or unreasonable action.

L. Manager

The functional division head of the department's operating division.

M. Managerial Rights

Those functions and duties that are reserved to City management and are within its sole discretion, such as the right to appoint and discipline up to and including discharge, and to determine the merits, necessity, and scope of service.

N. Miscellaneous Employee

An unsworn employee.

O. Personnel Officer

The City Manager of the City of Stockton.

P. Public Policy

A combination of laws, decisions, and regulations made by federal, state, and local governments, including the judiciary, that affect the rights, duties, and responsibilities of the public.

Q. Regular Employee

An employee who has successfully completed the probationary period and has been granted regular status as provided in the applicable collective

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bargaining agreement, the Stockton Civil Service Rules and Regulations, the Stockton City Charter, and the Stockton Municipal Code.

R. Skelly Meeting

A pre-disciplinary meeting with an impartial third party during which an employee is given the opportunity to respond orally and/or in writing to disciplinary charges before discipline is imposed. Prior to the meeting, the employee must be given: (1) notice of the proposed action in adequate time to prepare a response; (2) the reasons for such action; and (3) a copy of the charges and materials upon which the action is based and relied upon. See *Skelly v. State Personnel Bd.*, 15 Cal.3d 194 (1975).

S. Skelly Officer

The official outside the affected operating department or the official that is sufficiently removed and/or uninvolved from the circumstances giving rise to the case, who conducts the pre-disciplinary (*Skelly*) meeting. This does not preclude the department head from being the *Skelly* Officer, where appropriate.

T. Supervisor

The first-line supervisor of the operating unit who has the immediate responsibility to direct an employee.

U. Sworn Employee

Any ranked officer of the Police or Fire Department.

V. Unclassified Represented

Employee positions excluded from the Civil Service System, but represented by a collective bargaining unit.

W. Unclassified Unrepresented

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Employee positions excluded from the Civil Service System and not covered under a collective bargaining agreement.

V. PROCEDURES

Managers and/or supervisors shall:

- A.** Become thoroughly familiar with the Progressive Discipline Policy, collective bargaining agreements, the Stockton Civil Services Rules and Regulations, article XXV of the Stockton City Charter, the Stockton Municipal Code, and City policies, procedures, rules, and regulations.
- B.** Discuss, define, and clarify for employees, the City's expectations on job performance and standards of behavior and attendance.
- C.** Train and coach employees on how to meet or exceed the expectations for job performance and standards of behavior and attendance.
- D.** Adequately and appropriately document all matters of counseling and discussion pertaining to the employee's performance or behavior.
- E.** Ensure that no formal disciplinary action is taken until the matter has been thoroughly reviewed and procedural requirements met in accordance with this policy.
- F.** Ensure that the principles of fairness and reasonableness are consistently applied and confidentiality is maintained.
- G.** Consult with the Human Resources Department on all matters involving formal disciplinary actions.

VI. CAUSE FOR DISCIPLINE

Discipline may be taken against regular employees for cause. Discipline is defined as a letter of reprimand, suspension, reduction in base pay, demotion, or discharge,

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and shall not include documentation of counseling such as a Memorandum of Discussion or Correction and/or performance improvement action plans. Cause for discipline shall include, but is not limited, to the following:

- A. Absence without authorization or sufficient reason.
- B. Chronic absenteeism or tardiness.
- C. Abuse or misuse of sick leave or any other authorized leave.
- D. Being under the influence of alcohol or controlled substances without authorization while on duty, or using or possessing alcohol or controlled substances without authorization while on duty. "Controlled substance" means any narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana, or any other controlled substance defined in state or federal law. A determination of whether an employee is under the influence of alcohol or controlled substances will be based on specific, contemporaneous, articulable observations concerning the employee's appearance, behavior, speech, or body odors, and may include indications of the chronic and withdrawal effects of controlled substances, or through random testing.
- E. Insubordination.
- F. Dishonesty.
- G. Discrimination or harassment, while acting in the capacity of a City employee, against members of the public or other employees, on the basis of race, religion, color, national origin, physical disability, mental disability, medical condition, denial of family and medical care leave, marital status, pregnancy, gender, sexual orientation, political affiliation, age, or any other category or attribute specified by state or federal law.
- H. Retaliation against any City officer, employee, or member of the public, who in good faith, discloses to any appropriate authority information regarding an actual or suspected violation of the Stockton City Charter, Stockton Municipal

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Code, City policy or directive, or state or federal law when the violation occurs on the job or is directly related to job responsibilities.

