

Durham Police Department

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POLICY # 26.1.4

SUBJECT: Disciplinary Procedures

NOTE: This written directive is for the internal governance of the Durham Police Department, and as provided by RSA 516:36, is not intended and should not be interpreted to establish a higher standard of care in any civil or criminal action than would otherwise be applicable under existing law.

PURPOSE

The Purpose of this directive is to establish a fair and effective disciplinary system for employees of the Durham Police Department.

POLICY

It shall be the policy of the Durham Police Department to promote and adhere to progressive disciplinary practices as described herein and reward employees for outstanding performance and conduct.

PROCEDURE

Employee Awards Program

Policy 26.1.2, [Commendations, Honors and Awards](#), establishes procedures for rewarding employees for outstanding performance and conduct.

Disciplinary Procedures

Effective discipline is a positive process when its perceived purpose is to train or develop employees by instruction. As it is applied by the Durham Police Department, discipline is used to promote consistent, professional police services for the community. The system is based on fairness to the employee and the agency and stimulates employee morale and motivation.

The Department's disciplinary system will consist of the following provisions, listed in order of progression:

- **Remedial Actions:**
 - ◆ Informal counseling session with an immediate supervisor.
 - ◆ Remedial Training.
 - ◆ Professional Counseling.
- **Reprimands:**
 - ◆ Formal Counseling.
 - ◆ Oral Warning.
 - ◆ Written Reprimand.
- **Disciplinary Actions:**
 - ◆ Probation, not to exceed 12 months.
 - ◆ Suspension without pay.
 - ◆ Demotion.
 - ◆ Termination.
- Supervisors will treat each employee fairly and will apply constructive and positive measures to improve performance.
- Supervisors should attempt to begin employee discipline with counseling, using progressive measures as necessary.
- The severity of disciplinary action taken will depend on the gravity of the offense and circumstances under which it occurred.
- Reprimands and disciplinary action may be pursued in instances where it is proven that an employee violated any of the following:
 - ◆ Federal or State laws;
 - ◆ Town Ordinances;
 - ◆ [Department Standards of Conduct](#);

- ◆ Departmental directives, rules, regulations, policies, procedures, general or special orders;
- ◆ verbal or written instructions of a supervisor.
- A supervisor initiating any disciplinary system procedure shall consider such action a personnel matter, and shall:
 - ◆ Handle all documents concerning the action confidentially,
 - ◆ Not discuss the matter with any person uninvolved with the action,
 - ◆ Document such measures only within the affected employees Personnel File, except as required in the General Order entitled [Internal Affairs](#).
- For the purpose of this directive, Personnel File shall refer only to the file that contains an employee's employment history, and is secured in the Office of the Chief of Police.

Progressive Disciplinary Steps Defined

Remedial Actions

Supervisor/Employee counseling session

- A counseling session will refer to an informal meeting for purposes of consultation, discussion or exchange of opinions concerning a specific matter.
- A counseling session may result in:
 - ◆ immediate resolution of a problem
 - ◆ initiation of remedial training
 - ◆ referral of an employee to professional counseling
- A counseling session may be initiated by either a supervisor or an employee, and will not be documented.

Remedial Training

- Remedial training will provide for the improvement of an employees' skills.
- When a training deficiency is identified, a written Remedial Training Plan will be documented and implemented. This plan will be maintained in the employee's

Training File for the length of their employment with the Durham Police Department, unless purged by direction of the Chief of Police.

Professional Counseling

- Professional Counseling may take a variety of forms: practitioners (including physicians, mental health counselors, and clergy) may be used in resolving personal problems that effect job performance.
- An employee needing such assistance may:
 - ◆ Be referred by a supervisor to the Town's Employee Assistance Program (EAP), or
 - ◆ Seek assistance on their own, either through the EAP or other sources.
- Remedial Action may be implemented in conjunction with reprimands or disciplinary action.

Reprimands

Formal Counseling

- A counseling session points out errors to an employee and warns of more serious action if the problem continues.
- Formal counseling will be documented in a memo and will be maintained in the employee's Personnel File for a period not to exceed one year from the date of occurrence.

Oral Warnings

- Oral warnings will usually be the first step in disciplining an employee for a minor violation.
- The oral warning will be administered in a conference between the affected employee and the supervisor issuing the reprimand.
- The supervisor will advise the employee of the circumstances prompting the action and of measures to be taken to correct the employee's performance.
- Oral reprimands may be made part of the employee's personnel file in accordance with the applicable sections of the Agreement between the Town and the DPOA.

