

# CHAPTER TWO

## EMPLOYEE RELATIONS

### Table of Contents

I. Employee Relations Philosophy .....	1
II. Standards of Conduct.....	1
III. Equal Employment Opportunity and Sexual Harassment Policies; Complaint and Investigation Procedures.....	3
A. Equal Employment Opportunity Policy .....	3
B. Discriminatory Harassment Policy .....	4
C. Sexual Harassment Policy .....	5
D. Retaliation Policy .....	6
E. Manager/Supervisor Responsibilities.....	6
F. Reporting Allegations of Discrimination and/or Discriminatory Harassment .....	7
G. Investigation Procedures for Allegations of Discrimination and/or Discriminatory Harassment.....	8
H. Grievances Related to Discriminatory and/or Sexual Harassment .....	9
I. Responsibility for Policy Administration .....	9
IV. Americans with Disabilities Act Amendments Act (ADAAA).....	10
V. Substance Abuse Policy, Procedures, and Guidelines .....	10
VI. Political Activity .....	11
VII. Union Activity .....	11
VIII. Public Statements.....	12
IX. Distinguishing between Employee Misconduct and Poor Performance .....	12
X. Authorized Disciplinary Actions .....	12
A. Verbal Warning .....	13
B. Reprimand .....	13
C. Suspension .....	14
D. Suspension with One Year Disciplinary Probation.....	15
E. Demotion .....	15
F. Dismissal.....	15
XI. Administrative Leave.....	17
XII. Alternative Strategies for Dealing with Misconduct and Performance Problems 18	
XIII. Table of Disciplinary Infractions and Penalties .....	19
A. How To Use the Table .....	19
B. Establishing the Penalty.....	19
C. Requests for Removal of Disciplinary Actions From Personnel Files .....	20
D. Table of Disciplinary Infractions and Penalties .....	21

XIV. Format of Disciplinary Letters .....	25
A. Proposal to Dismiss Letter .....	25
B. Proposal to Suspend Letter with One Year Disciplinary Probation. ....	26
C. Proposal to Suspend Letter .....	27
D. Letter of Final Decision on Dismissals, Demotions, Suspensions with One Year Disciplinary Probation, and Suspensions.....	28
E. Separation during Probationary Period Letter .....	29
F. Written Reprimand Letter.....	30
G. Requirement for Medical Certificate Letter .....	31
H. Abandonment of Position Letter .....	32
I. Separation of WAE Employee Letter .....	33
J. Separation without Prejudice Letter .....	34

Personnel Administrative Instruction 2.1 – Substance Abuse Policy

Personnel Administrative Instruction 2.2 – Technology and Communications  
Systems Usage

Personnel Administrative Instruction 2.3 – Americans with Disabilities Act  
Amendments Act (ADAAA)

## **CHAPTER TWO**

### **EMPLOYEE RELATIONS**

#### **I. Employee Relations Philosophy**

All employees are expected to work together to accomplish the City's mission. Managers and employees are partners in ensuring that an effective, efficient, and productive working relationship is established and maintained. Managers and employees share accountability for a high level of performance while ensuring mutual respect for individual rights.

Employees with managerial/supervisory responsibilities, or who direct or assign the work of others, are expected to develop and support a collaborative and productive work environment that accomplishes the City's mission. Employee proposals, suggestions, and complaints shall be encouraged and considered. Informal daily communication among employees is encouraged to develop the free exchange of information, ideas, and opinions. Other communication tools and strategies, such as bulletin boards, employee newsletters, handbooks, meetings, and a variety of employee involvement activities may be developed to support open communication, information sharing, and employee participation in decision-making processes.

#### **II. Standards of Conduct**

Standards of conduct are designed to protect the well-being and rights of all employees, to ensure a safe, efficient government, compliance with law, and accomplishment of the City's mission. While it is impractical to list every aspect of behavior that is or is not appropriate, City employees are expected to be guided by the highest

ethical standards. The following general rules of conduct shall apply:

1. Employees shall comply with all City policies, rules, and regulations, such as those established by the Departments of Human Resources, Finance, and Information Technology, as well as any departmental rules and standard operating procedures.
2. No employee shall engage in unauthorized use or misuse of City property of any kind.
3. No employee shall participate in gambling activity of any kind while on duty.
4. No employee shall use or allow the use of official information gained through job duties for furthering any private interests.
5. No employee shall engage in any outside employment or other activity (paid or otherwise) that interferes in any way with the full performance of job duties and responsibilities.
6. No employee shall engage in criminal, infamous, dishonest, or other conduct prejudicial to the interests of the City of Hampton.
7. No employee shall accept any money, loan, gift, favor, service, or business or professional opportunity under circumstances from which it might be reasonably inferred that such money, loan, gift, favor, service, or business or professional opportunity was given or offered for the purpose of influencing the employee in the discharge of job duties.
8. No employee or applicant shall give or offer to give any money,

loan, gift, favor, service, or business or professional opportunity for any appointment, promotion, assignment, or any advantage in employment with the City of Hampton.

