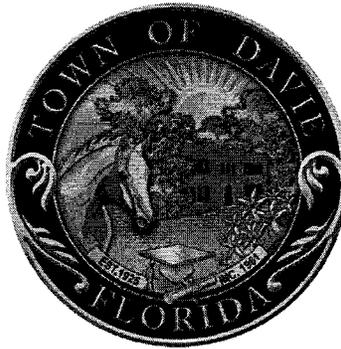


**TOWN OF DAVIE
HUMAN RESOURCES DEPARTMENT**



**DISCIPLINARY PROCESS
SOP #24-010**

September 19, 2012

SUMMARY OF REVISED, DELETED, OR ADDED MATERIAL

This operating procedure shall replace the Personnel Rules and Regulations and Policies enacted prior to the effective date of this Operating Procedure.

Revision	Date	Responsible Department	Description of Change
1	May 18, 2011	Human Resources	Initial Release
2	September 19, 2012	Human Resources	Revision

APPROVALS:


Human Resources Director/Grace Garagozzo

2/5/19
Date


Town Administrator/Richard J. Lemack

2/7/19
Date

1-1. POLICY.

This policy sets forth the minimal Standards of Conduct that apply to all employees in the Town of Davie, violation of which may result in dismissal.

Employees within the Town of Davie perform a vast array of functions and deliver a wide variety of services. Some employees perform routine tasks in a safe office environment, while others engage in unpredictable life-threatening situations under the most demanding circumstances. Breach of a particular standard in one context might be less serious, while in another it might result in the loss of life or property. Accordingly, the Town of Davie shall have primary authority and responsibility for managing the conduct of its employees. If the Town of Davie deems it necessary to discipline an employee for violation(s), the Town of Davie may impose any discipline up to and including dismissal, taking into account the Town's unique mission and the individual facts and circumstances.

Employee performance deficiencies and breaches of good conduct shall be handled in a timely and equitable manner consistent with Town of Davie policies and operating procedures governing Standards of Conduct and any applicable collective bargaining agreement.

1-2. SCOPE.

This policy applies to all employees of the Town of Davie (Town) in the Regular Service (regardless of probationary or other status), as well as all Executive, Part-Time, Seasonal employees, and volunteers.

1-3. GENERAL.

Department Directors, Town Administrator direct reports, probationary, part-time (if not covered by a collective bargaining agreement), seasonal, or temporary employees are at will employees and perform at the discretion of the Town Administrator. Those employees covered by collective bargaining agreement who are regular employees may be suspended or dismissed only for cause if so indicated under the respective collective bargaining agreement, which shall include but not be limited to, those items listed herein. All other employees who are not covered by a collective bargaining agreement may be dismissed as long as the action is not arbitrary and capricious as defined by having no factual basis whatsoever, which shall include but not be limited to those items listed below (examples under the categories listed below are not exhaustive):

- a. Poor performance. Employees shall strive to perform at the highest level of efficiency and effectiveness; they shall do more than "just get by."
 1. Employees are expected to be reliable and dependable, for example:
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to show up for work, ready to work, on a reliable basis; to observe established work hours and scheduled appointments; to complete work on time; and to obtain permission before being off work and to schedule leave in a manner that minimizes work disruption.