- I. Conviction of a felony or of a misdemeanor involving moral turpitude as specified in Stockton Municipal Code, section 2-130.
- J. Violation of or refusal to obey federal and state law or the City's rules, regulations, and policies.
- K. Discourteous treatment of members of the public or other employees while on duty.
- L. Conduct in violation of Government Code section 1028, which provides:

“It shall be sufficient cause for the dismissal of any public employee when such public employee advocates, or is knowingly a member of the Communist Party or of an organization that during the time of his/her membership he/she knows or advocates to overthrow the Government of the United States or any state by force or violence.”
- M. Any conduct adverse to the welfare and/or good reputation of the City or City employees.
- N. Failure to work with others.
- O. For employees who are required to drive a vehicle in the regular course of their employment:
 - 1. loss of the employee's driver's license; or
 - 2. any restriction or limitations on the employee's driver's license or ability to drive ordered by the Department of Motor Vehicles or any other lawful authority; or

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- 3. failure to maintain a good personal or business driving record; or
 - 4. failure to satisfy the insurability requirements of the City's insurance carrier under the City's regular insurance policies. The City's ability to obtain insurance for the employee under a high risk or any policy other than the regular insurance policies does not mitigate this failure; or
 - 5. failure to immediately notify the City of the potential loss or restriction of a driver's license.
- P. Neglect of duty.
 - Q. Material and intentional misrepresentation or concealment of any fact in connection with obtaining employment.
 - R. Falsifying any information submitted to the City.
 - S. Willful damage to public property, waste of public supplies or equipment, or excessive carelessness with City property or funds.
 - T. Misappropriation of City funds or property.
 - U. Failure to possess or keep in effect any license, certificate, or other similar requirement specified in the law or the employee's class specification or otherwise necessary for the employee to perform the duties of the position.

VII. PRINCIPLES OF COUNSELING AND NOTIFICATION (INFORMAL DISCIPLINE)

Before formal discipline is imposed to address such matters as: (1) failure to comply with job expectations, job standards, training, City of Stockton policies and procedures, rules and regulations, or (2) performance, behavior, or attendance problems that may need improvement in accordance with standards required of the position, the supervisor or manager shall memorialize each significant counseling/discussion session, first, in the form of a Memorandum of Discussion and, second, in the form of a Memorandum of Correction.

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A. Memorandum of Discussion

A Memorandum of Discussion is an initial written record of counseling/discussion between the employee and supervisor and/or manager on specific topics. A record of the counseling/discussion shall be issued to and signed by the employee and manager or supervisor. The memorandum shall include the following:

1. The employee's name, position, and department;
2. The date of the counseling/discussion;
3. Names of those present, including the manager, supervisor, or a representative of a bargaining unit, if applicable;
4. List of policies/rules violated and/or duties performed in an unsatisfactory manner or below City or department standards;
5. Any explanation given by the employee or other information that is significant;
6. A specific statement of the expected job performance, behavior, and/or job standard;
7. Time period for demonstrating improvement;
8. Description of methods that will be used to observe or measure improvement; and
9. The employee's signature acknowledging receipt of the document or, in the alternative, a proof of service. If the employee is unavailable or refuses to sign, the supervisor or manager shall note on the employee's signature line "unavailable" or "refused to sign."

The Memorandum of Discussion shall be filed and maintained in the department and/or division files. If the employee does not improve or continues to perform unsatisfactorily within the established timeline, the

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Memorandum of Discussion shall be attached to the document for the next step of informal discipline.

B. Memorandum of Correction

A Memorandum of Correction is the second form of a written record of counseling/discussion between the employee and supervisor and/or manager on specific topics, to address and inform an employee that improvement is needed in performance, behavior, or attendance. A Memorandum of Correction may be issued if the Memorandum of Discussion does not correct the performance, behavior or attendance and sustained improvement has not been demonstrated within the established timeline. The memorandum shall include the following information:

1. The employee's name, position, department;
2. The date of the counseling/discussion;
3. Names of those present, including the manager, supervisor, or a representative of a bargaining unit, if applicable;
4. The reason(s) for the correction, which shall include the specific behavior, performance or attendance problem and/or the alleged offense or rule violation;
5. References to prior counseling/discussion and/or previous disciplinary action, if applicable;
6. A specific statement of the expected job performance, behavior, and/or job standard;
7. Any explanation given by the employee or other information that is significant;

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8. Reference to the fact that if immediate and sustained improvement is not demonstrated, formal disciplinary action may be taken, up to and including discharge from City employment; and
9. The employee’s signature acknowledging receipt of the document or, in the alternative, a proof of service. If the employee is unavailable or refuses to sign, the supervisor or manager shall note on the employee’s signature line “unavailable” or “refused to sign.”