9. No employee or applicant shall make any false statements or perform any other fraudulent act in connection with any City record, examination, certification, application, or appointment under the provisions of this policy.
10. Employees shall conduct themselves in a courteous and polite manner in all dealings with fellow employees, managers/supervisors, and the general public.

### **III. Equal Employment Opportunity and Sexual Harassment Policies; Complaint and Investigation Procedures**

#### **A. Equal Employment Opportunity Policy**

The City of Hampton is fully committed to the principles of equal employment opportunity in the provision of all services to the public. This policy describes how the City will apply those principles and ensure compliance with applicable federal, state, and local laws relating to equal employment opportunity.

The City of Hampton will make all decisions regarding recruitment, hiring, promotions, and other terms and conditions of employment, without unlawful discrimination on the basis of race, color, religion, sex, national or ethnic origin, disability, age, marital status, sexual orientation, gender identity, pregnancy, childbirth or related medical condition including lactation, status as a veteran, genetic information, or any other protected characteristic or factor.

**Implementation** - The City will make good faith efforts to:

1. Identify and eliminate employment practices and procedures that have an unlawful adverse impact on protected population groups through consideration of factors not clearly related to job performance.
2. Develop and recruit qualified minority, women and disabled applicants, using such special recruitment efforts and other measures to increase the number of qualified minorities and women in applicant pools for available jobs.
3. Take such other narrowly tailored affirmative action to promote the employment and advancement of minorities, women and the disabled as may be consistent with compelling City interests.
4. Nothing in this policy is intended to require or allow preference in employment decisions based on membership in a protected group. Selection for City positions shall be based on a determination of who is best qualified and best suited for a particular position.

## **B. Discriminatory Harassment Policy**

The City of Hampton is committed to providing a work environment free of any form of discriminatory harassment or related intimidation based on race, color, religion, sex, national or ethnic origin, disability, age, marital status, sexual orientation, gender identity, pregnancy, childbirth or related medical conditions including lactation, status as a veteran, genetic information, or any other protected characteristic. Discriminatory harassment is prohibited within the City of Hampton.

Discriminatory harassment is contrary to City policy and may also be illegal. The

City defines discriminatory harassment as any unwelcome verbal, written or physical conduct that demeans or shows hostility towards a person on the basis of race, color, religion, sex, national or ethnic origin, disability, age, marital status, sexual orientation, gender identity, pregnancy, childbirth or related medical condition including lactation, status as a veteran, genetic information, or any other protected characteristic or factor that:

1. Has the purpose or effect of creating an intimidating, hostile or offensive work environment; or
2. Has the purpose or effect of unreasonably interfering with an employee's work performance; and
3. Adversely affects an employee's employment opportunities or compensation.

### **C. Sexual Harassment Policy**

Harassment on the basis of sex is a violation of Section 703 of Title VII of the 1964 Civil Rights Act. The City of Hampton is committed to providing a work environment free of any form of sexual harassment or related intimidation. Sexual harassment is prohibited within the City of Hampton.

Sexual harassment is defined as any unwelcome sexual advance, request for sexual favors, or verbal, written or physical conduct of a sexual nature by a manager, supervisor, co-worker or non-employee (third party). The subject of the harassment and the alleged harasser may be male or female. The subject does not have to be of the opposite sex as the alleged harasser. Sexual harassment may take the form of either quid pro quo or hostile work environment harassment.

1. Quid pro quo – A form of sexual harassment when a manager/supervisor or a

person of authority gives or withholds a work-related benefit in exchange for sexual favors. Typically, the harasser requires sexual favors from the individual, either rewarding individual for participating in sexual favors or punishing the individual for refusal to provide sexual favors.

2. Hostile Work Environment – A form of sexual harassment when an individual is subjected to unwelcome and severe or pervasive sexual comments, innuendoes, touching, or other conduct of a sexual nature that creates an intimidating or offensive work environment, or otherwise unreasonably interferes with an employee's work performance.

#### **D. Retaliation Policy**

The City of Hampton is committed to providing a work environment free of any form of retaliation. Retaliation is prohibited within the City of Hampton.

Retaliation is defined as overt or covert acts of reprisal, interference, restraint, penalty, discrimination, intimidation, or harassment against an individual or group lawfully exercising rights under the Equal Employment Opportunity Policy.

The City will not tolerate any form of retaliation directed against an employee or third party who either complains about discrimination, harassment, or retaliation, or who participates in any investigation concerning such misconduct. Any act of retaliation will be treated as a separate and distinct violation of this policy.

#### **E. Manager/Supervisor Responsibilities**

Employees with managerial/supervisory responsibilities, or who direct or assign the work of others, shall comply with and communicate the City's EEO and harassment  
07/01/2021



policies to employees and report incidents observed or reported that may be in violation of this policy to an appropriate authority.

**F. Reporting Allegations of Discrimination and/or Discriminatory Harassment**

Any employee who believes that race, color, religion, sex, national or ethnic origin, disability, age, marital status, sexual orientation, gender identity, pregnancy, childbirth or related medical condition including lactation, status as a veteran, genetic information, or any other protected characteristic is a factor in any adverse employment action, or the basis of discriminatory harassment, should bring the matter to the attention of the manager/supervisor or Department Head. Any complaint under this policy shall be made within one year of the most recent act of alleged discrimination. Complaints received outside of this time limit may be investigated at the sole discretion of the City Manager.

