



Disciplinary Action Policy

Policy Number: PP 5-3

Effective Date: September 1, 2015

Approved By: Roger L. Stancil, Town Manager

POLICY

The Town shall provide a fair, effective, and consistent process to handle matters which may require disciplinary action. Discipline shall be respectful and equitable. Discipline measures shall be appropriate to the infraction and may include termination of employment.

Any disciplinary action taken in accordance with this policy must be for one or more of the following infractions:

- Unsatisfactory job performance
- Detrimental personal conduct.
- Negligence in performance of duties.

The Town of Chapel Hill shall provide a fair, clear, and useful tool to promptly notify employees when their job performance is below expectation, and to help employees improve and maintain satisfactory job performance before taking disciplinary action for unsatisfactory job performance.

This policy applies to all town employees except Department Heads and Assistant, Deputy, or Town Managers.

PURPOSE

Town employees agree that serving the community requires all employees to perform their job duties well and maintain a high standard of personal conduct and safety. A clear and consistent disciplinary process supports our shared values of Responsibility, Professionalism, Safety, Equity, Ethics and Communication. When an employee's conduct or performance is unsatisfactory or fails to meet expectations, corrective action may be taken using progressive discipline.

This policy provides employees with an opportunity to improve work performance that is below expectations; protects employees, the Town, and the public from harmful behavior; and maintains a safe, professional, and equitable workplace for all.

APPROVAL

Roger L. Stancil, Town Manager

A handwritten signature in blue ink that reads "Roger L. Stancil".



Disciplinary Action Procedures

Policy Number: PP 5-3

Effective Date: September 1, 2015

Approved By: Cliff Turner, Human Resources Development Director

Disciplinary Action Procedures

These procedures are issued by the Director of Human Resource Development to implement the Disciplinary Action Policy, PP 5-3, issued by the Chapel Hill Town Manager. These procedures may be periodically updated.

A. How Time is Calculated:

1. The Town of Chapel Hill Code of Ordinances defines how timelines are computed for purposes of this process. Please refer to [Understanding Time Calculations for Conflict Resolution Processes \(Appendix D\)](#) for more information and specific examples. In most instances,
 - a) The timeline starts the day after the notice or action occurs
 - b) Timelines refer to calendar days except that:
 - i. Timelines do not start or end on a Saturday, Sunday or official Town Holiday
 - ii. Official Town holidays are excluded from the timeline count.

B. Delays and Extensions to the Timeline:

All parties may mutually agree in writing to modify any of the timelines governing this process. If delays occur attributable to the employee for whom discipline is being considered, then the Town cannot be held responsible for the timelines.

C. Before Taking any Disciplinary Action:

1. HRD consulted: Before taking any disciplinary action, the supervisor or Department Head shall discuss the proposed disciplinary action with the Human Resources Development Department (HRD). HRD can assist supervisors and Department Heads with investigating potential disciplinary action, reviewing precedent for taking (or not taking) disciplinary action, and developing disciplinary documents.
2. Review of Documents and Documentation: HRD will review any letter of disciplinary action, including a written warning, before it is discussed with and provided to the employee. Supervisors and department heads shall use the [Severe Disciplinary Action Checklist \(Form 5-3 E\)](#) to assist them in determining whether to proceed with severe disciplinary action against an employee.

PROCEDURES

D. Discipline Procedure for Unsatisfactory Job Performance:

1. Successive: Discipline for unsatisfactory job performance is successive. That means that an employee receives the minimum number of opportunities to correct and improve unsatisfactory performance as set out for each level of discipline.
2. When Discipline Can Occur: A Department Head may discipline any employee for unsatisfactory job performance at any time. The first step of discipline for unsatisfactory job performance is the issuance of a written warning.
3. HRD Review: HRD must review any written warning before it is provided to the employee.
4. Written Warning Checklist: The **Written Warning Checklist (Form 5-3 A)** is a tool to assist supervisors and managers in preparing and issuing a written warning. A written warning should be reviewed and signed by a member of the Department's senior management before being issued to the employee.
5. Performance Improvement Plans: An employee who has received a BELOW EXPECTATION rating may be placed on a Performance Improvement Plan (PIP) at any time during the evaluation year. Before being placed on the PIP, the employee must have received documented counseling regarding job performance. Should this occur, no discipline may take place until the employee has been given a written Performance Improvement Plan (PIP) and has failed to demonstrate the required correction through the PIP.
6. Prior Warning Not Required: It is not required that a written warning be preceded by a rating of BELOW ACCEPTABLE. A **written warning for unsatisfactory job performance can be issued at any time**. However, prior evaluations that are inconsistent with discipline for unsatisfactory job performance must be supplemented with additional information and documentation to support the disciplinary action. The **Written Warning Checklist (Form 5-3 A)** provides guidance to supervisors and managers regarding written warnings. HRD must be consulted before such action is taken.
7. Use of Leave during Disciplinary Suspension: An employee who is placed on disciplinary suspension without pay may not use any accrued leave balance during the period of suspension. The length of suspension is determined based on fairness, consistency, and applicable state and federal laws.
8. Disciplinary actions for unsatisfactory job performance may be taken as follows:
 - a) Written Warning - Before receiving a written warning for unsatisfactory job performance, the employee must have at a minimum:
 - i. A current unresolved incident of unsatisfactory job performance.

Managers may use the **Written Warning Template (Form 5-3 B)** for written warnings.

PROCEDURES CONT.

b) Suspension without pay or demotion for unsatisfactory job performance:

Before a department head may suspend an employee without pay or demote an employee for unsatisfactory job performance, the department head shall confer with the human resources department and review the situation and the recommended discipline.

Before being suspended without pay or demoted for unsatisfactory job performance the employee must have:

- a) At least one (1) prior active written warning, and
- b) A current unresolved incident of unsatisfactory job performance.

Before imposing either a suspension without pay or a demotion for unsatisfactory performance, the department head shall conduct a pre-disciplinary conference. An employee may choose to be represented at the pre-disciplinary conference by any person except a supervisory town employee. (Town of Chapel Hill Code of Ordinances Section 14-121)

- c) Dismissal for unsatisfactory job performance.