The Memorandum of Correction shall be filed and maintained in the department and/or division files. If the employee does not immediately improve or continues to perform unsatisfactorily, the Memorandum of Correction shall be attached to the document for the first step of formal progressive discipline.

VIII. TYPES OF DISCIPLINARY ACTIONS AND NOTIFICATIONS (FORMAL DISCIPLINARY)

A. Letter of Reprimand

A Letter of Reprimand is a written notification issued to inform an employee of a performance, behavior, or attendance deficiency that has not been attained or maintained within an established timeline and that further disciplinary action may be taken unless there is an immediate and sustained improvement. A Letter of Reprimand may, but is not required to, be preceded by a Memorandum of Discussion or a Memorandum of Correction, and may be issued after either of these has proved ineffective, or when the nature of the employee’s deficiency warrants a more serious disciplinary action. The Letter of Reprimand shall include the following information:

1. The date of letter, employee’s name, position, and department;
2. The reason(s) for the reprimand, which shall include the specific behavior, performance, or attendance problem and/or the alleged offense or rule violation;

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3. Reference to prior Memoranda of Discussion or Correction and/or previous formal disciplinary actions, if applicable;
4. Goals and time frames for improved performance or corrected behavior;
5. A specific statement of the expected job performance, behavior, and/or job standards;
6. Any explanation given by the employee or other information that is significant;
7. Reference to the fact that if immediate and sustained improvement is not demonstrated, further disciplinary action may be taken, up to and including discharge from City employment;
8. Include copies of written materials, reports, statements, and any other documents that support the proposed action; and
9. The employee's signature acknowledging receipt of the document or, in the alternative, a proof of service. If the employee is unavailable or refuses to sign, the supervisor or manager shall note on the employee's signature line "unavailable" or "refused to sign."

A Letter of Reprimand shall be prepared by the supervisor and/or manager and approved and signed by the department head. The Letter of Reprimand shall be subject to review by the Human Resources Department.

An administrative review with the supervisor and/or manager will be held during which time an employee may respond to the allegation(s), where *Skelly* is otherwise not applied. A copy of the Letter of Reprimand shall be forwarded to the Director of Human Resources and filed in the employee's official personnel file maintained in the Human Resources Department. The employee may submit a written response to the allegation(s) to the department head within thirty (30) calendar days of receipt of notice, as a matter of record, which shall be forwarded to the Director of Human

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Resources and filed in the employee's official personnel file maintained in the Human Resources Department.

B. Suspension

A Suspension is a temporary and involuntary absence from employment without pay for disciplinary purposes.

A suspension may be imposed for serious violations of rules or regulations, performance deficiencies, misconduct, and/or failure to improve in work performance, behavior or attendance after lesser disciplinary measures have proved ineffective. The notification of suspension shall be subject to review by the Human Resources Department, and to the pre-disciplinary *Skelly* rights set forth in section IX of this policy.

1. Miscellaneous Employees

Pursuant to rule XII, section 2 of the Civil Service Rules and Regulations for Miscellaneous Employees, and section 2-010 of the Stockton Municipal Code, periods of suspension shall not exceed the equivalent of thirty (30) consecutive work days at any one time, and not more than thirty (30) work days in any one fiscal year.

2. Sworn Safety Employees

Pursuant to the rule XII, section 3 of the Civil Service Rules and Regulations for Police and Fire, periods of suspension shall not exceed the equivalent of sixty (60) consecutive work days at any one time, with loss of salary or other compensation, and not more than ninety (90) work days in any one fiscal year.

C. Reduction In Base Pay

A Reduction in Base Pay is a temporary decrease in an employee's base salary rate.

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1. A Reduction in Base Pay may be imposed when an employee has consistently failed to sustain employment standards or when the severity of the employee's conduct warrants imposition of such measures. The notification of reduction in base pay shall be subject to review by the Human Resources Department, and to the pre-disciplinary *Skelly* rights set forth in section IX of this policy.

2. A reduction in pay of an employee's base pay may extend from one month to one year and may be equivalent to one or more salary steps.

D. Demotion

A Demotion is a reduction in rank, class, position, or pay grade generally associated with a disciplinary action. The notification of demotion shall be subject to review by the Human Resources Department, and to the pre-disciplinary *Skelly* rights set forth in section IX of this policy.

E. Discharge

A Discharge is the permanent removal of an employee from the employment service for a stated cause.