If the manager/supervisor or Department Head is involved in or has allowed the discriminatory practice to continue, or if the complainant simply prefers to do so, the employee may contact the Department of Human Resources or any other manager/supervisor or Department Head. Once an allegation is made that indicates a potential or actual violation of any law and/or regulation pertaining to employment discrimination or harassment, including sexual harassment or retaliation, an investigation will be initiated immediately in accordance with Paragraph G below.

## **G. Investigation Procedures for Allegations of Discrimination and/or Discriminatory Harassment**

When an employee alleges discrimination or harassment, Human Resources will initiate an investigation. In some instances, Human Resources may partner with the Department Head or an independent third party may conduct the investigation. Human Resources shall investigate complaints as directed by the City Manager upon the recommendation of the City Attorney, in cases where an allegation has been made against a Department Head, when in the Department Head's opinion, the investigation would be more appropriately performed outside the Department, or in connection with a grievance (see Chapter 3, Section XIII). Upon the initiation of an investigation, the following individuals shall be advised: the City Manager, the Director of Human Resources, the City Attorney, and the appropriate Department Head. An employee may request an investigation by Human Resources in lieu of an investigation by the Department Head or departmental staff; however, in these circumstances, the City Manager shall make the final decision regarding the appropriate person to conduct the investigation. Every effort shall be made to maintain the confidentiality of the investigation. All investigations shall be conducted in accordance with the following guidelines:

1. Review the complaint to determine its timeliness, merit and validity.
2. Reach agreement with the employee as to the issue(s) to be investigated.
3. Clarify questions relative to the complaint.
4. Solicit supporting documentation.
5. Interview all witnesses.
6. Prepare a written, signed "Report of Investigation" for the City

Manager or designee, the City Attorney or designee, the Department Head and/or the official administering a grievance in accordance with Chapter 3, Section XIII, as appropriate, which includes:

- a. A summary of the allegation(s).
- b. A presentation and analysis of the evidence.
- c. A summary of how and why the evidence suggests that there is or is not discrimination, harassment or retaliation.

8. Provide a written statement of disposition to the complainant.

Upon completion of the investigation, if circumstances warrant, the appropriate individual will initiate corrective action including, but not limited to, disciplinary action, job transfer, counseling, training, etc.

## **H. Grievances Related to Discriminatory and/or Sexual Harassment**

Permanent employees, who have completed the probationary period, may use the City's Grievance Procedure to address allegations of discriminatory and/or sexual harassment in accordance with the Personnel Policies Manual, Chapter 3, Section XIII, "Allegations of Discriminatory and/or Sexual Harassment."

### **I. Responsibility for Policy Administration**

The City Manager, the Director of Human Resources, and Department Heads are responsible for the administration of these policies. Employees or applicants for employment who have questions regarding these policies should contact the Department Head or the Department of Human Resources.

Department Heads shall ensure that copies of these policies are posted in a conspicuous place for viewing by all employees.

#### **IV. Americans with Disabilities Act Amendments Act (ADAAA)**

The City of Hampton will provide reasonable accommodations for an employee or job applicant with a disability, unless doing so would cause undue hardship. The City of Hampton forbids discrimination in any aspect of employment.

#### **V. Substance Abuse Policy, Procedures, and Guidelines**

The Director of Human Resources shall develop and administer a substance abuse policy designed to promote and maintain the health, safety and well-being of the employees and citizens of Hampton. The City is committed to maintaining a work environment that is free from the effects of alcohol and illegal drug use. To promote an alcohol and drug-free workplace, the policy shall provide for employee assistance, supervisory training, employee education, and a testing procedure for the identification of the illegal use of drugs or alcohol in the work place. In addition, the policy shall prohibit the sale, distribution, possession or use-without a prescription of any controlled substance, illegal drug or intoxicant, including marijuana, on City time or on City property and shall provide for disciplinary action for policy violations.

All policies and procedures shall conform to applicable federal and state laws. These laws require the City to conduct pre-employment and random testing for employees who are required to obtain and maintain commercial driver's licenses and who drive commercial motor vehicles for illegal use of alcohol and controlled substances. In addition, safety-sensitive employees are subject to random testing. This policy may also provide for

pre-employment, reasonable suspicion, post-accident, return-to-duty, and follow-up testing as appropriate. Substance abuse policy, procedures and guidelines are outlined in the Personnel Administrative Instruction.

The City may contract with outside organizations for testing services. Any agency under contract with the City to perform testing and analysis services will be required to comply with the federal guidelines for testing procedures, handling of test results, record retention and confidentiality.

It shall be the responsibility of the Department of Human Resources to communicate this policy to all current employees, and include it in the orientation of all new employees. In addition, the Department of Human Resources shall provide periodic policy awareness and training opportunities for employees to ensure that the workforce is fully informed about the intent and requirements of the policy and procedures, and of the possible consequences for violations of the policy.

