5.01 DISCIPLINE

Rule

Any employee within the classified service is subject to disciplinary action for cause. Such discipline may include but is not limited to an oral reprimand, written reprimand, demotion, loss of pay, suspension or discharge.

Discipline of permanent (non-probationary) employees in the classified service is normally progressive, beginning with an oral or written warning and proceeding to suspension, demotion or discharge. Disciplinary action may also take other forms such as withholding privileges. Serious offenses such as stealing, workplace violence, conviction of a bias crime, unwelcome sexual touching, refusal to obey a legitimate order or other causes in which the employee's performance or behavior will not be improved through corrective measures may justify discharge without the necessity of prior warnings or attempts at corrective discipline. In all cases, the level and degree of penalty shall be in keeping with the seriousness of the offense, taking into account the circumstances relevant to the incident.

For less serious infractions, which warrant progressive discipline, the ultimate goal is to put the employee on notice of unacceptable conduct and to give the employee a reasonable opportunity to modify their behavior. It is not the purpose of this rule to promote or require some "lock-step" progression of disciplinary measures to every disciplinary action involving permanent, non-probationary employees in the classified service.

Prohibited Activities

Cause for disciplinary action shall include but not be limited to the following:

1. Incompetence, inadequate performance or nonperformance of assigned duties.

2. Neglect of duty or negligence in performance of duty causing a substantial risk of personal injury or damage to property.

3. The use of intoxicants, or illegal use or possession of controlled substances on the job; reporting for work under the influence of intoxicants; or the use of drugs which create a substantial risk of injury to self or others or which impair work performance.

4. Habitual or excessive absence or tardiness, or abuse of sick leave privileges.

5. Absence from duty without authorization or failure to notify one's supervisor when unable to report to work on time.

6. Conviction of a felony, or conviction of any crime where the conviction would tend to impair effectiveness as a City employee or tend to bring discredit or reproach upon the City or bureau involved.

7. Violation of safety rules or policies.

8. Violation of the provisions of federal or state law, or of the City Charter, ordinances or any City rules or regulations including bureau-specific policies.

9. Discourteous treatment of the public or other employees, offensive conduct or conduct unbecoming a City employee.

10. Insubordination, willful disobedience or failure to follow a lawful supervisory directive,

11. Inappropriate or unauthorized personal use of City resources, including, but not limited to tools and equipment, materials and supplies, vehicles, facilities and grounds, work time and information resources and technologies.

12. Unauthorized use or disclosure of restricted or confidential information. (See Attachment to HRAR 11.04 Protection of Restricted and Confidential Information)

13. Dishonesty.

14. Fraud in securing employment.

15. Falsification of Timesheets.

16. Physical violence, including engaging in acts of bodily harm or threatening to inflict bodily harm, physical intimidation, verbal or written threats of violence.

17. Bullying (see attached guidance)

Due Process Requirements

If an appointing authority initially determines there is just cause for discharge, demotion or suspension of a permanent classified service employee, the appropriate supervisory authority shall provide the employee with notice of proposed disciplinary action. Such notice shall be at least seven (7) calendar days, or at least one (1) day for suspensions of one (1) day or less, prior to the effective date of the proposed disciplinary action. The notice shall include grounds for such action, the effective date of the proposed action, and the right to respond either orally or in writing, prior to the final determination of discipline.

Suspension or Discharge

Any represented employee shall be entitled to representation at any meeting which might result in disciplinary action.

Unless withdrawn or otherwise amended, the disciplinary action shall become effective as specified in the disciplinary document. A copy of the notice, written response, if any, and final action shall be filed with the Director of Human Resources and become part of the employee's official employment record.

It shall be the responsibility of each bureau to ensure that all employees are

Manager & Supervisor Responsibility	**advised of the City's Human Resources Administrative Rules and that violation of these rules may result in discipline up to and including suspension and/or discharge for a first violation.** A Discipline Log Entry must be recorded at the time the final copy of the notice of discipline is submitted to Labor Relations for inclusion in the discipline log.
Disciplinary Suspensions for FLSA Exempt Employees	Employees designated by the City of Portland as exempt from the Fair Labor Standards Act (FLSA) generally are not subject to disciplinary suspension of less than one week. However, FLSA exempt employees may be suspended without pay for one or more full days for major safety violations or violations of significant workplace conduct rules.
Administrative Leave	Bureau Directors may place an employee on administrative leave for up to 60 calendar days to remove an employee from the workplace due to concerns about workplace safety or during an investigation that may lead to termination. Bureau Directors may approve administrative leave for up to 10 calendar days during the seven day notice period prior to the effective date of a proposed termination. Administrative leave shall not be extended unless approved by the Director of Human Resources and the Commissioner-in-Charge or other elected official. Under some limited circumstances, administrative leave may also be unpaid. Any unpaid administrative leave must be approved by the Director of Human Resources. Placement of an employee on administrative leave is not a disciplinary action.
Appeal	Unless otherwise provided by a collective bargaining agreement, any permanent employee in the classified service who is suspended without pay, demoted or discharged shall have the right to appeal the action to the Civil Service Board. See Civil Service Board Administrative Rule for procedure.
Administrative Rule History	Adopted by Council March 6, 2002, Ordinance No. 176302 Effective April 5, 2002 Revised September 16, 2005 Revised July 9, 2007 Revised May 9, 2008 Revised April 17, 2009 Revised December 4, 2013 Revised April 25, 2016

Guidance: Examples of Bullying and Discourteous Behavior

The City recognizes the negative impact that bullying and disrespectful and discourteous behavior can have on the workplace environment. The City will not tolerate such behavior.