Before a department head may recommend to the town manager that an employee be dismissed for unsatisfactory job performance, the employee must have:

- a) At least two (2) prior active written warnings; or
- b) One (1) active written warning plus a severe disciplinary action

Before making such a recommendation for dismissal to the town manager, the department head shall conduct a pre-disciplinary conference. An employee may choose to be represented at the pre-disciplinary conference by any person except a supervisory town employee. (Chapel Hill Code of Ordinances Section 14-122)

If the employee is terminated, the Town Manager or designee must also review and approve the dismissal before the action is taken.

E. Discipline Procedure for Detrimental Personal Conduct and Negligence in the Performance of Duties:

1. Not Successive: Discipline imposed for detrimental personal conduct or negligence in the performance of duties is not successive. That means that, depending on the severity of the occurrence, the employee's employment history with the Town, and previous actions with similar occurrences, the Town may impose severe disciplinary action up to and including dismissal without the requirement of any prior existing disciplinary action.

2. Use of Leave During Suspension: An employee who is placed on disciplinary suspension without pay may not use any accrued leave balance during the period of suspension. The length of suspension is determined based on fairness, consistency, and applicable state and federal laws.

3. Disciplinary actions taken for detrimental personal conduct or negligent performance of duties may be taken as follows:

PROCEDURES CONT.

a) Disciplinary Suspension without Pay or Demotion--Before a Town employee can be suspended without pay or demoted for an act of detrimental personal conduct or negligent performance of duties, there must be:

- i. An unresolved incident AND

A pre-disciplinary conference, also known as a PDC.

b) Dismissal--Before a Town employee can be dismissed for an act of detrimental personal conduct or negligent performance of duties, there must be:

- i. An unresolved incident AND

- ii. A pre-disciplinary conference AND

- iii. The Town Manager or designee must review and approve the dismissal.

F. Employee Representation:

1. Legal Representation—Employees may be represented by an attorney at any point during this process. An employee must inform the Town as soon as he/she has legal representation and provide contact information for the legal counsel. Employees are responsible for all cost related to representation. The Town does not provide legal or other representation for employees.

2. Other Representation—Employees may have non-legal representation as long as it is not a current supervisory Town employee. An employee should inform the Town if he/she wants the representative to attend the Pre-Disciplinary Conference.

G. Leave with Pay During an Investigation:

1. Imposed at any Time: An employee may be placed on a leave of absence with pay at any time, pending the outcome of an investigation into an incident or allegation which could possibly be a violation of Town Policy, municipal, state or federal laws.

2. Reporting Requirement: When an employee has been placed on administrative leave with pay for more than 30 days, the Department Head must inform the Town Manager and the Director of Human Resource Development. Department Heads are responsible for assuring compliance with this reporting requirement. H. Leave without Pay During an Investigation:

1. Imposed at any Time: An employee may be placed on an unpaid leave of absence, to avoid undue disruption of work or danger to the employee, other persons, or property, as in the case of an employee who reports to work under the influence of alcohol or drugs.

2. Pay Reinstatement Provisions: If the pre-disciplinary conference (PDC) does not result in a decision to take severe disciplinary action, the employee will be paid retroactively for the period he/she was suspended.

I. The Pre-Disciplinary Conference (PDC):

Before the Town may impose severe disciplinary action in the form of demotion, suspension without pay, or dismissal on any basis, a pre-disciplinary conference (PDC) must take place. The conference is the employee's opportunity to provide information that the Town will consider in the disciplinary

Before the Conference:

The Department Head considering severe disciplinary action must:

1. Consult with HRD.
2. Complete a fact-finding investigation into the incident, if applicable.
3. Provide the employee with at least a 24 hour written notice of the PDC.
The notice must tell the employee:
 - a) The type of severe disciplinary action being considered
 - b) The facts that led to the consideration of severe discipline
 - c) The conference time and location
 - d) Who may attend the conference

A template of a pre-disciplinary conference notice may be found at [**APPENDIX A**](#) and [**Form 5-3 D.**](#)

K. Attendance at the Pre-Disciplinary Conference:

1. Attendance Strongly Encouraged: The employee's attendance at the PDC is not mandatory, but it is the employee's opportunity to provide information that the Town will consider in its decision. If the employee chooses not to attend the PDC, the Department Head can proceed with making a decision regarding disciplinary action after considering the available facts.
2. Attendees: Persons in attendance at the pre-disciplinary conference include:
 - a) The employee
 - b) The Department Head or a designee
 - c) A representative of the Human Resources Development Department
 - d) At the employee's discretion, an employee representative or legal counsel.
3. Legal Representation: When an employee is represented by legal counsel the Town will also be represented by legal counsel. The Town and the employee will work together to reasonably accommodate scheduling needs so that legal representation for both parties is able to attend the PDC.

See the [**Pre-Disciplinary Conference-Information for Managers \(Appendix C\)**](#) for more information.

I. During the Pre-Disciplinary Conference:

1. Basic Procedure: During the conference the Department Head or department designee must give the employee:
 - a) An oral or written explanation of the type of severe disciplinary action under consideration, including the specific reasons for considering the severe disciplinary action
 - b) A summary of the information that is being used as a basis for considering severe disciplinary action.

- c) An opportunity to provide information and offer facts in support of the employee's case for consideration in the decision.

Consult the [Frequently Asked Questions—Disciplinary Process](#) and [The Pre-Disciplinary Conference: Information for Managers \(Appendix C\)](#) for more information.

M. After the Pre-Disciplinary Conference:

1. After the Conference: the Town department head will:
 - a) Complete the pre-disciplinary checklist and confer with HRD and Legal to review and consider the facts of the case
 - b) Make a decision on the recommended severe disciplinary action
 - c) Communicate the decision no earlier than the start of the next business day after the conference and no later than ten (10) days from the date of the pre-disciplinary conference.
2. Severe Discipline Imposed: If the Town's decision is to take severe disciplinary action, it must provide the employee with a letter setting out:
 - a) The specific reasons for the severe disciplinary action taken
 - b) The effective date of the severe disciplinary action
 - c) The employee's right to seek review of this action under the Town's grievance procedure the time limit for filing a Grievance
 - d) Information on the Town's grievance procedure
 - e) Information on how to contact the HRD Department for assistance and further information.
3. Notification Delivery: If possible, the letter should be personally delivered to the employee, with the employee signing an acknowledgement of receipt. The person delivering the letter can notate delivery if the employee refuses to sign the acknowledgement. A copy of the disciplinary decision letter may also be mailed to the employee via certified mail.