Any employee who has a drug or alcohol related problem is encouraged to voluntarily seek treatment through the City's Employee Assistance Program before the problem affects the individual's employment with the City.

## **VI. Political Activity**

An employee shall not directly or indirectly use or seek to use the authority or influence of the position/job to control or modify the political action of others. An employee shall not engage in political activity during duty hours.

## **VII. Union Activity**

As of May 1, 2021, Virginia law permits the Hampton City Council to determine

whether to allow for collective bargaining and, if so, to determine what terms and conditions under which the City would do so. There is no legal requirement that City Council pass an ordinance allowing for collective bargaining. Please refer to PAI 2.4 for the procedure by which a group may submit a certification to the Clerk of the City Council to start the process. Employees shall not engage in any activity related to such unions or associations which impairs their ability to perform their job responsibilities.

### **VIII. Public Statements**

All employees may speak and/or write on issues of legitimate public concern. However, employees are prohibited from making false or reckless statements that impede the employee's performance of assigned duties or that interfere with City operations.

### **IX. Distinguishing between Employee Misconduct and Poor Performance**

When employees fail to behave in an appropriate manner or fail to meet performance expectations, it may become necessary to initiate actions to correct the conduct or end the employment relationship. Poor performance is defined as the inability or unwillingness to meet acceptable work expectations due to lack of skills, training, education, or other circumstances. Misconduct is defined as willful disregard of the City's standards of conduct or departmental rules.

### **X. Authorized Disciplinary Actions**

It is the City's intent to resolve problems as amicably and swiftly as possible so that attention is focused on accomplishing the mission and creating a collaborative and productive work environment. Authority to initiate disciplinary actions shall be the

responsibility of first line managers/supervisors, team leaders, or members of self-directed teams and subject to review by the Department Head or designee. All written disciplinary actions shall be coordinated with the Director of Human Resources or designee prior to issuance. Proposals to suspend or dismiss and letters of final decision regarding such actions shall be signed by the Department Head.

The following actions, described in the context of the City's traditional disciplinary processes, are a means for dealing with misconduct and poor performance. Managers/supervisors and Department Heads may use this system or may elect to use alternative strategies as described below in Section XI when deemed appropriate. The Director of Human Resources or designee shall provide assistance to managers and employees in developing creative solutions to problems which serve the public interest and meet the guidelines in Section XI. A copy of reprimands, proposals to suspend, proposals to suspend with one year disciplinary probation, suspensions, suspensions with one year disciplinary probation, demotions, proposals to dismiss, and dismissals shall be made a part of the employee's official personnel file maintained by the Department of Human Resources.

**A. Verbal Warning**

A conference between a manager/supervisor and an employee to discuss misconduct or poor performance, and the corrective action expected. No formal procedure shall be required except that the manager/supervisor shall document the verbal warning on the Supervisor's Record of Employee and/or in a memorandum maintained by the department with a copy provided to the employee.

**B. Written Reprimand**

A letter from a manager/supervisor or Department Head to an employee identifying significant misconduct, accumulated infractions, or a pattern of poor performance. A copy of the reprimand shall be made a part of the employee's official personnel file maintained by the Department of Human Resources.

### **C. Suspension**

Places an employee in a non-pay, non-duty status. Since productivity and pay is lost during a suspension, it should only be imposed when a lesser penalty is not appropriate and when dismissal is too stringent. Employees shall receive at least seven (7) calendar days advance written notice of proposed suspension and the reasons therefore in a letter signed by the Department Head. The employee shall have an opportunity to respond orally and in writing to the stated charges within five (5) calendar days to show cause why the action should not be taken. Employees must serve suspensions on consecutive work days. The employee shall receive a letter of final decision at least one (1) calendar day prior to the onset of the proposed suspension.

#### **1. Suspension of Employees Eligible For Overtime Under Fair Labor Standards Act (FLSA)**

Suspension shall be expressed in full work days or shifts, with a maximum suspension period of thirty (30) work days or two hundred forty (240) work hours.

#### **2. Suspension of Employees Exempt From Overtime Under FLSA**

Employees classified as exempt from overtime may be suspended only in full administrative workweek increments, with a maximum suspension period of



thirty (30) work days or two hundred forty (240) work hours.

**D. Suspension with One Year Disciplinary Probation**

Places an employee in a non-pay, non-duty status for a period not to exceed a maximum of thirty (30) work days, followed by a period of one year disciplinary probation. During the one year disciplinary probationary period, further disciplinary infractions will result in dismissal in accordance with the dismissal procedures outlined in Part F of this section. Employees shall receive at least seven (7) calendar days advance written notice of proposed suspension with one year disciplinary probation and the reasons therefore in a letter signed by the Department Head. The employee shall have an opportunity to respond orally and in writing to the stated charges within five (5) calendar days to show cause why the action should not be taken. Employees must serve suspensions on consecutive work days. The employee shall receive a letter of final decision at least one (1) calendar day prior to the onset of the proposed suspension with one (1) year disciplinary probation.

**E. Demotion**

Employees shall receive at least fifteen (15) calendar days advance written notice of proposed demotion, the reasons therefore, and an opportunity to respond orally and in writing to the stated charges within seven (7) calendar days. The employee shall receive a letter of final decision at least four (4) calendar days prior to the onset of the proposed demotion.