- Oral reprimands for violations of the same or different rules, policies, and practices will be cumulative towards the issuance of a written reprimand or higher disciplinary practice.

Written Reprimands

- Written reprimands may be given to an employee:
 - ◆ For isolated, repeated, or cumulative minor disciplinary breaches, or
 - ◆ as the minimal corrective action for a more severe breach when, in the judgment of the issuing supervisor, a more stringent action is not justified.
- The issuing supervisor will document written reprimands by means of a memorandum to the affected employee to include the following information:
 - ◆ the nature of the offense,
 - ◆ dates and circumstances surrounding any related oral reprimands previously issued,
 - ◆ measures deemed appropriate to correct the situation,
 - ◆ future actions that may be taken if the situation is not corrected,
 - ◆ a statement regarding any appeal procedures available to the affected employee.
- A copy of each written reprimand will be forwarded by the issuing supervisor through the Chain of Command to be maintained in the employee's Personnel File.
- Written reprimands will be cumulative towards higher disciplinary actions.

Disciplinary Actions

Suspension without pay.

- Suspension is defined as the temporary forced withdrawal of an employee from official duties, with accompanying loss of pay.
- The Chief of Police, on approval of the Town Administrator, may suspend an employee for up to 30 days in one calendar year.
- Suspension time may be imposed in addition to probation and/or demotion for isolated, repeated or cumulative disciplinary breaches when either a lesser or a more stringent action is deemed inappropriate.

- The affected employee will be given notification in letter form by the Chief of Police stating the following:
 - ◆ the reason for suspension,
 - ◆ the duration of the suspension period,
 - ◆ a copy of the grievance procedure available to the employee.
- An interview may be requested with the Chief of Police for a complete discussion of the circumstances.
- A copy of the letter of notification will be placed in the employee's Personnel File.

Demotion

- Demotion is defined as a reduction in rank, with accompanying reduction of pay.
- Demotion can only be initiated by the Chief of Police, with approval of the Town Administrator.
- Demotion may be imposed along with probation and/or suspension in response to isolated, repeated, or cumulative disciplinary breaches, when either a lesser or more stringent action is deemed inappropriate.
- The affected employee will be given written notification in letter form by the Chief of Police stating the following:
 - ◆ the reason for demotion,
 - ◆ the subsequent rank and pay reductions,
 - ◆ a statement of the grievance procedure.
- An interview may be requested with the Chief of Police for any further discussion.
- A copy of the notification letter will be placed in the affected employee's Personnel File as a permanent record.

Termination

- Termination is defined as the involuntary cessation of employment, and will represent the most severe form of internal discipline.

- Termination may be imposed in response to isolated, repeated, or cumulative disciplinary breaches.
- With the recommendation of the Chief of Police, only the Town Administrator may terminate an employee's employment and will forward a letter to the affected employee through the Chief of Police. The letter will include the following:
 - ◆ the reason for discharge,
 - ◆ the effective date of the discharge,
 - ◆ the status of benefits and retirement benefits after discharge,
 - ◆ a statement as to the content of the employee's employment record relating to the discharge, and
 - ◆ a statement of the grievance procedure.

When Documentation is Required

- Written reports are required whenever a supervisor wishes to cause a recommendation for disciplinary action to be made part of the employee's Personnel File.
- All documentation of disciplinary action or recommended disciplinary action will be maintained in secured files in the Office of the Chief of Police or in the employee's Personnel File if deemed appropriate by the Chief of Police. Personnel files will be maintained in a secured file in the office of the Administrative Assistant.
- When a Durham Police Officer is arrested subsequent to any disciplinary action, the Chief of Police shall notify NHPSTC in accordance with NHPSTC Rule Pol.502.01.

Personnel Files

- An employee's file will be maintained by the department during their employment and fifty years after employment has ended.

Purging Files

- Only the Chief of Police will have the authority to purge an employee's file. The Chief of Police may purge minor infractions, where no suspension occurred, after one year.

Appeal Procedure

- The procedures for appeal of all disciplinary actions are governed by Article 11 of the Agreement between the Town of Durham and the Durham Police Officer's Association or by Article 6 of the Agreement between the Town and the Durham Professional Municipal Managers Association.