An example of a post-disciplinary conference decision letter may be found in [APPENDIX B.](#)

N. Timeline for Filing a Grievance about Severe Disciplinary Action:

The timeline for filing a grievance for severe disciplinary action does not start until the employee receives a written notice of his/her rights to file a grievance. An employee has fourteen (14) days from the date he/she is

notified of the disciplinary decision to file a grievance. Grievances filed after the ending date of the filing period set out in the grievance procedure shall be dismissed and not processed.

Note: State law says that a dismissal letter is a public record and must be provided to anyone who requests a copy of it. ([North Carolina General Statute Chapter 160A-168\(b\) \(11\)](#))

PROCEDURES
CONT.

O. Other Reasons for Disciplinary Action: Special Provision Regarding Credentials:

By statute, regulation, and Town policy, some duties assigned to Town positions may be performed only by persons who are duly licensed, registered, or certified as required by the relevant law or policy. These requirements are specified in the list of qualifications for classifications in the Town's Position Classification plan.

1. Employee Responsibility: Employees in such classifications are responsible for obtaining and maintaining current, valid credentials as required by law, rule, or regulation
2. Consequences for Failure to Comply: Failure to obtain or maintain the legally required credentials constitutes a basis for immediate dismissal without prior warning, consistent with dismissal for detrimental personal conduct or negligence in the performance of duties. A pre-disciplinary conference must be held prior to dismissal.

P. Falsification of Credentials or Work History:

1. Falsifying Credentials: Falsification of credentials or other documentation in connection with securing employment constitutes cause for severe disciplinary action
2. Discovery Prior to Offer of Employment: If the misrepresentation is discovered prior to an offer of employment, then the applicant shall be disqualified from employment.
3. Discovery after Offer of Employment: If the misrepresentation is discovered after an offer of employment, but prior to the employee's first day of work, then the employee may be terminated without holding a pre-disciplinary conference.
4. Discovery after First Day of Work: If the misrepresentation is discovered after the employee's first day of work, then the Town will conduct a pre-disciplinary conference prior to taking severe disciplinary action. The Town may take disciplinary action up to and including termination.

PROCEDURES
APPROVED BY

Cliff Turner, Human Resources Development Director



FORMS/
INSTRUCTIONS

A. Written Warning Checklist	FORM 5-3 A
B. Written Warning Template	FORM 5-3 B
C. Written Warning—Employee Response	FORM 5-3 C
D. Notice of Pre-Disciplinary Conference	FORM 5-3 D
E. Disciplinary Action Checklist	FORM 5-3 E

ADDITIONAL
CONTACTS

Human Resource Development 919-968-2700 or HR@townofchapelhill.org
Ombuds Office 919-265-0806 or Ombuds@townofchapelhill.org
Employee Assistance Program 1-800-326-3864

DEFINITIONS

- A. Current Unresolved Incident:** A current act of detrimental personal conduct, unsatisfactory job performance or negligence in the performance of duty for which no disciplinary action has previously been taken.
- B. Disciplinary Demotion:** An involuntary personnel action taken to discipline an employee that lowers the employee's salary within their current pay grade or places the employee in a position at a lower pay grade with or without lowering the employee's salary.
- C. Detrimental personal conduct:** behavior of such a serious nature that the functioning of the Town may be or has been impaired; the safety of persons or property may be or have been threatened; or the laws of any government may be or have been violated.
 - Examples of detrimental personal conduct include, but are not limited to:
 - 1. Fraud or theft
 - 2. Conviction of a felony or the entry of a plea of nolo contendere thereto
 - 3. Falsification of records for personal profit, to grant special privileges, or to obtain employment
 - 4. Willful misuse or gross negligence in the handling of Town funds
 - 5. Willful damage or destruction to property
 - 6. Willful acts that endanger the lives and property of others
 - 7. Possession of unauthorized firearms or other lethal weapons on the job
 - 8. Brutality in the performance of duties
 - 9. Reporting to work under the influence of alcohol or drugs or partaking of such while on duty.
 - 10. Engaging in incompatible employment or serving a conflicting interest
 - 11. Request or acceptance of gifts in exchange for favors or influence
 - 12. Engaging in political activity prohibited by Town ordinance.
 - 13. Discourteous treatment of the public and/or other employees.
 - 14. Harassment of an employee or the public with threatening or obscene language and/or gestures
 - 15. Harassment of an employee(s) and/or the public, including youth participating in Town-sponsored activities, on the basis of sexual orientation, gender expression, gender identity, sex or any other protected class status
 - 16. Stated refusal to perform assigned duties or flagrant violation of work rules and regulations
 - 17. Disclosure of confidential information
 - 18. Absence from work after all authorized leave credits and benefits have been exhausted
- D. Dismissal:** the involuntary separation of an employee from Town employment for disciplinary reasons or for failure to obtain or maintain required licenses or credentials. An employee may be dismissed for documented failure to achieve and maintain satisfactory performance as shown through the performance management system; for an unresolved incident of detrimental personal conduct; for an unresolved incident of negligence in the performance of duties; or for failure to obtain or maintain required licenses or credentials.
- E. Negligence in the performance of duty:** Failure to satisfactorily perform job requirements as set out in the job description, work plan, or as directed; and, the act or failure to act causes or results in:

DEFINITIONS (CONT.)

1. death or bodily injury or creates conditions that increase the chance for death or bodily injury to an employee, to members of the public, or to a person(s) or animal for whom the employee has responsibility; or,
2. the loss of or damage to Town property or funds that results in an adverse impact to the operations of the Town and/or the employee's work unit.

F. Pre-Disciplinary Conference: A pre-disciplinary conference is a meeting between a representative of the Town and the employee who may be subject to severe disciplinary action up to and including dismissal. This meeting is the employee's opportunity to provide any and all information he/she wishes to be considered by the Town prior to making a decision about imposing severe disciplinary action against the employee.

G. Severe Disciplinary Action: Disciplinary actions that result in suspension without pay, demotion, or dismissal. A written warning is not a severe disciplinary action. Severe disciplinary actions are not expunged and may be given consideration in a future disciplinary decision against an employee.

H. Suspension without pay: removal of the employee from the work place without pay. An employee may not use accrued leave if placed on suspension without pay.

I. Unsatisfactory job performance: Work-related performance that fails to satisfactorily meet job requirements as set out in the employee's job description, work plan, or as directed by the department head or his/her designee.