**F. Dismissal**

Separates the employee from employment for cause. All employees shall

receive at least fifteen (15) calendar days advance written notice of the proposed dismissal and the reasons therefore in a letter signed by the Department Head. The employee shall have an opportunity to respond orally and in writing to the stated charges within seven (7) calendar days to show cause why the action should not be taken. The employee will receive a letter of final decision at least four (4) calendar days prior to the onset of the proposed dismissal. In cases where the Department Head reduces a proposal to dismiss an employee to a suspension, no additional notice period is required.

In cases where the Department Head feels the employee's continued presence on the job during the 15-day notice period represents a hazard to the employee or others, or adversely affects productivity, morale, or the image of the City, the employee may be suspended without pay or placed on administrative leave pending the proposed dismissal. A decision to place the employee on administrative leave or suspension during the notice period will be stated in the letter of proposed dismissal.

**1. Effect of Resignation While Charges are Pending to Dismiss**

An employee who wishes to resign during the dismissal process may do so by submitting a letter of resignation to the Department Head or the Director of Human Resources. The Department Head may accept the resignation or choose not to accept the resignation and proceed with the dismissal. If the resignation is accepted, the resignation is documented in the official personnel file as a resignation pending dismissal. Once a resignation is submitted by an employee and

accepted by the Department Head or designee it may not be withdrawn unless the Department Head agrees with the withdrawal.

## **2. Separations During Probationary Period**

An employee separated during the probationary period shall receive at least seven (7) calendar days prior to the separation date a written notice which states the reason(s) for the action. If the employee's continued presence on the job would constitute a hazard to the employee or others, or would reflect adversely on the City, the employee shall receive written notice which states the reason(s) for the action and be separated from employment effective immediately.

## **XI. Administrative Leave**

Incidents sometimes occur which are of such a dangerous or serious nature that immediate corrective action must be taken. Employees may be granted paid administrative leave pending the results of official investigations, serious disciplinary actions, or where the Department Head determines that the employee's absence from work is in the best interest of the City. Such cases generally involve real or potential hazards to life and/or property or disruption of City operations. In these cases, the manager/supervisor may initially relieve the employee of job duties. The manager/supervisor must then coordinate the action with the next level manager/supervisor and/or Department Head as soon as possible. In consultation with the Department of Human Resources, the Department Head may place the employee on administrative leave and shall document the reasons therefore. The employee shall be advised within a reasonable period of time of any action to be taken by

management as a result of the incident. Decisions to extend administrative leave beyond fifteen (15) calendar days shall be coordinated with the Director of Human Resources or designee and documented in the employee's official personnel file.

## **XII. Alternative Strategies for Dealing with Misconduct and Performance Problems**

In addition to the traditional discipline outlined in Section IX, the Director of Human Resources may develop alternative strategies for dealing with misconduct and poor performance. These strategies may include, but are not limited to, formal coaching, management-directed referral to the Employee Assistance Program, peer mentoring programs, team and individual performance improvement contracts, and negotiated amicable departures (i.e., separation agreements).

The Director of Human Resources or designee may negotiate amicable departure agreements with employees when it is determined to be in the best interest of the City. Written agreements shall be coordinated with the City Attorney's Office prior to final signatures and implementation.

The decision to apply an alternative strategy must be made on a case-by-case basis. Often the cost of administering the traditional disciplinary processes and/or the grievance procedure exceeds those involved in alternative solutions. In all cases, the City's guiding principles shall be to develop solutions to problems which serve the public interest, create fair and relevant consequences, and are most likely to solve problems in the least negative and most cost effective way.

### **XIII. Table of Disciplinary Infractions and Penalties**

#### **A. How To Use the Table**

The table is intended to be used as a guide and is not all-inclusive as it is not possible to anticipate every potential infraction. The manager/supervisor should review the table of infractions to determine the similarity to the current situation. In some cases, there may be nothing in the table pertaining to a particular offense. In those cases, the manager/supervisor must use individual judgment as to the appropriate penalty. The Department of Human Resources is available to both managers/supervisors and employees who need advice and assistance in disciplinary matters. All written disciplinary actions shall be coordinated with the Director of Human Resources or designee prior to issuance.

The table is organized by the level of severity of the infraction(s). Level one infractions are subject to a verbal warning or written reprimand. Level two infractions are subject to suspension. Level three infractions are subject to dismissal or suspension with one year of disciplinary probation. Level four infractions are subject to dismissal with no discretion.

#### **B. Establishing the Penalty**

When establishing a disciplinary penalty, the manager/supervisor and/or Department Head should take into consideration a number of different factors. First, the character, seriousness, and consequences of the infraction must be considered. Next, such issues as mitigating circumstances and the possibility of genuine misunderstanding on the employee's part should be examined. The employee's past record and length of service play a role in assessing the penalty. Considerations that tend to show a need for

more severe actions are previous offenses, frequency of offenses, the employee's character, and the impact of misconduct, poor performance and/or disruptive behavior on productivity and morale. Cumulative unrelated offenses may indicate a need for serious corrective action by management.

