

TOWN OF BARTONVILLE PERSONNEL REGULATIONS

Chapter 7. Discipline and Appeal Procedures

7.01 Fair and Equitable Standards

It is the intent of the Discipline and Appeal Procedures to safeguard the rights of all employees, to ensure that all employee actions are judged by fair and equitable standards, and to require that all rules are applied on an equitable basis. A statement of reasons for disciplinary action, up to and including termination, is intended to benefit the employee in assisting the employee to retain employment or to improve performance and is not intended to, nor does it, create a contract, either express or implied, or a property interest in continued employment.

7.02 Types of Disciplinary Action

- A. In making a decision as to what type of discipline should be imposed, the Department Head should consider such factors as the type and severity of the offense(s), the employee's work record, and any mitigating circumstances which may be relative to the situation.
- B. The following disciplinary actions are not exclusive and may be initiated against an employee for violations of the regulations and/or Town of departmental rules and regulations:

- 1. Employee Counseling:

Employee counseling is designed to provide constructive feedback to the employee for infractions that need improvement. This type of action is generally of a non-disciplinary nature. A written notation of this session shall be maintained in the department file, which, upon separation from employment, shall become a permanent part of the employee's personnel file.

- 2. Documented Oral Reprimand

An oral reprimand is best suited for a minor rule infraction or incident of substandard performance. An oral reprimand should identify violations and indicate areas needing improvements. A written record of this warning shall become a permanent part of the employee's personnel file.

- 3. Written Reprimand

A written reprimand is a formal warning of an infraction that may result in suspension, demotion, or termination should the violation recur. Included in the written reprimand shall be a statement(s) of the specific violation(s) of policy, the specific incident(s) causing the action, what changes in behavior are expected what penalty shall be imposed if no changes are made by the employee, and the right to appeal. The employee shall be given the opportunity to respond in written form to the written reprimand. Both the disciplining supervisor and the employee should sign the written reprimand. Copies of

the written reprimand and all supporting documentation, if any, shall become a permanent part of the employee's personnel file.

4. Suspension

A suspension is to bring about a change in behavior and results in time off without pay. The employee should be encouraged to reflect on his/her behavior during the suspension and to decide whether he/she wishes to correct the offending behavior or terminate his employment. A Department Head may suspend an employee without pay for a period of not less than one (1) hour nor more than the (10) working days. Prior to suspending an employee, the Department Head shall confer with the Town Administrator. Suspensions for more than ten (10) working days require the written approval of the Town Administrator. The Department Head contemplating a suspension shall give written notice to the employee stating (1) the type of disciplinary action contemplated, (2) the specific rule(s) or policy(s) violated, (3) the specific incident(s) cause the action, (4) the employee's right to appeal to the ~~Town Administrator~~Mayor within a specified time, and (5) the finality of the action if the employee fails to appeal within the specified time period, and (6) an opportunity for the employee to provide a written or verbal statement in response to the allegations. Upon review of any information provided by the employee, the Department Head shall make his/her final determination in writing. The suspension documentation shall become a permanent part of the employee's personnel file.

5. Demotion

A Department Head may demote an employee for a disregard or violation of the regulations and/or any Town or departmental rule or regulation, or for repeated refusal or inability to improve performance. Prior to demoting an employee, the Department Head shall confer with the Town Administrator regarding the proposed demotion. Demotions may be either permanent or for a predetermined specified period of time and shall result in a reduction of salary. The Department Head contemplating a demotion shall give written notice to the employees stating:

- a. The type of disciplinary action contemplated;
- b. The Specific rule(s) or policy(s) violated;
- c. The specific incident(s) causing the action;
- d. The employee's right to appeal to the ~~Town Administrator~~Mayor within a specified time;
- e. The finality of the action if the employee fails to appeal within the specified time period; and
- f. An opportunity for the employee to provide a written or verbal statement in response to the allegations.

Upon review of any information provided by the employee, the Department Head shall make his/her final determination in writing. The demotion documents shall become a permanent part of the employee's file.