J. Written Warning: a written communication to the employee that the employee's job performance is below expectations. It is the first step in the process of disciplining an employee for unsatisfactory job performance. A written warning is active for a period of eighteen (18) months after being issued. After eighteen (18) months of satisfactory job performance as documented in performance management system by a satisfactory performance evaluation, the written warning shall not be used as the basis for any Human Resources action from that point forward.

RESPONSIBILITIES

A. All Employees are expected to:

1. Be aware of and fulfill expected work performance
2. Interact with co-workers, managers, and the public in a respectful and responsible manner
3. Adhere to Town policies

B. All Supervisors/Managers are expected to:

1. Advise employees of Town expectations for conduct and performance
2. Manage employees effectively by providing ongoing feedback on work performance and conduct
3. Supervise probationary employees and provide direction on corrective action during the probationary period
4. Refer matters which may require disciplinary action to the Department Head.
5. Maintain documentation in employees' personnel files Human Resource Development.

RESPONSIBILITIES
(CONT.)

C. All Department Heads are expected to:

1. Promptly inform and consult with Human Resource Development when infractions occur that could necessitate disciplinary action
2. Ensure that this policy is enforced in a fair and consistent manner in consultation with Human Resource Development
3. Conduct a pre-disciplinary conference when severe disciplinary action is being considered.
4. Report all employees on paid administrative leave for more than 30 days to the Town Manager and the Director of Human Resource Development.

D. All Human Resource Development staff members are expected to:

1. Advise and consult with supervisors/managers with respect to any disciplinary matter
2. Assist supervisors/managers in assuring that appropriate documentation is maintained in employees' personnel files.
3. Assist all employees in understanding policies and procedures related to the disciplinary process
4. Monitor process and timelines
5. Provide policy interpretation and guidance as needed, and especially before any severe disciplinary action is taken or recommended.

APPENDICES

- A. [Template: Pre-Disciplinary Conference Notification](#)
- B. [Template: Pre-Disciplinary Conference Decision](#)
- C. [Pre-Disciplinary Conference: Information for Managers](#)
- D. [Understanding Timeline Calculation for Conflict Resolution Processes](#)

1. I need some help understanding the process and my options. Who can help me?

Supervisors and Department Heads, Human Resource Development (HRD) staff, or the Town Ombuds can help you.

2. I'm told I am being investigated for an incident. What does that mean?

When an alleged incident is reported that may constitute a violation of Town policy, or state or federal law, the Town may conduct an investigation to find out facts related to the incident. Employees are required to cooperate with any investigation. Again, this investigation is to uncover facts, not to prove or disprove an allegation.

3. How long does an investigation take and who does it?

It depends on the specific circumstances. Some investigations are handled internally; others may be conducted by outside professionals.

While every effort is made to complete an investigation quickly, it is more important to conduct a thorough investigation. The primary purpose of all investigations is to uncover facts about the incident so that a fair and just decision can be made. Sometimes taking a little more time to conduct the investigation is the right choice, especially when the outcome of the investigation could result in severe disciplinary action. HRD can keep you advised as to the progress and current status of an investigation.

4. I have been placed on administrative leave. What is that?

Sometimes an employee is placed on administrative leave, with or without pay, pending the outcome of an investigation and/or Pre-Disciplinary Conference. The decision is made on a case- by- case basis based on the nature of the alleged policy violation(s). Benefits remain in effect for both types of leave.

F.A.Q.

F.A.Q. (CONT.)

If the employee does not receive a disciplinary action, then the Town reinstates the pay for any time that the employee was on leave without pay.

5. I've been notified of a Pre-Disciplinary Conference. What is that?

A Pre-Disciplinary Conference, or PDC, is required before the Town can take disciplinary action against you. It is a meeting between you and Town management where the Town tells you about the allegations against you, what facts the Town has uncovered, and what disciplinary action is under consideration. You can then respond with any information that you want considered in the disciplinary decision.

You may have a representative at this conference, except that it cannot be a Town supervisory employee. If the representative is an attorney, then the Town's attorney will also attend.

HRD attends to ensure that policies, procedures, and state and federal laws are followed.

More information about the Pre-Disciplinary Conference can be found in the ***Disciplinary Policy*** and the PDC Procedure for Managers

6. What if I am not going to attend the conference or cannot attend the conference?

These are two different situations. If you choose not to attend the conference, the Town will still make a disciplinary decision based on the available information.

If, on the other hand, you CANNOT attend the conference for a legitimate reason, such as a previously scheduled doctor's appointment, let your Department Head know immediately, and no later than 24 hours prior to the time the PDC is scheduled. The Town will make a reasonable effort to accommodate your schedule.

7. The Town has taken severe disciplinary action against me. What can I do if I don't agree?

You can file a grievance. Please see the grievance policies and procedures for more information.

8. How long do I have to grieve a severe disciplinary action?

14 days. Use the Request for a Grievance Proceeding (FORM 5-2 A). Refer to Understanding Timeline Calculations for Conflict Resolution Processes for help understanding timeline calculations, or ask your HRD partner for help.

9. Can the Town still take the disciplinary action against me once I file a grievance?

Yes. If a grievance decision overturns or modifies the disciplinary action, then part of the grievance resolution is to restore any compensation and/or benefits lost as a result of the original action.

10. Why can't I grieve a written warning? How long are they valid? How are they used?

It is not a severe disciplinary action. Written warnings are active for 18 months. They can be used to justify a higher level of discipline for other incidents occurring within the 18 months. The Disciplinary Policy and the Town Code of Ordinances, sections 14-111 through 14-125, have more information.

F.A.Q. (CONT.)

11. How long are severe disciplinary decisions left in my file? Are they used in current disciplinary proceedings?

Severe disciplinary decisions are never removed from your file. Previous severe disciplinary actions can be considered in current disciplinary decisions. The older an action is, the less impact it has on current decisions. The Town considers all information about an employee's performance, as well as the information about the specific incident, when considering disciplinary action. The only exception is written warnings, which are not considered after 18 months.

12. Can I refuse to meet with my supervisor until I get a representative? Do I have to go immediately to a meeting or can I have time to prepare?

Pre-disciplinary conferences are scheduled so that employees can prepare and/or bring a representative. Initial communications and administrative leave may be handled immediately to safeguard the employee, his co-workers, the workplace, and the public.

13. If I have a severe disciplinary action in my file from one department, and then I transfer to another department, does that discipline go with me or do I start fresh in the other department?