1. Discharge may occur for serious violations of City policies and procedures, rules or regulations, continued performance deficiencies, misconduct, and/or failure to improve in performance, behavior, or attendance when lesser informal or formal disciplinary measures will not remediate the performance deficiencies. The notification of discharge shall be subject to review by the Human Resources Department, and to the pre-disciplinary *Skelly* rights as set forth in section IX of this policy.

2. Resignation/Retirement In Lieu Of Discharge
 - a. An employee may request that he or she be allowed to resign or retire in lieu of and prior to being discharged. In such circumstances, the City of Stockton reserves the right to refuse

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to accept an employee's resignation and proceed with the proposed disciplinary action.

- b. When an employee's resignation or retirement is accepted in lieu of discharge, the administrative investigation and disciplinary proceedings shall immediately cease. Because the cessation of proceedings may hinder the City's ability to effectively complete the investigation at a later time, an employee, whose resignation or retirement has been accepted in accordance with this provision, shall be notified in writing that such resignation or retirement may preclude the employee from seeking reinstatement under the applicable Stockton Civil Service Rules and Regulations. A copy of the notice shall be placed in the employee's official City personnel file maintained in the Human Resources Department and department and/or division files.
- c. A resignation or retirement tendered and accepted in accordance with this policy shall have no effect on any criminal investigation or proceedings that may have been initiated or are being pursued as a result of the conduct for which disciplinary proceedings have been initiated.
- d. All resignations or retirements in lieu of discharge shall be implemented via written agreement authorized by the Director of Human Resources and the City Manager.

IX. PRE-DISCIPLINARY NOTICE AND DUE PROCESS RIGHTS (SKELLY) OF EMPLOYEE

- A. An employee facing a suspension, reduction in base pay, demotion, or discharge shall be entitled to pre-disciplinary *Skelly* rights prior to final imposition of formal discipline.

The department head, with the approval of the Director of Human Resources, may place an employee on paid administrative leave for a specified period of

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time depending on the severity of the offending conduct. The department head shall establish the conditions of administrative leave in accordance with the City Policy on Administrative Leave.

Nothing in this policy shall supersede applicable provisions of the Public Safety Officers Procedural Bill of Rights Act (Gov. Code, §§ 3300 – 3312.) or the Firefighters Procedural Bill of Rights Act (Gov. Code, §§ 3250, *et seq.*).

B. Notice of Intent to Recommend Employment Action

The department head or designee shall prepare the proposed notice of intent to recommend employment action, which shall be reviewed by the Human Resources Department before execution. The notice shall be presented to the employee by the employee’s department head. The notice shall inform the employee of the following:

1. The reason(s) for the proposed action.
2. The facts and violation(s) upon which the proposed action is taken.
3. The employee’s right to a pre-disciplinary meeting (“*Skelly*”) before an impartial third party (“*Skelly Officer*”), unless waived by the employee.
4. The employee’s right to representation shall mean either a union representative or legal counsel; the right to respond either orally and/or in writing within ten (10) work days of the date of the written notification; specified time limits may be modified only in writing. Failure to respond orally and/or in writing to the notice within ten (10) work days of said notice or failure to attend the *Skelly* meeting shall constitute a waiver of the *Skelly* meeting. The department head may proceed in executing the recommended employment action, except matters involving suspension in excess of thirty (30) work days or discharge, which shall be approved and executed by the City Manager (Personnel Officer).

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5. The employee's right to receive copies of written materials, reports, statements, and any other materials upon which the action is based and relied upon.

The City will not, however, disclose any documents or information protected by the right of privacy, the attorney-client or attorney work product privileges, or other applicable privileges or exemptions from disclosure.

C. Skelly Meeting

The employee and/or the employee's representative shall respond to the allegations and materials upon which the proposed discipline is based. The employee and/or the employee's representative may present documentary evidence and arguments to the *Skelly* Officer to refute and/or mitigate the basis for the proposed discipline. The employee and/or the employee's representative should present factual information to the extent possible.

1. The department head shall transmit to the *Skelly* Officer the materials provided to the employee as supporting evidence upon which the proposed discipline is based and relied upon. The *Skelly* Officer shall communicate with the department head if further information or clarification is needed in regard to the charges, the level of discipline to be imposed, or the sufficiency of the evidence upon which such action is based and relied upon.
2. The *Skelly* Officer shall be the official outside the affected operating department, or the official that is sufficiently removed and/or uninvolved from the circumstances giving rise to the case, who conducts the pre-disciplinary (*Skelly*) meeting. This does not preclude the department head from being the *Skelly* Officer, where appropriate.
3. A department representative other than the appointing authority may be present at the *Skelly* meeting.
4. The *Skelly* Officer shall transmit to the department head within ten (10) work days of the *Skelly* meeting, a written statement concurring

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with the proposed discipline, recommending that the discipline be modified, or that no discipline be imposed. The *Skelly* Officer shall include supporting documents presented at the *Skelly* meeting by the employee and/or the employee's representative to refute the charges.