**C. Requests for Removal of Disciplinary Actions From Personnel Files**

Department Heads may, upon making written request to the Director of Human Resources, remove written records of disciplinary actions from the official personnel file of departmental employees. Otherwise, the disciplinary records shall remain a part of the employee's official personnel file.

**D. Table of Disciplinary Infractions and Penalties**

- Level 4 – Dismissal, with no discretion
- Level 3 – Dismissal OR Suspension with One Year Disciplinary Probation
- Level 2 – Suspension
- Level 1 – Verbal Warning to Written Reprimand

LEVEL FOUR OFFENSES – DISMISSAL
1. Sale, distribution, possession or use-without a prescription of any controlled substance, illegal drug or intoxicant, including marijuana, on City time or on City property.
2. Operating a City vehicle or operating City equipment while under the influence of any controlled substance, illegal drug or intoxicant including marijuana.
3. A positive drug test as defined by the City’s Substance Abuse Policy; refusal to test; failure to fully cooperate in drug/alcohol testing; action to alter the results of drug testing.
4. Theft, actual or attempted, of City or co-worker property.
5. Acts of violence while on City time or on City property.
6. Unauthorized possession or use of firearms, dangerous weapons or explosives while on City time or on City property.
7. Participating in any kind of work slowdown, sit down, or similar concerted interference with City operations.
8. Workplace harassment or other discrimination that demeans or shows hostility toward a person on the basis of a protected class in violation of the City’s EEO policy.
9. Making fraudulent claims for Workers’ Compensation or other benefits.
10. Knowingly accessing, using or releasing confidential information under circumstances that compromise City interests and/or operations.
11. Abandonment of position: failure to report to work for three (3) consecutive scheduled workdays or shifts.
12. Willful refusal to participate in an administrative investigation.

<b>LEVEL FOUR OFFENSES – DISMISSAL</b>
13. Other misconduct of similar severity.

<b>LEVEL THREE OFFENSES – DISMISSAL OR SUSPENSION WITH ONE YEAR DISCIPLINARY PROBATION</b>
1. Threatened or attempted acts of violence while on City time or on City property.
2. Misuse or unauthorized use of City monies or property. Delay or failure to properly account for funds or property entrusted to the employee.
3. Misuse of City software, computer networks, inter/intranet, email, fax, phone and letterhead or other City forms or documents.
4. Falsification, misrepresentation or alteration of City documents or other information.
5. Harassing behavior in violation of City of Hampton Standards of Conduct.
6. Loss or suspension of a required motor vehicle license or knowingly operating a City vehicle without an appropriate motor vehicle license.
7. Deliberate destruction or reckless use of City property or the property of others.
8. Engaging in any work activities for personal gain while on City time without prior approval by the appropriate authority. This includes work performed while on sick leave or Workers' Compensation leave unless authorized in advance by the appropriate City official.
9. Post-accident positive test result for marijuana for non-safety sensitive positions.
10. Serious inefficiency and/or incompetence that severely hampers productivity, the City's mission, safety, and/or health of others that requires immediate corrective action.
11. Insubordinate defiance of authority; refusal to comply with proper orders; failure to carry out a reasonable job assignment or job directive from a manager or supervisor.
12. Gross negligence in the performance of job responsibilities.
13. Criminal, dishonest, improper or other conduct prejudicial to the interests of the City.



LEVEL THREE OFFENSES – DISMISSAL <b>OR</b> SUSPENSION WITH ONE YEAR DISCIPLINARY PROBATION
14. Unauthorized absence of eight (8) hours or more.
15. Failure to report for work when designated as essential personnel.
16. Off duty misconduct of such major import that the employee is unable to fulfill job responsibilities. Off duty misconduct of such significance that there is an adverse effect upon the City.
17. Retaliation for exercising rights under grievance procedures or other protected activity.
18. Other misconduct of similar severity.

LEVEL TWO OFFENSES – SUSPENSION
1. Unauthorized sleeping while on the job.
2. Failure to observe safety practices including failure to use mandatory personal protective safety equipment such as eye protection or safety shoes, and failure to comply with hearing conservation program requirements.
3. Unsafe operation of a City vehicle or other equipment resulting in property damage or personal injury.
4. Gambling on City property or during work hours.
5. Acceptance of gifts, gratuities or other things of substantial value under circumstances from which it might be reasonably inferred that such gift was given or offered for the purpose of influencing the discharge of official duties.
6. Dealing with citizens, managers/supervisors, employees or other individuals in a rude, disrespectful or unresponsive manner, depending on severity and/or impact on the department or organization.
7. Other misconduct of similar severity.

LEVEL ONE OFFENSES – VERBAL WARNING TO WRITTEN REPRIMAND
1. Transportation of non-City employees in City vehicles, except for official City of Hampton business.
2. Use of abusive or offensive language.