Every employee has a role and responsibility in creating a positive and constructive working environment, where all employees are treated in a respectful manner.

Bullying and Mobbing in the Workplace: Bullying is intentional verbal or non-verbal conduct by an individual (or groups of individuals, known as "mobbing") against another individual over a period of time. As noted below, this can consist of an employee targeting another employee or manager, a manager targeting an employee or another manager. Bullying behavior is the continuous and systematic conduct that may intimidate, threaten or offend another employee. Conduct will only be defined as bullying if a reasonable person would consider the behavior to be threatening, intimidating, or offensive as described below.

Prohibited Actions: The following actions are examples of behavior that may be considered as bullying, disrespectful or discourteous.

1. Harmful gossip (rumor and innuendo based on incomplete facts or fiction spread with the intent or impact of causing turmoil or discrediting certain individuals or institutions).
2. Behavior that demeans, humiliates or intimidates others in the workplace.
3. Deliberate exclusion of another employee from work assignments or networks that is not due to legitimate business reasons.
4. Unnecessary and unwelcome intrusion into the personal life of an employee.
5. Threats of emotional or physical violence. (See HRAR 4.12 Workplace Violence Prohibited).
6. Verbal or physical behavior that is derogatory or abusive.

Bullying or Mobbing Occurs in Many Ways:

1. Among employees
2. Manager(s) targets an employee or another manager
3. Employee(s) targets a manager
4. Employees and a manager target an employee

What Is Not Bullying, Disrespectful or Discourteous behavior:

1. Reasonable counseling, disciplinary, or job performance evaluation actions, including constructive and fair criticism of an employee's conduct or work performance.
2. Differences of opinion, and non-aggressive conflicts and problems in working relations.
3. A direct or assertive management style, including high workplace expectations.
4. Legitimate management responses to situations that require immediate action.

Reporting Bullying or Mobbing Behavior: Employees are encouraged to report bullying or mobbing behavior, generally to their supervisor. If their supervisor is the person believed to be engaging in the inappropriate behavior employees are encouraged to report bullying or mobbing to the Human Resources Coordinator assigned to their bureau.

Guidance: Process for Reporting and Investigating Complaints of Bullying

Reporting Process:

- o Report bullying or mobbing behavior to your supervisor.
- o If you do not feel comfortable reporting the behavior to your supervisor, report it to your supervisor's manager or to your bureau director.
- o If you are not comfortable reporting the behavior within your bureau, report it to the Human Resources Coordinator assigned to your bureau.

Investigation Procedure:

- o The person who received the complaint will meet with the bureau's assigned HRC to determine whether the allegations are also a complaint under HRAR 2.02. If so, the complaint will be handled under that rule.
- o Where appropriate, the person who received the complaint may also discuss options with you for informally resolving the complaint.
- o A decision will be made concerning who will review the complaint and an intake interview scheduled. This is the formal interview to obtain specific facts from you related to the bullying complaint. After that interview, a decision will be made about whether the allegations merit an investigation. You will be notified of that decision.
- o If there is a formal investigation, it will be conducted similar to an investigation under 2.02. Witnesses will be interviewed and a report written. You will be notified of the result in writing; whether the complaint is substantiated but not of any specific corrective action to be taken.
- o The full report will be sent to the bureau director. If the complaint is substantiated, appropriate corrective action will be taken.
- o Consistent with applicable rules and collective bargaining agreements, the responsible manager will consider a variety of factors when determining the appropriate corrective action including:
    - ➢ The severity of the conduct
    - ➢ Position and authority of the "bully"
    - ➢ Conduct of the complainant
    - ➢ Frequency of bullying behavior
    - ➢ Effect of the action on the complainant
    - ➢ Effect of the action on the work environment (this will be particularly relevant in a complaint alleging mobbing behavior).

Confidentiality:

- o Confidentiality will be maintained to the extent possible and still conduct a thorough and fair investigation.

Retaliation Prohibited:

- o Retaliation is prohibited even if the underlying complaint is not substantiated.

Other Considerations:

- o Sometimes a complaint of bullying will occur during the discipline process. The outlined complaint investigation format will be followed but the discipline matter will still proceed.
- o If a complaint of bullying arises during the discipline process, the intake interview and investigation (if merited) will be assigned to individuals who are not involved in the discipline.