5. The department head shall consider the *Skelly* Officer's recommendations and review any and all supporting documents provided before making his/her final decision. The recommendation(s) of the *Skelly* Officer is advisory only.

D. Action After *Skelly* Meeting

The department head shall forward the *Skelly* Officer's recommendations along with his/her recommendations to the Human Resources Department. After review by the Human Resources Department, the department head shall formally notify the employee of the final decision and applicable appeal rights in writing. In the event any recommended discipline involves suspension in excess of thirty (30) work days or discharge, the final decision shall rest with the City Manager (Personnel Officer).

1. The employee shall be required to sign a City of Stockton Report of Personnel Action ("Form CS-23") documenting the disciplinary action. If the employee is unavailable or refuses to sign the Form CS-23, the supervisor or manager shall note on the employee's signature line "unavailable" or "refused-to-sign."
2. The Form CS-23 and a copy of the final written decision shall be forwarded to the Director of Human Resources, and filed in the employee's official City personnel file maintained in the Human Resources Department

X. ADMINISTRATIVE APPEALS

Employees may appeal a reduction in base pay, demotion, suspension, or discharge in accordance with provisions of rule XIV of the Stockton Civil Service Rules and Regulations, the Stockton City Charter, or applicable collective bargaining

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agreement. Unless otherwise provided by applicable law or collective bargaining agreement, an employee is entitled to only one (1) appeal process (*i.e.*, the Stockton Civil Service Commission or grievance process contained in applicable collective bargaining agreements). The employee may not choose a different appeal process once identified and filed.

XI. EXPUNGEMENT OF RECORDS

- A. It shall be the employee's sole responsibility to request the purging of the written documentation of formal disciplinary action from his or her official City personnel file and department and division files. The request must be submitted in writing to the department head, who shall forward the employee's request to the Director of Human Resources, along with the department head's recommendation.

- B. Upon the recommendation and concurrence of the department head, the Director of Human Resources may expunge from the employee's official City personnel file:
 - 1. A Letter of Reprimand upon evidence of sustained corrective performance, behavior, or attendance deficiency, after five (5) years from the date of written notification; the time frame for sworn Fire and Police personnel is also after five (5) years.

 - 2. A Suspension or Reduction-in-Base Pay upon evidence of sustained corrective performance, behavior, or attendance deficiency after five (5) years from the date of written notification.

- C. The Director of Human Resources shall notify the employee in writing of the purging of the applicable document(s).

- D. Unless otherwise directed by the City Manager, the Form CS-23 shall not be removed, under any circumstances, from the employee's official City personnel file.

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- E. In no case shall this policy supersede federal, state, and other applicable laws regarding the retention of City records, including personnel files.

- F. In no case shall this policy supersede the rules and provisions regarding expunged disciplinary records as addressed in an applicable collective bargaining agreement or federal or state law, or the Public Safety Officers Procedural Bill of Rights Act (Gov. Code, §§ 3300 – 3312.) or the Firefighters Procedural Bill of Rights Act (Gov. Code, §§ 3250, *et seq.*).

APPROVED:

J. GORDON PALMER, JR.
CITY MANAGER

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SAMPLE DOCUMENTATION ONLY
MEMORANDUM OF DISCUSSION

[DATE]

[EMPLOYEE NAME]
[JOB TITLE/DEPARTMENT]
CITY OF STOCKTON

MEMORANDUM OF DISCUSSION

This is to memorialize our conversation/discussion regarding your [performance/behavior/attendance, etc.]

- Background information;
- Specific performance/behavior/offense/rule, regulation, policy violation;
- Performance objectives/standards/goals and expectation, timeline;
- Reference to any training or special direction provided;
- Employee explanation or any additional information that is significant.

A copy of this memorandum of discussion shall be placed in the department and/or division files.