LEVEL ONE OFFENSES – VERBAL WARNING TO WRITTEN REPRIMAND

3. Inducing an employee to violate rules or regulations.
4. Outside employment or other activity (paid or otherwise), that interferes with full performance of employee's official responsibilities.
5. Failure to comply with special rules or instructions established by Department Head or manager/supervisor.
6. Tardiness.
7. Unauthorized absence of less than eight (8) hours.
8. Failure to request leave according to established procedures.
9. Making inflammatory statements regarding matters not of legitimate public concern and which disrupt City operations.
10. Delay or failure to carry out assigned work or instructions in a reasonable period of time.
11. Other misconduct of similar severity.

## XIV. Format of Disciplinary Letters

### A. Proposal to Dismiss Letter

Date

Name  
Address

Dear :

I propose to dismiss you from employment with the City of Hampton effective at the close of business on \_\_\_\_\_ (*15 calendar days from date of this letter*) for the following reason:

*List Disciplinary Infraction(s)*

*For example: Careless use of City property resulting in actual major damage to City property with significant mission disruption and possible danger to the lives of citizens*

in that:

*Describe Details*

*For example: At approximately 9:00 a.m., on February 27, 2003 you failed to take proper safety measures while connecting a piece of equipment to a truck. You operated the truck in a negligent manner without regard to the piece of equipment in tow. Your negligence caused a major accident that resulted in over \$15,000 in damages.*

You are hereby afforded the opportunity to respond to the above charge orally and in writing to the undersigned not later than the close of business on \_\_\_\_\_ (*7 calendar days from date of this letter*) in order to show cause why this action should not be taken. Your comments will be considered before a final decision is made.

Your response to this proposed action does not constitute a grievance. You will have an opportunity to grieve if you are dismissed.

Sincerely,

Signature of Department Head

cc: Human Resources  
Personnel File  
Employee ID:

**B. Proposal to Suspend Letter with One Year Disciplinary Probation.**

Date

Name  
Address

Dear :

I propose to suspend you from duty and pay for (number of) days on \_\_\_\_\_, (may begin no sooner than 7 calendar days from date of letter) In addition to the proposed suspension, I propose to place you on disciplinary probation for a period of one (1) year commencing at the completion of the suspension period.

*Disciplinary Infraction(s)*

*For example: (1) careless use of City property resulting in major damage to City property, and (2) failure to observe safety rules and regulations for the proper and safe operation of truck #*

in that:

*Describe Details*

*For example: On June 1, 2003, while exiting the garage, you struck the left side of the exit door causing major damage to the left side of the exit door and structural damage to the concrete support and the adjacent exterior wall of the garage.*

*You have been trained in the proper and safe operation of the truck. You have been counseled repeatedly on your careless practices. You received a written reprimand on April 2, 2003 for careless use of City property.*

You are hereby afforded an opportunity to respond to the above charge(s) orally and in writing to the undersigned not later than the close of business on \_\_\_\_\_ (at least 5 calendar days from date of this letter). Your comments will be considered before a final decision is made.

Your response to this proposed action does not constitute a grievance. You will have an opportunity to grieve if you are suspended and placed on disciplinary probation.

Sincerely,

Signature of Department Head

cc: Human Resources  
Personnel File  
Employee ID:

07/01/2021

26

## C. Proposal to Suspend Letter

Date

Name  
Address

Dear :

I propose to suspend you from duty and pay for five days on \_\_\_\_\_, (*may begin no sooner than 7 calendar days from date of letter*)

*Disciplinary Infraction(s)*

*For example: (1) careless use of City property resulting in major damage to City property, and (2) failure to observe safety rules and regulations for the proper and safe operation of truck #*

in that:

*Describe Details*

*For example: On June 1, 2003, while exiting the garage, you struck the left side of the exit door causing major damage to the left side of the exit door and structural damage to the concrete support and the adjacent exterior wall of the garage.*

*You have been trained in the proper and safe operation of the truck. You have been counseled repeatedly on your careless practices. You received a written reprimand on April 2, 2003 for careless use of City property.*

You are hereby afforded an opportunity to respond to the above charge(s) orally and in writing to the undersigned not later than the close of business on \_\_\_\_\_ (*at least 5 calendar days from date of this letter*). Your comments will be considered before a final decision is made.

Your response to this proposed action does not constitute a grievance. You will have an opportunity to grieve if you are suspended.

Sincerely,

Signature of Department Head

cc: Human Resources  
Personnel File  
Employee ID:

07/01/2021

27

**D. Letter of Final Decision on Dismissals, Demotions,  
Suspensions with One Year Disciplinary Probation, and  
Suspensions**

Date

Name  
Address

Dear :

I have considered your comments regarding my proposal to \_\_\_\_\_ you from employment with the City of Hampton effective the close of business on \_\_\_\_\_.

After careful consideration, I have decided that you will be \_\_\_\_\_ on the above date.

Please be advised that you may grieve this action within thirty (30) calendar days from the date of: (select the appropriate option) dismissal, demotion, last day of suspension.

Sincerely,

Signature of Department Head

cc: Human Resources  
Personnel File  
Employee ID:

**E. Separation during Probationary Period Letter**

Date

Name  
Address

Dear :

The City of Hampton Personnel Policies allow for employees to be separated during their probationary period if the skills and work behaviors necessary for satisfactory performance are not demonstrated.