2. Employees are expected to be effective for example:
to organize their work; to stay focused on job related activities during work hours; to provide the level of effort necessary to get the job done; to demonstrate willingness and ability to make decisions and exercise sound judgment; to produce work that consistently meets or exceeds expectations; to accept responsibility for their actions and decisions; to adapt to changes in work assignments, procedures, and technology; and to be committed to improving individual performance.
- b. Negligence. Employees shall exercise due care and reasonable diligence in the performance of job duties.
 - c. Inefficiency or inability to perform assigned duties. Employees shall, at a minimum, be able to perform duties in a competent and adequate manner.
 - d. Insubordination. Employees shall follow lawful orders and carryout the directives of persons with duly delegated authority. Employees shall resolve any differences with management in a constructive manner.
 - e. Violation of law or operating procedures or policies. Employees shall abide by the law and applicable rules and policies and operating procedures. All employees are subject to Chapter 440, Florida Statutes, governing standards of conduct, which the Town of Davie shall make available to employees. The Town of Davie may determine that an employee has violated the law even if the violation has not resulted in arrest or conviction. Employees shall abide by both the criminal law, for example, drug laws, and the civil law, for example, laws prohibiting sexual harassment and employment discrimination.
 - f. Conduct unbecoming a public employee. Employees shall conduct themselves, on and off the job, in a manner that will not bring discredit or embarrassment to the Town of Davie.
 1. Employees shall be courteous, considerate, respectful, and prompt in dealing with and serving the public and co-workers.
 2. Employees shall maintain high standards of honesty, integrity, and impartiality. Employees shall place the interests of the public ahead of personal interests. Employees shall not use, or attempt to use, their official position for personal gain or confidential information for personal advantage.
 3. Employees shall protect Town of Davie property from loss or abuse, and they shall use Town of Davie property, equipment and personnel only in a manner beneficial to the Town.
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- g. Misconduct. Employees shall refrain from conduct which, though not illegal or inappropriate for a Town of Davie employee generally, is inappropriate for a person in the employee's particular position. For example, cowardice may be dishonorable in people generally, but it may be entirely unacceptable in law enforcement officers. By way of further example, people are generally free to relate with others, but it may be entirely unacceptable for certain employees to enter into certain relations with others.
- h. Drug use. The Town of Davie shall not tolerate violations of Florida's Drug Free Workplace Act, Section 440.102, Florida Statutes, or other misuse of mood- or mind-altering substances, including alcohol and prescription medications.
- i. Conviction of any crime, including a plea of nolo contendere and a plea of guilty with adjudication withheld.

1-4. ROLES AND RESPONSIBILITIES.

- a. The Town of Davie is responsible for identifying instances of unacceptable behavior and for taking appropriate action. Before taking corrective action, the Town shall have evidence that the employee failed to comply with a standard or expectation. Each employee shall have reasonable access to a copy of the Town of Davie Handbook. The Town of Davie Handbook shall be electronically posted on the Town of Davie website. In addition to supervisory performance expectations, the Employee Handbook provides the Town's expectations in the Standards of Conduct and indicates the consequences for employees who do not meet those expectations. The employee shall acknowledge receipt and the statement shall be considered to be a part of the employee's official personnel file.
 - b. Supervisors and managers must consult with Human Resources before providing a Final Counseling Notice or discipline greater than a written reprimand to an employee (this does not include coaching and counseling memorandums).
 - c. When an employee is under investigation by the Town for violation of the Standards of Conduct or statute for which dismissal is a penalty, the delegated authority may place the employee on administrative leave when the employee's absence from the work location is essential to the investigation. Administrative leave may be used only when it is not possible to temporarily reassign the employee to other duties without detriment to the Town's interest. Risk Management must be notified in writing by the delegated authority anytime that an employee is placed on administrative leave while under investigation.
 - d. Employees not covered by any collective bargaining agreement may be dismissed with right of appeal only to the Personnel Review Board. Non-represented employees may not appeal demotions or suspensions.
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- e. A regular service employee who is serving a probationary period to which he or she has been promoted may be removed from that promotional position at any time during the probationary period by the delegated authority but must be returned to his or her former position, or a comparable position, if such a position is vacant. If such position is not available, before dismissal, the delegated authority shall make a reasonable effort to retain the employee in another vacant position. This paragraph does not apply to dismissals for cause, nor does it create a right to "bump" an employee from an occupied position. This provision shall be read so as not to conflict with any collective bargaining agreement in effect prior to the enactment of this policy.

1-5. NON DISCIPLINARY ACTIONS.