[SUPERVISOR/MANAGER]
[JOB TITLE]

Received on this _____ day of _____

[EMPLOYEE SIGNATURE OR PROOF OF SERVICE]

cc: [Director of Department]

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SAMPLE DOCUMENTATION ONLY
MEMORANDUM OF CORRECTION

[DATE]

[EMPLOYEE NAME]
[JOB TITLE/DEPARTMENT]
CITY OF STOCKTON

MEMORANDUM OF CORRECTION

This is to memorialize our conversation/discussion regarding your [performance/behavior/attendance, etc.]:

- Incident description and supporting details to include the following information: time, place, date of occurrence, specific behavior, performance, etc., and persons present as well as organization impact;
- Reference to prior counseling, notification, and established timeline, if applicable;
- Specific statement of expected job performance, behavior and/or job standard;
- Any explanation given by the employee or other information that is significant;
- Include copies of written reports, statements, and any other materials upon which the corrective measure is based. [For clarification purposes, the City will not, however, disclose any documents or information protected by the right of privacy, the attorney-client or attorney work product privileges, or other applicable privileges or exemptions from disclosure.]

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I am confident that your [behavior/performance/attendance] will improve based on our discussion; however, if immediate and sustained improvement is not demonstrated, disciplinary action may be taken up to and including discharge from City employment. A copy of this memorandum of correction shall be placed in the department and/or division files.

[SUPERVISOR/MANAGER]
[JOB TITLE]

Received on this _____ day of _____

[EMPLOYEE SIGNATURE OR PROOF OF SERVICE]

cc: [Director of Department]

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SAMPLE NOTICE ONLY
LETTER OF REPRIMAND

[DATE]

[EMPLOYEE NAME]
[JOB TITLE/DEPARTMENT]
CITY OF STOCKTON

LETTER OF REPRIMAND

This letter is to inform and serve you with notice to reprimand for the following reason(s):

- Incident description and supporting details to include the following information: time, place, date of occurrence, and person(s) present as well as organization impact;
- Reference to prior counseling, notification, established timeline, and/or formal disciplinary actions, if applicable;
- Specific statement of expected job performance, behavior and/or job standards;
- Any explanation given by the employee or other information that is significant;
- Goals and time frames for improved performance, behavior, etc.;
- Include copies of written reports, statements, and any other materials upon which the action is based. [For clarification purposes, the City will not, however, disclose any documents or information protected by the right of privacy, the attorney-client or attorney work product privileges, or other applicable privileges or exemptions from disclosure.]

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This letter of reprimand is intended to stress the seriousness of this matter. You have responded to the charges concerning your [behavior/performance/attendance and/or offense or rule violation] during the administrative review with your supervisor/manager, where *Skelly* is otherwise not applied. You may submit a written response to the charges to the department head within thirty (30) calendar days of receipt of this notice, as a matter of record, which shall be forwarded to the Director of Human Resources and filed in your official employee personnel file maintained in the Human Resources Department. Unless immediate and sustained improvement is demonstrated, further disciplinary action may be taken up to and including discharge from employment with the City of Stockton.

A copy of this letter of reprimand and all attachments hereto shall be placed in the department and/or division files, and placed in the official employee personnel file maintained in the Human Resources Department. This document of record shall remain in the City's official employee personnel file for a period of five (5) years; thereafter, you may request, in writing, the removal of this record with the recommendation from the department head and upon the approval by the Director of Human Resources, upon evidence of sustained and corrective [performance/behavior/attendance].

[DIRECTOR OF DEPARTMENT]

Reviewed by _____
HUMAN RESOURCES DEPARTMENT

Received on this _____ day of _____

Attachments

[EMPLOYEE SIGNATURE OR PROOF OF SERVICE]

cc: [Director of Human Resources]
[Department and Division Files]

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SAMPLE NOTICE ONLY
NOTICE OF INTENT TO RECOMMEND EMPLOYMENT ACTION

[DATE]

[EMPLOYEE NAME]
[JOB TITLE/DEPARTMENT]
CITY OF STOCKTON

NOTICE OF INTENT TO RECOMMEND EMPLOYMENT ACTION

It is my intent to take [recommend to the City Manager, when applicable] disciplinary action against you in the form of [suspension/demotion/reduction in base pay/discharge] based on the charges listed below. Before taking any action, you are entitled to respond to the charges against you in a pre-disciplinary *Skelly* meeting with the *Skelly* Officer [insert name] on [date], at [time], [location]. You or your union representative must contact the *Skelly* Officer at [telephone number] within ten (10) work days from the date of this notice, to confirm your scheduled appointment.