It goes with you to the new department and can be considered in future decisions as outlined above.

14. If I am applying for a job in another department with the town, can that department have access to my personnel file and information about my performance appraisals and disciplinary history?

Yes.

15. If I go to the Human Resource Development department to talk to them, will they discuss my visit with my supervisor or department head?

Most HRD meetings are confidential. However, if during your visit you report allegations of EEOC violations; theft or violence in the workplace; on-the-job violations of the law; and other Town policy violations that require action, then HRD has to investigate those allegations. HRD staff will clarify the confidentiality of your meeting with you and answer any questions you have about it.

Adopted October 22, 2007

Revised and Reissued September 1, 2015, and is based on the revisions to Chapter 14, Articles 11-14 of the Town of Chapel Hill Code of Ordinances passed by the Chapel Hill Town Council on June 8, 2015.

Modified December 18, 2015: Section G-2 to comply with current ordinance and establish reporting responsibility for administrative leave.

Revised: August 5, 2016: to align with Chapel Hill Code of Ordinances Section 14-121-122 regarding disciplinary actions for unsatisfactory job performance.

Revised: June 28, 2019: Modified definition of Detrimental Personal Conduct to include sexual orientation and gender identity and extend definition to cover youth participating in Town programs or receiving Town services.

POLICY HISTORY

SCOPE

As of September 1, 2015, this policy replaces and supersedes any previous Town policies, supplemental policies, handbooks, or unwritten policies or practices covering the same subject. Supplemental policies in compliance with this policy are referenced in Section XI below, Related Information.

RELATED INFORMATION

- A. [Town of Chapel Hill Code of Ordinances, Chapter 14, Article XII](#)
- B. [Grievance Policy, PP 5-2](#)
- C. [Dispute Resolution Policy, PP 5-4](#)
- D. [Safe Driving and Accident Policy](#)
- E. [Serious Incident Policy Guidance](#)



Appendix A

Pre-Disciplinary Conference Notice

Town of Chapel Hill

<Insert Department Name> Department
<Insert Address>
Chapel Hill, NC 275__
(919)<Insert Phone Number>

MEMORANDUM

TO: <Insert Employee's name>,<Insert Employee's position>
FROM: <Insert Supervisor's Name>,<Insert Supervisor's Title>
DATE: _____

SUBJECT:<Insert Date and Nature of Incident>-

NOTICE OF PRE-DISCIPLINARY CONFERENCE

This letter will serve as formal notification that you are scheduled to attend a Pre-Disciplinary Conference at <Insert time and date>, in my office at the <Insert Name of Department>. At the conference, we will discuss your alleged <Insert nature of misconduct>. Specifically, we will discuss <Insert brief description of Incident>.

<Name of company or department, or person conducting investigation> conducted an investigation the above referenced incident and revealed that

<If there was an investigation, include brief summary of investigative findings>

Your actions on <Insert Date>, regarding the above-referenced incident, constituted <Insert Applicable Ordinance>, as defined by Town Ordinance 14-<Insert Ordinance Section>, in the following manner:

<Insert Sections of Ordinance that Employee Violated>

Your actions on <Insert Date>, regarding the above-referenced incident, were also in violation of Town Policy <Insert Policy Section>, which provides in significant part that:

<Insert Section of Policy that has been violated>

A copy of both the <Insert Name of Policy> and Town Ordinance <Insert Name of Ordinance> have been attached for your review.

<If no previous disciplinary actions, use the following paragraph>:

Please be advised that based on the nature of this incident and, I am considering serious disciplinary action, up to, and including recommendation for termination.

<If there are previous disciplinary actions, use the following paragraph>:

Please be advised that based on the nature of this incident and your history of similar complaints/incidents (See attached), I am considering serious disciplinary action, up to, and including recommendation for termination.

You are not required to attend this pre-disciplinary conference; your attendance is strictly voluntary. However, the purpose of this pre-disciplinary conference is to provide you with an opportunity to present your side of the story related to the alleged complaint and any other information that you wish for me to consider in determining what disciplinary action, if any, would be appropriate.

At the pre-disciplinary conference, you have the right to have one representative present. This representative may be anyone of your choosing, except that it cannot be a Town supervisory employee. If you choose to have an attorney serve as your representative, you must notify me within 24 hours in advance of the pre-disciplinary conference so that the Town can have legal representation at conference.

Should you have any questions or concerns about the pre-disciplinary conference, please don't hesitate to contact me.

cc: Personnel File

Human Resources Development Department

<Attach Relevant Policy and Ordinance Sections here>

ACKNOWLEDGEMENT OF RECEIPT

I, _____ received the Notice of Pre Disciplinary Conference
Name
for a Pre-Disciplinary Conference scheduled on _____ at _____
Date *Time*

Signature of Employee

Printed Name of Employee

If employee does not want to sign, use this section

I _____ affirm that I delivered the Notice for a Pre-
Name
Disciplinary Conference to be conducted on _____ at _____
To _____ on _____ at _____
Date of PDC *time*
Name of employee receiving notice *Date* *Time*

Signature of Person delivering Notice

Printed Name of Person delivering Notice.



Appendix B

PDC Decision

Town of Chapel Hill

MEMORANDUM

<Insert Department Name> Department
<Insert Address>
Chapel Hill, NC 275_____
(919) <Insert Phone Number>

TO: <Insert Employee's name>, <Insert Employee's position>

FROM: <Insert Department Head's Name and Title >

DATE: _____, 20____

SUBJECT: <Insert Date and Nature of Incident>

DISCIPLINARY DECISION FOLLOWING PRE-DISCIPLINARY CONFERENCE

This letter will serve as formal notification regarding the disciplinary decision in that above-referenced matter.

On <Insert time and date> you attended a Pre-Disciplinary Conference at the <Insert Name of Department>. The following individuals attended the conference:

<Insert Names and Positions/Titles of all Attendees, including the employee and any employee representative>

Summary of Pre-Disciplinary Conference

At the conference we discussed <Insert nature of misconduct>. Specifically, we discussed <Insert brief description of Incident>.