6. Termination

A Department Head contemplating a termination shall give written notice to the employee stating:

- a. The type of disciplinary action contemplated;
- b. The specific rule(s) or policy(s) violated;
- c. The specific incident(s) causing the action;
- d. The employee's right to appeal to the ~~Town Administrator~~ Mayor within a specified time;
- e. The finality of the action if the employee fails to appeal within the specified time period; and
- f. An opportunity for the employee to provide a written or verbal statement in response to the allegations.

Upon review of any information provided by the employee, the Department Head shall make ~~their~~ his/her final determination in writing. The termination documents shall become a permanent part of the employee's file.

7.03 Procedures to Appeal a Written Reprimand

- A. Any employee dissatisfied with any written reprimand received by that employee may file a written appeal to ~~their~~ his/her Department Head within three (3) working days of the action taken. In the event the Department Head or Town Administrator has rendered the written reprimand, the Department Head or Town Administrators action shall be non-appealable.
- B. The written appeal must be submitted to the Department Head and shall contain the following information:
 1. The type of disciplinary action being appealed and the effective date of the action;
 2. The specific reason the discipline is judged to be unjust or otherwise in error;
 3. The remedy or solution sought; and
 4. The signature of the disciplined employee.
- C. The Department Head shall discuss the facts surrounding the disciplinary action with the affected employee. A careful review of the charges and evidence of the action and/or omission shall be conducted by the Department Head. The Department Head shall respond in writing to the employee, stating the disposition of the written reprimand within three (3) working days of the discussion. The Department Head may sustain, reverse, modify, or

amend the action taken as he determines is just and equitable under all the facts and circumstances of the case.

7.04 Procedures to Appeal a Termination, Demotion, or Suspension

- A. An employee who is terminated, demoted, or suspended without pay shall have a right to appeal that decision to the ~~Town Administrator~~Mayor. The right to appeal must be exercised within three (3) working days of the date of the decision, by filing a written request with the ~~Town Administrator~~Mayor. If the employee fails to appeal the decision of the Department Head in accordance with these provisions, the decision of the Department Head shall become final and non-appealable.
- B. In the event an appeal is requested, the ~~Town Administrator~~Mayor shall hear the appeal within a reasonable amount of time. The ~~Town Administrator~~Mayor shall render a written recommendation within a reasonable amount of time after the conclusion of a review. The ~~Town Administrator~~Mayor may recommend the Department Head sustain, reverse, modify or amend the action taken.
- C. Any appeal conducted for termination, demotion or suspension shall proceed as follows:

The ~~Town Administrator~~Mayor shall be allowed to make a presentation of the Town's case, explaining, and detailing, the reasons for the disciplinary action imposed. Such presentation may include the production of witnesses and/or documentation supporting the disciplinary action imposed. After the Town's presentation, the employee or his attorney shall be permitted to ask questions and/or cross examine witnesses. Thereafter, the affected employee or his attorney shall be permitted to make any statements or produce witnesses and/or documentation on the employee's behalf. After the employee's presentation, the Town representative or the Town's attorney shall be permitted to ask questions and/or cross examine witnesses. Both sides shall be permitted to make a closing statement, if desired. Further, the failure to follow any hearing presentation or procedure referenced herein does not create any additional appeal rights.

7.05 ~~Town Administrators~~Mayors Review and Determination

The ~~Town Administrator~~Mayor shall have twenty (20) working days to make a determination or to conduct a hearing if ~~they~~he/she deems that further information is needed to render a final decision. After reviewing evidence presented, the ~~Town Administrator~~Mayor may sustain, reverse, modify or amend the action taken as he/she determines is just and equitable under all the facts and circumstances of the case. The decision of the ~~Town Administrator~~Mayor is final and non-appealable.

7.06 Failure to Follow Appeal Procedure

If any employee fails to appeal an action within the time limits specified in this chapter or in accordance with the guidelines and procedures promulgated the disciplinary action shall be final and non-appealable.

7.07 “Working Days” Defined

Working days, as referenced in this section, means the scheduled workdays of the person responsible for initiating an action in these rules and regulations for which a time limit is established. Time limits begin to run the working days following the incident, event, or notice.

7.08 Time Limits

Any time limit specified in the procedures under this chapter may be extended by mutual agreement.

7.09 Inapplicability

A reduction in force is not an appealable personnel action and any employee separated from Town employment as a result of a reduction in force has no right to appeal such separation.