You may respond to the charges orally and/or in writing on the date and time of the meeting. You may have either a union representative or legal counsel present at the meeting. If you fail to respond to this notice, either by failing to attend the pre-disciplinary *Skelly* meeting on the date scheduled, or failing to submit written materials within ten (10) work days from the date of this notice, you will be deemed to have waived your right to a pre-disciplinary *Skelly* meeting; the City shall move forward with the discipline in accordance with the City's Civil Service Rules and Regulations for [Miscellaneous or Safety] Employees and Memorandum of Understanding [identify the employee's collective bargaining agreement].

The disciplinary action is being considered in accordance with the City's Discipline Policy HR-08, the City's Civil Service Rules and Regulations for [Miscellaneous or Safety Employees], and applicable Memorandum of Understanding. The proposed discipline is based upon the following charges:

- Incident description and supporting details to include the following information: time, place, date of occurrence, and person(s) present as well as organization impact;

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- Reference to prior counseling, notification, established timelines, and/or disciplinary actions, if applicable;
- Specific statement of expected job performance, behavior and/or job standards;
- Any explanation given by the employee or other information that is significant;
- Goals and time frames for improved performance, behavior, attendance, etc.;
- Include copies of written reports, statements, and any other materials upon which the action is based and relied upon. [For clarification purposes, the City will not, however, disclose any documents or information protected by the right of privacy, the attorney-client or attorney work product privileges, or other applicable privileges or exemptions from disclosure.]

If immediate and sustained improvement is not demonstrated, further disciplinary action may be taken up to and including discharge from City employment.

[DIRECTOR OF DEPARTMENT]

Reviewed by _____
HUMAN RESOURCES DEPARTMENT

Received on this _____ day of _____

[EMPLOYEE SIGNATURE OR PROOF OF SERVICE]

Enclosures: [Written reports, statements, and any other materials upon which the action is based]

cc: [City Manager]
[Human Resources Department]
[Department File]
[Skelly Officer]

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**SAMPLE NOTICE ONLY (AFTER THE SKELLY MEETING)
DEPARTMENT HEAD TRANSMITTAL NOTICE TO
THE HUMAN RESOURCES DEPARTMENT
REDUCTION IN BASE PAY/SUSPENSION OF 30 WORK DAYS OR
LESS/DEMOTION**

MEMORANDUM

[DATE]

TO: HUMAN RESOURCES DEPARTMENT

FROM: [DIRECTOR OF DEPARTMENT]

SUBJECT: **RECOMMENDATION TO TAKE EMPLOYMENT ACTION**
[REDUCTION IN BASE PAY/SUSPENSION OF 30 WORK DAYS OR
LESS/DEMOTION]

I hereby recommend disciplinary action in the form of [reduction in base pay/suspension/demotion] against [employee name, job title] based on the reasons contained in the "Notice of Intent to Recommend Employment Action" dated [date].

The employee has been provided with notice of and reason(s) for employment action and materials which the action is based and relied upon, an opportunity to be represented, and to present additional information either orally and/or in writing, in an effort to mitigate or refute the charges through the pre-disciplinary *Skelly* process. [However, the employee has waived his/her right to the pre-disciplinary *Skelly* meeting at his/her request, or failed to appear on the scheduled pre-disciplinary *Skelly* meeting, or failed to respond orally and/or in writing within ten (10) work days of the date of notification, in an effort to mitigate or refute the charges through the *Skelly* process.]

On [date] *Skelly* Officer [name] transmitted his/her written findings and recommendation(s) as attached. The *Skelly* Officer recommended the proposed discipline be [sustained, modified, or revoked]; however, the recommendation(s) of the *Skelly* Officer is advisory only.

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Based on my careful and thorough review and consideration of all available information, including the information presented at the pre-disciplinary *Skelly* meeting, it is my intent to take disciplinary action in the form of [reduction in base pay/suspension of 30 work days or less/demotion]. Upon completion of your review, please sign below and sign Form CS-23 (City of Stockton Report of Personnel Action).

[DIRECTOR OF DEPARTMENT]

Reviewed by _____
HUMAN RESOURCES DEPARTMENT

Attachments:

1. Notice of [Reduction in Base Pay/Suspension of 30 Work Days or Less/Demotion]
2. *Skelly* Officer's Written Statement/Supporting Documentation (if applicable)
3. City of Stockton Report of Personnel Action – Form CS-23

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SAMPLE NOTICE ONLY (AFTER THE SKELLY MEETING)
DEPARTMENT HEAD TRANSMITTAL NOTICE TO CITY MANAGER
RECOMMENDING SUSPENSION IN EXCESS OF 30 WORK DAYS OR
DISCHARGE FROM CITY EMPLOYMENT

MEMORANDUM

[DATE]

TO: [CITY MANAGER]

FROM: [DIRECTOR OF DEPARTMENT]

SUBJECT: **RECOMMENDATION TO TAKE EMPLOYMENT ACTION**
[SUSPENSION IN EXCESS OF 30 WORK DAYS OR DISCHARGE]

I hereby recommend disciplinary action in the form of [suspension in excess of 30 work days or discharge] against [employee name, job title] based on the reasons contained in the "Notice of Intent to Recommend Employment Action" dated [date].