The following items are not considered discipline:

a. Counseling

1. Counseling is used to help the employee recognize their failure to meet a performance expectation or conduct standard, accept the standard that is required and understand the consequences of failing to meet the expectation or standard. Supervisors should recognize that, in some instances, counseling might be appropriate; however, counseling should not be considered as an option for serious offenses.
2. Supervisors should be able to recognize a problem when it first begins to develop and immediately begin counseling the employee. Counseling should be constructive and done with a primary view toward helping the employee correct the problem.
3. Counseling is not considered a form of discipline but can be documented. The employee will be required to sign receipt for the documented counseling. If the employee refuses to sign, that refusal should be so noted by the supervisor.

b. Final Counseling Notice

1. A Final Counseling Notice is a personnel action to formally notify an employee of the specific conduct or performance standard violated and to advise the employee that continued misconduct may result in discipline up to and including dismissal.
2. If the employee's failure to meet the Town's Standards of Conduct warrants a Final Counseling Notice, the appropriate authority will notify the employee. Final Counseling Notice must be in writing and supervisor(s) should meet with the employee to advise the employee of deficiencies and necessary corrective action. The employee will be required to sign receipt for the Final Counseling Notice. If the employee refuses to sign, that refusal should be so noted by the supervisor.

1-6. TYPES OF DISCIPLINARY ACTION

- a. Written Reprimand. This disciplinary action is taken to notify an employee, in writing, of the specific conduct or performance standard that was violated. If the supervisor determines that an employee's failure to meet the Town's Standards of Conduct warrants a written reprimand, the supervisor shall, after consultation with Human Resources.
 1. Meet with the employee in private and advise that he or she is receiving a written reprimand;
 2. Cite the specific disciplinary standard(s) that was violated; and,
 3. Discuss the specific incident that prompted the discipline and indicate the corrective action that is expected. The employee will be required to sign receipt for the written reprimand. If the employee refuses to sign, that refusal should be so noted by the supervisor.
- b. Suspension. This is a severe form of disciplinary action to relieve the employee of his or her duties and place him or her on leave without pay. It may be imposed as the first discipline following the commission of certain offenses. If suspension is the initial discipline, care should be exercised to ensure the employee was aware of the seriousness of the offense.
- c. Demotion of Regular Service Employees. An employee may be involuntarily demoted in lieu of counseling or discipline when such demotion is warranted.
- d. Dismissal. Dismissal is the most severe discipline that may be imposed on an employee.

1-7. PROCEDURES.

The following establishes the procedures for suspension, reduction in pay, demotion, or dismissal of Regular Service employees who have satisfactorily completed at least a one year probationary period in their current position.

- a. The delegated authority shall provide the employee with written notice of intent to take the action at least 5 calendar days prior to the date such action is to be taken. The notice shall include the Standard(s) of Conduct violated and a description of the facts and identify any documents on which the charges are based.

Subsequent to such notice, and prior to the date the action is to be taken, the affected employee shall be given an opportunity to appear before the Department Director or official taking the action to answer orally and in writing the charges against him or her. The Human Resources Director or designee shall be present.

- b. The delegated authority taking such action shall, in addition to furnishing notice of intent to take such action, furnish the employee with written notice of final action. The written notice of final action shall include the same reasons for taking the action as included in
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the notice of intent letter. New charges may not be added to the final notice letter unless another written notice of intent letter is provided to the employee.

- c. The written notice of final action shall advise the employee of appeal rights under Section 2-120 of the Code of Ordinance, under any applicable collective bargaining agreement, and under any other applicable statutory provisions. If the employee appeals to the personnel board, the request for appeal must be in writing and submitted to the Town Clerk within five (5) days after the effective date of the action. In the event of the dismissal of a Department Director, Aide to the Town Administrator, probationary, part-time, seasonal or temporary employee, the action shall not be appealable but be final and binding.