<Insert a brief summary of conference, to include summary of information presented by the employee.>

Basis for Disciplinary Decision

<If there was an investigation, include brief summary of investigative findings and any other information relied upon in making the disciplinary decision, including any previous disciplinary actions regarding the employees conduct.>

I find that your conduct was in violation of *<Insert Applicable Ordinance>*, as defined by Town Ordinance 14-*<Insert Ordinance Section>*, in the following manner:

<Insert Sections of Ordinance that Employee Violated>

I also find that your conduct was in violation of Town Policy *<Insert Policy Section>*, which provides in significant part that:

<Insert Section of Policy that has been Violated>

Disciplinary Decision

Based on my review of the information you presented at the Pre-Disciplinary Conference, information contained in your personnel file, and *<If applicable>* previous disciplinary actions, *<Insert that Disciplinary Decision>*. I have decided on the following disciplinary action: *<insert your Decision>*

Even if some of these allegations are not upheld, I am still recommending this disciplinary action because *<INSERT the specific conduct(s) you weighted most heavily in your decision>*

Please be advised that any additional Departmental or Town violations, including, but not limited to, violations related to *<Insert the nature of the violation in this case>*, could result in disciplinary action up to, and including, termination.

If you wish to file a grievance in regard to this action, you may do so in accordance with the Town's Grievance Policy and Town Ordinance, Article XIII, Grievance Procedure, Sec 14-126 to 14-139.

Should you have any questions regarding this matter or the grievance process, you may speak with *<Insert name of HRD partner>* in the Human Resource Development Department at 919-969-XXXX.

Sincerely,

cc: *Personnel File*
 Human Resources Development Department

<Attach Relevant Policy and Ordinance Sections here>

Acknowledgement of Receipt of Decision of Pre-Disciplinary Conference

I, _____ acknowledge that I have received the Decision of Pre-Disciplinary

Name

Conference conducted on _____

Date.

Signature of Recipient

Date

Time of Receipt of Notice

If employee does not want to sign acknowledgement then use the following:

I, _____ hereby affirm that I delivered the Notice of Disciplinary Decision

To _____ on _____ at _____

Name of Employee

Date

Time

Signature of Person Delivering Notice



Appendix C

Pre-Disciplinary Conference Information

Town of Chapel Hill

Town employees have the right to a hearing or conference before severe disciplinary actions are taken. "Severe disciplinary actions" include termination, demotion with or without a cut in pay, and suspensions without pay.

A pre-disciplinary hearing or conference, also known as a PDC, must include the following:

- a) Written notice of the allegations against the employee
- b) An explanation of the evidence or basis for the allegations, and
- c) An opportunity for the employee to present his or her side of the story.

Occurs before Decisions are Made: The pre-disciplinary conference, or PDC, occurs before the Department Head makes a disciplinary decision. The Department Head makes disciplinary decisions in consultation with the Director of Human Resource Development and a member of the Town's legal staff. Terminations must be approved by the Town Manager.

HRD Assistance: Department Managers should notify Human Resource Development (HRD) as soon as possible when a situation arises that might result in severe disciplinary action being taken against an employee. HRD, as a knowledgeable and neutral partner, helps assure an ethical, professional, and equitable investigative and decision-making process.

Notify Employees about Investigation: Employees should be notified that the Town is conducting an investigation into alleged conduct and asked to cooperate. An employee may be put on administrative leave during an investigation. Paid administrative leave is not a disciplinary action.

Steps for a Pre-Disciplinary Conference

A. Investigate the Situation.

This investigation is for the purpose of finding facts. It may include activities such as interviewing witnesses, management, and the employee. HRD can assist in determining the best way to proceed with an investigation.

B. Determine the Potential Consequence(s)

The Department Head may consider employee reviews, active written warnings, previous severe disciplinary actions, and the type of incident when making a recommendation about the type and level of discipline. The Department Head may also consider commendations, awards, and positive reviews from the employee's file.

C. Plan the Pre-Disciplinary Conference

Gather notes and information relevant to the situation and organize them for use during the conference.

D. Notify the Employee of The Pre-Disciplinary Conference (PDC)

1. Use the [**Pre-Disciplinary Conference Notification Template**](#) as a guideline to write the notice to the employee. The template includes an acknowledgement of receipt that the employee signs.
2. Give the employee at least 24 hours' notice of the conference. Hand delivery is preferred.
 - a) If hand delivered, have the employee sign the receipt. If the employee doesn't want to sign the receipt, the person delivering the notice can note that he/she delivered the notice—note the date, time, and location.
 - b) If mailed, send it certified mail.
 - c) Do not use email as a primary delivery method. Use it as a follow up. Request 'delivery' and 'read' receipts.
3. Once notified, an employee's attendance at a PDC is voluntary. An employee's failure to acknowledge or respond to a Pre-Disciplinary Conference (PDC) Notice does not stop the PDC proceedings.
4. If an employee has a genuine conflict with the proposed time of the PDC, such as a previously scheduled doctor's appointment, or needs a delay so that legal representation can attend, the employee must
 - a) Contact the Department Head as soon as possible, and no later than 24 hours after receiving the notice.
 - b) Explain why the proposed date and time do not work and provide documentation if requested
 - c) Suggest an alternate date and time when he/she can attend.
5. Because of the gravity of the issues under consideration when scheduling a PDC, the Department Head should not delay the conference any longer than absolutely necessary to accommodate the request.
6. If the employee wants to bring legal representation to the pre-disciplinary conference, notify the Town's legal staff. The Town's legal counsel must attend the meeting if the employee has legal representation.

E. Notify the HRD Partner of the Time, Date, and Location of the Pre-Disciplinary Conference

A member of HRD--usually the HRD partner for the department---attends the PDC as a neutral observer to keep all parties compliant with law, policies, and best practices regarding these meetings.

F. Hold the Conference

1. The Department Head conducts the conference. If an employee does not respond to the notice of a PDC, the conference can still proceed.
2. The employee can present information or provide alternative explanations. The Department Head will ask questions to clarify issues. All the information that the employee provides is considered when making a decision.
3. In some situations, it may be appropriate to place the employee on leave after a PDC until a decision is reached, particularly if discharge is the disciplinary action under consideration.

4. If the employee declined the opportunity to attend the conference, or did not respond, the Conference can still proceed. The Department Head makes a determination regarding disciplinary action based on the available information.
5. Inform the employee of a final decision in writing within 10 days.