The employee has been provided with notice of and reason(s) for employment action and materials which the action is based and relied upon, an opportunity to be represented and to present additional information orally and/or in writing in an effort to mitigate or refute the charges through the Skelly process. [However, the employee has waived his/her right to the pre-disciplinary *Skelly* meeting at his/her request, or failed to appear on the scheduled pre-disciplinary *Skelly* meeting, or failed to respond orally and/or in writing within ten (10) work days of the date of notification, in an effort to mitigate or refute the charges through the *Skelly* process.]

On [date] *Skelly* Officer [name] transmitted his/her written findings and recommendation(s) at attached. The *Skelly* Officer recommended the proposed discipline be [sustained,

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modified, or revoked]; however, the recommendation(s) of the *Skelly* Officer is advisory only.

Based on my careful and thorough review and consideration of all available information, including the information presented at the *Skelly* meeting, it is my recommendation to take disciplinary action in the form of [suspension in excess of 30 work days or discharge]. I have thoroughly consulted with the Human Resources Department on this matter. If this meets with your approval, please sign the attached Notice and Form CS-23 (City of Stockton Report of Personnel Action).

[DIRECTOR OF DEPARTMENT]

Reviewed by _____
HUMAN RESOURCES DEPARTMENT

APPROVED: _____
CITY MANAGER

Attachments

- (1) Notice of Suspension in Excess of 30 Work Days or Discharge dated [insert date]
- (2) *Skelly* Officer's Written Statement and any Supporting Documentation (if applicable)
- (3) City of Stockton Report of Personnel Action - Form CS-23

cc: [Director of Human Resources]

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**SAMPLE NOTICE ONLY
DEPARTMENT HEAD OR CITY MANAGER'S
FINAL DECISION AND EMPLOYEE OFFICIAL NOTIFICATION**

[DATE]

[IF MAILED, CERTIFIED/FIRST CLASS]

[EMPLOYEE NAME]

[JOB TITLE/DEPARTMENT]

[MAILING ADDRESS/CITY/STATE/ZIP CODE]

REDUCTION IN BASE PAY/SUSPENSION/DEMOTION/DISCHARGE/OR AS MODIFIED

This is to inform you that disciplinary action shall be taken against you in the form of [reduction in base pay, suspension, demotion, discharge, or as modified] based on the facts and statements contained in the "Notice of Intent to Recommend Employment Action" dated [date]. You have been afforded an opportunity to present before a *Skelly* Officer any evidence, orally and/or in writing, documents, or other information that may contradict and/or mitigate the basis for the proposed discipline.

You are hereby: (1) reduced in base pay, (2) suspended from City employment without pay for [day(s)] consecutive work days from [date] to [date]. You shall return to work on [date], (3) demoted in job classification from [present job title] to [new job title] effective [date], (4) discharged from City of Stockton employment effective [date], or (5) as appropriately modified, if applicable. Attached, is Form CS-23 implementing the final disciplinary action. [You are to immediately return all City issued property (i.e., keys, key pad card, identification card, etc.) You may personally return the items or return them via U.S. first class mail to the attention of your supervisor, City of Stockton, [mailing address]].

You have the right to file a written appeal to the Stockton Civil Service Commission within ten (10) days of receipt of notice [Police/Fire: ten (10) days from the time of reduction in base pay, suspension, demotion, or discharge], or file a written grievance as contained in section [insert applicable section number] of [collective bargaining agreement] Memorandum of Understanding within ten (10) business days of receipt of notice [or

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fourteen (14) days following the mailing of this written notification by first class mail to your home address as contained in the official City personnel records.]

[I expect immediate and sustained improvement in your [performance/behavior/attendance] or you may be subject to further disciplinary action up to and including discharge from employment with the City of Stockton.]

[DIRECTOR OF DEPARTMENT OR CITY MANAGER]

Attachment: City of Stockton Report of Personnel Action - Form CS-23

cc: [Director of Human Resources/City Manager]
[Department File]
[Civil Service Commission – Police/Fire Sworn Personnel Only]