TOWN OF Herndon VIRGINIA

ADMINISTRATIVE REGULATION

Effective Date: August 26, 1993 | Administrative Regulation: 1-27

Revision Date: May 18, 2017 | Supersedes: July 1, 2007

Approved By: William Ashton

Subject: Discipline

I. Purpose

The purpose of this Administrative Regulation is to establish and maintain a formal system of discipline for town employees.

II. Policy

If an employee disagrees with a disciplinary action, the employee may request orally or in writing an appeal hearing with the Director of Human Resources or his or her designee within ten calendar days from the date of mailing or delivery of the disciplinary action; and the hearing shall be held before the Director of Human Resources or his or her designee within the ten calendar day period. The employee shall set forth the basis of the appeal orally or in writing, and provide supporting documentation to justify any requested revisions pertaining to the disciplinary action. The Director of Human Resources or his or her designee shall inform the employee in writing of his/her decision regarding the appeal, within five calendar days of receiving the appeal.

If the employee feels the appeal process from a formal disciplinary action is unsatisfactory, the employee may proceed with filing a grievance per the town's grievance procedures, assuming the action is grievable. Specific grievance proceedings are defined by the Town Code, Chapter 54, Article IV, Grievance Procedures. Informal actions are excluded under the town's grievance procedures.

It is the policy of the town to ensure that rules of the workplace and accepted standards of conduct are adhered to by all employees and that discipline, when deemed necessary will be equitably and uniformly administered. This policy applies to any employee conduct that the town determines must be addressed by discipline. Discipline normally shall be progressive in nature in order that inappropriate behavior by an employee may be corrected. These are management guidelines (not legal rules) for the benefit of employees, the supervisor, and the town; and substantial compliance is all this is required.

III. Informal Actions

A. A supervisor may provide informal oral or informal written reprimands or warnings to employees, which do not constitute disciplinary actions and are not placed in an employee's permanent personnel file.

When a supervisor deems that an informal oral or informal written reprimand or warning is warranted, he or she will:

1. Advise the employee, in private, of the specific infraction of the rule or breach of conduct and the date it occurred.

2. Allow the employee an opportunity to explain, and weigh the explanation.

3. Administer the oral or informal written reprimand.

4. Maintain an informal record of the discussion with the employee's knowledge of such a record to serve in an evaluation of the employee.

IV. Formal Discipline.

The following are examples of the types of formal disciplinary actions that the town may utilize.

1. Formal written reprimands. Formal written reprimands shall be placed in an official personnel file.

2. Suspensions. Suspension may be with or without pay as determined by the Town Manager based on the severity of the basis of the suspension, the personnel record of the employee, and the likelihood the employee's return to work after the suspension.

3. Disciplinary demotions.

4. Disciplinary probations.

5. Dismissals.

V. Responsibilities

A. All employees are representatives of the town and are expected to conduct themselves with the best interest of the organization on mind. Each employee shall:

1. Observe the standards of conduct set out in Administration Regulation 1-28.

2. Conduct himself or herself, both on and off the job, in a manner which will reflect credit on the town government and respective departments.

3. Fulfill the duties and responsibilities of his or her position in a dedicated and loyal manner.

B. Department heads and supervisors. Department heads and supervisors shall:

1. Inform employees of town policies, practices and procedures governing standards of

conduct and discipline as well as communicate what criteria constitutes acceptable job performance.

2. Treat employees in a fair and equitable manner.

3. Investigate apparent employee offenses obtaining complete facts and full justification and administer appropriate disciplinary action when warranted, according to the provisions of this administrative regulation.

4. Inform the Director of Human Resources or his or her designee immediately when formal disciplinary action is contemplated.

C. Town Manager. The Town Manager shall:

1. Provide information and guidance to supervisors at all levels on standards and rules of conduct and effective use of constructive discipline.

2. Provide advice and assistance to supervisors in uniform and equitable application of the provisions of this administrative regulation.

3. Evaluate management practices in the administration of discipline and in compliance with standards and rules of conduct within departments and work locations and provide guidance to department heads when such management practices require changes.

4. Advise department heads on approved practices and recommend appropriate action.

D. Appointing authority. The Town Manager is the appointing authority for personnel purposes and shall make final decisions on issuance of formal disciplinary actions of suspension, dismissal, disciplinary demotion, and disciplinary probation.

VI. Disciplinary Actions and Procedures

Disciplinary action will be taken for good cause and to correct problem situations. However, disciplinary action must be taken when warranted to promote the efficiency of the town. The severity of the disciplinary action will be determined by the severity of the misconduct.

A. Formal written reprimand. When a supervisor determines that an offense is of such a nature that a record should be placed in an employee's permanent personnel file, a letter of reprimand will be delivered to the subject employee. The letter will contain:

1. Statement of charges in sufficient detail to enable the employee to understand fully the violation, infraction, conduct, or offense for which he or she is being disciplined.

2. Statement that the letter of reprimand will be placed in the employee's personnel file.

3. Statement of previous offenses, if any, in those cases where the letter is considered a continuation of progressive discipline.

4. Statement that similar occurrences could result in a proposal that more severe disciplinary action be initiated.

B. Suspension. When a supervisor determines that an offense requires a more severe disciplinary action, he or she will:

1. Investigate promptly apparent employee offenses; obtain the pertinent facts in the case (time, place, events and circumstances) including, but not limited to, making contact with persons involved or having knowledge of the incident.