G. After the Conference

1. Consider the information provided at the conference and any other information provided from the investigation (if applicable).
2. Determine if additional information is needed to help render an informed decision.
3. Consult with HRD and town legal staff.
4. Complete the [**Pre-Disciplinary Checklist**](#) if not yet completed.
5. Wait at least 24 hours after the PDC before making a decision. This wait period is necessary to fully consider the employee's input at the conference.
6. In circumstances when new information presented at the PDC requires further investigation, notify the employee right away that the Town is following up on the additional information and give the employee an estimated time frame for completing this follow up.
7. Draft the decision using the [**PDC Decision Template**](#) and have HRD review it.
8. Once HRD has reviewed the disciplinary decision letter, give it to the employee:
 - a) Personally. This is the preferred delivery method.
 - b) By certified mail, return receipt requested

Email should not be used as a primary delivery method, but can be used in addition to one of the other methods above. Be sure to request a delivery and read receipt.

H. Timelines

Examples on how to calculate timelines are in the document: [**Calculating Timelines for Conflict Resolution Procedures**](#). In most instances:

1. Timelines begin the day after an event, notification, or action occurs.
2. All days are calendar days, except that
 - a) Timelines do not start or end on a Saturday, Sunday, or Town Holiday.
 - b) Town holidays are never counted.



Appendix D

Understanding Timeline Calculations For Conflict Resolution Processes

The Town Code of Ordinances specifies how time is calculated for the purposes of filing a grievance or conducting other disciplinary and grievance processes. Here is the ordinance language, with sentences numbered. We will refer to these sentences by number to clarify our examples later, so that is why they are included here now.

1. *"In computing any period of time under this article, the day of the act or event after which the designated period of time begins to run is not to be included."*
2. *"The last day of the period so computed is to be included unless it is a Saturday, Sunday or official town holiday (as established by or under the authority of section 14-68 of the Town Code), in which event the period runs until the end of the next day which is not a Saturday, Sunday or official town holiday."*
3. *"Days shall be considered calendar days except that any intermediate official town holidays (as established by or under the authority of section 14-68 of the Town Code), shall be excluded in the computation."*
4. Although the Ordinance does not make this specific provision, **The Town has also decided not to start timelines on a Town Holiday, Saturday or Sunday**, since Human Resource Development (HRD) staff members are not generally available on these days to assist employees.

The following examples were prepared to illustrate how time is calculated in various situations. They are illustrations ONLY. Please ask an HRD team member to help you with your specific situation. Our examples will use the following calendar.

~ January 2015 ~						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
	December 29	December 30	December 31	1 Town Holiday	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19 Town Holiday	20	21	22	23	24

~ January 2015 ~						
◀ December					February ▶	
Sun	Mon	Tue	Wed	Thu	Fri	Sat
25	26	27	28	29	30	31

1. Joe receives notice of a severe disciplinary decision on December 31, 2014. What is the last date he can file a grievance?

A: The day he receives the notice does not count. (1) The next day is a holiday, so it does not count (3). So, Joe's 14 day period starts on January 2 and ends on January 15th. Joe must file a grievance and have it received in the HRD office by midnight on January 15th. Saturdays and Sundays are included in this count because they are not the first or last days of the time period. (3)

2. Joe receives notice of a severe disciplinary decision on January 5th, 2015. What is the last date he can file a grievance?

A: Again, January 5th doesn't count because it is the day he received the notice. (1) Time starts on January 6. The 14th day is January 19th, but that is a holiday, and so does not count. (3) Joe must file his grievance and have it in the HRD office by midnight on January 20th, 2015.

3. Joe receives notice of a severe disciplinary decision on January 2, 2015. When does the 14 day time start?

A: The time starts on MONDAY January 5th because the Town does not start the timeline on a Saturday or Sunday. (4). The 14th day is January 18th, but that's a Sunday, which doesn't count, since we don't end timelines on a weekend. (2) The next day is a Town Holiday, which also doesn't count. (3). The last day for Joe to file his grievance and have it in the HRD office is by midnight on January 20th.

4. Joe works weekends. Joe receives notice on Saturday, January 3 at 4:15 pm that he is to attend a Pre-disciplinary Conference in 48 hours. When is the conference?

A: January 3 is a Saturday. Timelines don't start on a Saturday—or on Sunday, either (4). The timeline starts on Monday January 5th when HRD opens at 8:30 am. The Conference can be held on Wednesday January 7th at 8:30 am or later.

5. Joe had a pre-disciplinary conference on Friday, January 16th at 3 pm. Joe was told that he will receive a decision "within 5 days." When can Joe expect a decision?

A: This one is TRICKY! Saturday and Sunday don't count because timelines do not start on a weekend day. (4). Monday, as a holiday, doesn't count either. (3). The timeline starts on Tuesday January 20th. But be careful—remember timelines don't end on a weekend day either. The 5th day is Saturday January 24th. We don't count Saturday—or Sunday-- because we don't end timelines on a weekend day. (2). So the decision is not due until Monday January 26th.

6. Joe receives a disciplinary decision on January 12. When is the last day he can file a grievance?

A: The timelines starts on January 13th (1). The 14th day is January 26th—except that one of those days in the count was a holiday! Those don't count no matter when they occur. (3) Therefore, we must add an extra day since we can't count January 19th. Joe must file a grievance by midnight on January 27th. All the weekend days count since they are not the first or last days of the timeline.

FORM 5-3 A

Written Warning Checklist



This checklist provides guidance to managers and supervisors about issuing a written warning. Please complete and attach this checklist and requested documents to the written warning.

Employee Name and Title

This is a 1st written warning 2nd written warning within 18 months.
(Select one)

Is this written warning being issued:

- After failure to make satisfactory progress on a Performance Improvement Plan (PIP)?
(if yes, please skip the rest of these questions and sign at the bottom)
- For poor job performance or other issue that has not been addressed with a PIP?

If this is a 1st warning, has the employee been counseled about issue? YES NO
(If yes, please attach copy of counseling documentation)

Please briefly explain why the incident is being addressed with a written warning rather than counseling or a PIP at this time.

The following people have reviewed the written warning.

Person Issuing Written Warning (Name and title)
Department Head or designee (Name and title)
HRD (Name and title)

FORM 5-3 B
Written Warning



TO:

FROM: , Supervisor

DATE:

SUBJECT: Written Warning- Unsatisfactory Job

This memorandum will serve as formal notification of my disciplinary decision regarding a _____ in which you were involved on _____.

Summary of Incident

Insert details of incident.