*State Reason*

*For example: Your performance has not met expectations for the position of \_\_\_\_\_.  
You have not demonstrated satisfactory performance during your employment in several areas that are critical to the efficient operations of \_\_\_\_\_. These areas include \_\_\_\_\_.*

Therefore, it is my determination that your skills are not a good fit for the requirements of the \_\_\_\_\_ position and you are hereby advised that you will be separated from employment during your probationary period, effective at the close of business on \_\_\_\_\_ (7 calendar days from date of this letter). In accordance with Chapter 3, Section II of the City of Hampton Personnel Policies Manual, this action is non-grievable.

Sincerely,

Signature of Department Head

cc: Human Resources  
Personnel File  
Employee ID:

## F. Written Reprimand Letter

Date

Name  
Address

Dear :

This is an official reprimand for

*Disciplinary Infraction(s)*

*For example: (1) careless use of City property resulting property damage and disruption of mission and (2) failure to comply with departmental regulations for the proper and safe operation of a vehicle*

in that:

*Describe Details*

*For example: On January 4, 2003, while you were operating a City vehicle during the performance of your duties on Main Street, you struck a parked vehicle causing damage to the private vehicle and the City vehicle.*

*You have been trained in the proper and safe operation of a City vehicle. Future incidents of this type may result in more severe disciplinary action.*

This is an official reprimand that will be included in your official personnel file.

In accordance with Chapter 3, Section II of the City of Hampton Personnel Policies Manual, this action is non-grievable.

Sincerely,

Signature of Manager/Supervisor or  
Department Head

cc: Human Resources  
Personnel File  
Employee ID:

07/01/2021

30



**G. Requirement for Medical Certificate Letter**

DATE:

MEMORANDUM TO:

FROM:

SUBJECT: Physician Documentation

In accordance with the City of Hampton Personnel Manual, Chapter Seven, Section V, Subsection E (Medical Certificates), you are hereby required to:

"Produce a supporting document, acceptable to your manager/supervisor, from your attending physician for any and all periods of absence from duty for sickness or injury verifying your inability to perform your duties; and/or a document, acceptable to your manager/supervisor, attesting to the fact that a dependent member of your immediate family, as defined in Chapter Seven, Section V, of the City of Hampton Personnel Policies Manual, requires your care and attendance."

This document shall include the reason for and length of your incapacity, or the reason and length of time your presence is required for the illness of a dependent family member.

Your failure to comply with this requirement will result in your being placed in an unapproved, unpaid leave status. This constitutes Absence Without Leave (AWOL) which may result in disciplinary action.

This requirement is effective from the date of this letter until further notice.

Sincerely,

Signature of Manager/Supervisor or  
Department Head

cc: Human Resources  
Personnel File  
Employee ID:

## H. Abandonment of Position Letter

Date

Name  
Address

Dear :

In accordance with City of Hampton Personnel Policies “an employee who, without justification acceptable to the Department Head, fails to report to work for three consecutive days may be separated for abandonment of position. A separation under these circumstances shall be considered a resignation without appropriate notice and administered accordingly.”

On (days of absence) you failed to report to work or to contact your manager/supervisor to arrange for your absence from work.

Therefore, effective \_\_\_\_\_ you are hereby separated from employment with the City of Hampton for abandonment of position.

Sincerely,

Signature of Department Head

cc: Human Resources  
Personnel File  
Employee ID:

**I. Separation of WAE Employee Letter**

Date

Name  
Address

Dear :

On \_\_\_\_\_ you will be separated from employment as a WAE (job title) with the City of Hampton for the following reason:

*State Reason*

*For example: One of the requirements of employment as a WAE Parks Technician is the Department of Parks & Recreation is that incumbents must have a valid Virginia Motor Vehicle Operator's License. It is my understanding that you do not possess a valid operator's license.*

You will continue to report to work during this notice period with the restriction of no operating/driving any City equipment/vehicle. Also, you may apply for other positions within the City that do not require a Virginia Driver's License.

In accordance with Chapter 3, Section V of the City of Hampton Personnel Policies Manual, this action is non-grievable.

Sincerely,

Signature of Department Head

cc: Human Resources  
Personnel File  
Employee ID:

**J. Separation without Prejudice Letter**

Date

Name  
Address

Dear :

On \_\_\_\_\_ (15 calendar days from the date of this letter) you will be separated without prejudice from employment with the City of Hampton for the following reason:

*State Reason*

*For example: One of the requirements of employment as a (job title) in the Department of \_\_\_\_\_ is that the incumbent must have a valid Virginia Commercial Driver's License. The Virginia Division of Motor Vehicles transcript of your driver's record as of \_\_\_\_\_ indicates that your Commercial Driver's License will be suspended effective \_\_\_\_\_.*

You will continue to report to work during this notice period with the restriction of no operating/driving any City equipment/vehicle. Also, you may apply for other positions within the City that do not require a Virginia Commercial Driver's License.

In accordance with Chapter 3, Section II of the City of Hampton Personnel Policies Manual, this action is non-grievable.

Sincerely,

Signature of Department Head

cc: Human Resources  
Personnel File  
Employee ID:

07/01/2021

34