2. Discuss the case including the length of suspension with higher levels of supervision, where appropriate.

3. Notify the Town Manager when suspensions are contemplated and seek the Town Manager's initial approval.

4. Prepare and provide an advance notice letter to the employee.

5. Consider employee's reply to the advance notice letter and make final recommendation to the Town Manager.

6. Seek the final determination of the Town Manager.

C. Disciplinary demotion. The Town Manager may, on recommendation of a department head, initiate a disciplinary demotion when an employee willfully violates or fails to comply with the requirements imposed by the standards of conduct or is unable to perform the essential functions required of the position. When such action is contemplated, the procedure outlined in the preceding paragraphs under suspension will be followed.

D. Disciplinary probation. The Town Manager may, on recommendation of a department head, place an employee on disciplinary probation for any infractions for which discipline may be warranted. When such action is contemplated, the procedure outlined under subparagraph B for suspensions must be followed. A disciplinary probation shall constitute a renewed probationary period for the employee.

E. Dismissal. The dismissal of an employee shall constitute the most severe type of disciplinary action authorized under this administrative regulation. This action should be taken when the Town Manager determines that an employee is unsuited for employment with the town. The determination shall be in a writing contained in the employee's personnel file. When this determination has been made the procedures outlined in the preceding paragraphs under suspensions shall be followed. Failure to make this determination shall not affect the validity of the dismissal.

VII. Criteria for Advance Notice Letter

The advance notice letter shall include:

A. Statement of charges in sufficient detail to enable the employee to understand the violation, infraction, conduct or offense for which he or she is being disciplined.

B. Type of disciplinary action (formal written reprimand, suspension, dismissal, or disciplinary demotion).

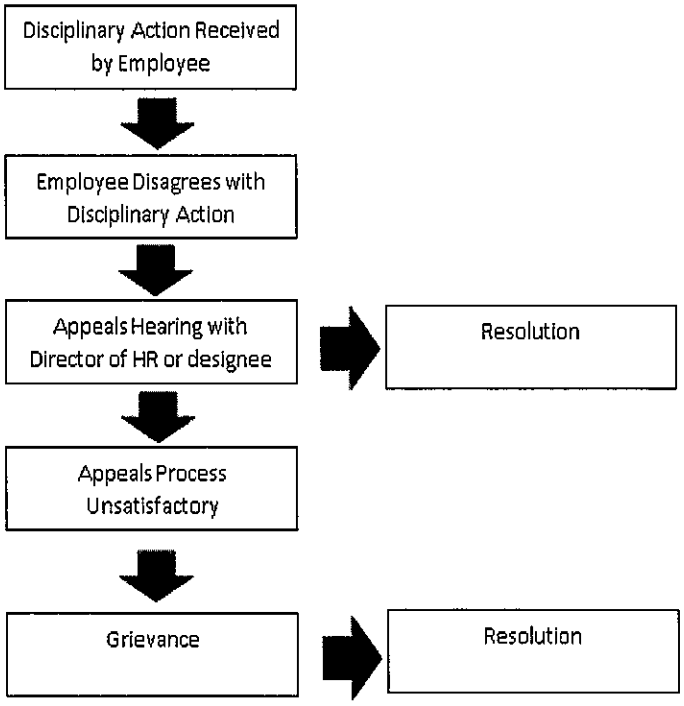
C. Statement that the action proposed, if implemented, will become a part of his or her personnel file.

D. Previous offenses, if any, which have been considered in arriving at the current disciplinary action.

E. The effective date of disciplinary action which shall be ten calendar days from the date of mailing or delivery of advance notice letter, and the employee shall have the right to reply to the charges within the ten calendar day period from mailing or delivery of the letter. Within the ten calendar day period, the employee may orally or in writing timely request a hearing on the charges before the Director of Human Resources; and the hearing shall be held before the Director of Human Resources or his or her designee within the ten calendar day period.

F. Employee's right to grieve should the final decision result in disciplinary action, if the employee is eligible to file a grievance and if the matter is grievable.

See flow chart for visual process reference.



VIII. Exceptions to Notice Period and Preparation of Response

When there is reasonable cause to believe an employee is guilty of a crime for which a sentence of imprisonment can be imposed, or when circumstances are such that the retention of the employee in an active duty status may result in damage to town property or may be detrimental to the interests of the town or injurious to the employee, his or her fellow workers, or the general public. The Town Manager may temporarily assign the employee to duties in which these conditions will not exist or place the employee on administrative leave with or without pay as determined by the Town Manager based on the severity of the basis of the dismissal and the personnel record of the employee. In the case where immediate written notice is not practical, the Town Manager shall see that the advance notice letter with associated procedural rights shall be prepared and mailed or delivered to the employee, as soon as practical and at least ten calendar days prior to the determination and effectuation of the proposed final disciplinary action.

IX. Probationary Employees

A. Employees are not covered by the grievance procedure set out in Sec. 54.71 and following, Herndon Town Code (1992), until after they have completed the initial or any subsequent probationary period. All probationary employees shall observe the standards of conduct set forth in Administrative Regulation 1-28.

William Ashton, Acting Town Manager