Grounds for Disciplinary Action

Your actions on _____ constitute Unsatisfactory Job Performance, as defined by Section 14-115 of the Town Ordinance, in the following manner:

(1) *Insert relevant facts;*

Disciplinary Decision

After careful review of the details pertaining to this incident, this letter will serve as a “**Written Warning**” for Unsatisfactory Job Performance.

Please be advised that future incidents of this nature, or any other violations of Departmental or Town Ordinances or policies and procedures, will result in further disciplinary action, including suspension from duty and recommendation for termination.

Should you have any questions, you may speak with me or <Insert HRD Partner>. She can be reached at 919 969-50____.

cc: File

Enclosure(s):

Town Ordinance 14-115

Sec. 14-115. Unsatisfactory job performance defined.

Work-related performance that fails to satisfactorily meet job requirements as set out in the job description, work plan, or as directed by the department head or his/her designee, and/or job performance that results in the receipt of an overall performance rating of the lowest category at any review and failure to successfully complete the performance improvement plan, as outlined.

FORM 5-3 C
Written Warning Employee Response



TO:

FROM:

DATE:

I would like to provide the following information as a response to a written warning I received, dated _____ . Please include this response in my personnel file.

Employee Signature and Date _____

FORM 5-3 D
TOWN OF CHAPEL HILL



<Insert Department Name> Department
<Insert Address>
Chapel Hill, NC 275__
(919) <Insert Phone Number>
MEMORANDUM

TO <Insert Employee's name>, <Insert Employee's position>

FROM: <Insert Supervisor's Name>, <Insert Supervisor's Title>

DATE: _____

SUBJECT: **<Insert Date and Nature of Incident> NOTICE OF PRE-DISCIPLINARY CONFERENCE**

This letter will serve as formal notification that you are scheduled to attend a Pre-Disciplinary Conference at <Insert time and date>, in my office at the <Insert Name of Department>. At the conference, we will discuss your alleged <Insert nature of misconduct>. Specifically, we will discuss <Insert brief description of Incident>.

<Name of company or department, or person conducting investigation > conducted an investigation the above referenced incident and revealed that <*If there was an investigation, include brief summary of investigative findings*>

Your actions on <Insert Date>, regarding the above-referenced incident, constituted <Insert Applicable Ordinance>, as defined by Town Ordinance 14-<Insert Ordinance Section>, in the following manner:

<Insert Sections of Ordinance that Employee Violated>

Your actions on <Insert Date>, regarding the above-referenced incident, were also in violation of Town Policy <Insert Policy Section>, which provides in significant part that:

<Insert Section of Policy that has been violated>

A copy of both the <Insert Name of Policy> and Town Ordinance <Insert Name of Ordinance> have been attached for your review.

<*If no previous disciplinary actions, use the following paragraph*>:

Please be advised that based on the nature of this incident and, I am considering serious disciplinary action, up to, and including recommendation for termination.

<If there are previous disciplinary actions, use the following paragraph>:

Please be advised that based on the nature of this incident and your history of similar complaints/incidents (See attached, I am considering serious disciplinary action, up to, and including recommendation for termination.

You are not required to attend this pre-disciplinary conference; your attendance is strictly voluntary. However, the purpose of this pre-disciplinary conference is to provide you with an opportunity to present your side of the story related to the alleged complaint and any other information that you wish for me to consider in determining what disciplinary action, if any, would be appropriate.

At the pre-disciplinary conference, you have the right to have one representative present. This representative may be anyone of your choosing, except that it cannot be a Town supervisory employee. If you choose to have an attorney serve as your representative, you must notify me within 24 hours in advance of the pre-disciplinary conference so that the Town can have legal representation at conference.

Should you have any questions or concerns about the pre-disciplinary conference, please don't hesitate to contact me.

cc: Personnel File
 Human Resources Development Department

<Attach Relevant Policy and Ordinance Sections here>

Acknowledgement of Receipt of Notice of Pre-Disciplinary Conference

I, _____ acknowledge that I have received the Notice of Pre-Disciplinary Conference.

Signature of Recipient

Date

Time of Receipt of Notice

If employee does not want to sign acknowledgement then use the following:

I, _____ hereby affirm that I delivered this
notice to the addressee on _____ at _____
Date _____ Time _____

Signature of Person Delivering Notice

FORM 5-3 E

Severe Disciplinary Action Checklist



Dept. Head: Please complete both pages of this form prior to meeting with HRD and Legal Staff.

Name/Title of Employee

Date of Incident

Date of Pre-Disciplinary Conference

Department Head Signature/ Dept.:

Date this form was completed

Is this action being taken due to a violation of State or Federal laws or regulations?

YES NO

(if yes, fill in recommended action and cite regulation violated in space below. You can skip the rest of this form).

Type of Incident: mark all that apply

Unsatisfactory Work Performance Detrimental Personal Conduct Negligence in Performance of Duties

What action is being recommended?

Suspension *length?*

Demotion *To what position and at what rate of pay?*

Termination

Please submit the requested documentation to the Human Resource Development Department. Recommendations that lack proper documentary support may be returned for completion before review.

Have you counseled the employee regarding the issue before? YES NO

If yes, provide at least one of the following documents regarding the counseling session(s)

- Performance Log Worksheet
- Employee Consultation Form
- Memorandum

Has the employee received a written warning within the past 18 months for this or any other work related conduct? YES NO

If yes, provide a copy of the written warning.

Has the employee ever been suspended or demoted in the past? YES NO

If yes, provide the following:

- All Pre-Disciplinary Conference Notices related to the previous actions
- All Memoranda related to the severe disciplinary actions.

*NOTE *If you answered NO to any of the above questions, severe disciplinary action may not be warranted. Please attach a written statement explaining why this incident warrants severe disciplinary action.*

Did the employee grieve any of the previous disciplinary actions? YES NO

If yes, include the following:

- Employee Grievance/Intake Form
- Supervisor's Responses to Grievance
- Manager's Response to Grievance

Was the employee ever offered training related to this issue? YES NO

If yes, did the employee successfully complete the training? YES NO

Provide the following documents related the training:

- Training Certificates
- Training Logs

Does your department have policies or procedures related to this conduct? YES NO

If yes, provide the following

- All Departmental Policies or Procedures regarding the conduct
- All Acknowledgement forms indicating the employee received the policies
- All documents regarding training that was provided on the policies

Attach the most recent performance reviews for this employee and any other documentation that might be relevant to this case.

FOR HRD USE ONLY

.....

Reviewed by _____ Date _____