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**ARA 3.05  
DISCIPLINE**

**A. Rule**

1. Non-represented, permanent (non-probationary) employees in the Auditor's Office's classified service are subject to disciplinary action for cause. Discipline may include but is not limited to an oral reprimand, written reprimand, demotion, loss of pay, suspension, or discharge.
  - a. Discipline 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.
  - b. For less serious infractions that warrant progressive discipline, the ultimate goal is to put the employee on notice of unacceptable conduct and to give them a reasonable opportunity to modify their behavior.
  - c. 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 prior warnings or attempts at corrective discipline.
  - d. In all cases, the level and degree of penalty will be in keeping with the seriousness of the offense, taking into account the circumstances relevant to the incident. It is not the purpose of this rule to promote or require a "lock-step" progression of disciplinary measures for every disciplinary action.
  - e. Placing an employee on administrative leave is not disciplinary action. See [Auditor's Office Administrative Rule 3.06 – Leaves, Chapter II: General and Administrative Leaves of Absence; Reasonable Accommodation Leave](#).
2. Employees in their initial appointment to a new classification may be dismissed, without a statement of cause, at any time during probation, if the City Auditor or Division manager find that their continued service is not in the best interest of the Auditor's Office. Probationary employees do not have appeal rights.

3. Employees in positions outside the Auditor's Office classified service are employed at will and may be dismissed, without a statement of cause, at any time. Employees outside the Auditor's Office classified service do not have appeal rights.

## **B. Prohibited Activities**

Cause for disciplinary action may include but is not limited to:

- Incompetence, inadequate performance, or nonperformance of assigned duties
- Neglect of duty or negligence in the performance of a duty causing a substantial risk of personal injury or damage to property
- The use of intoxicants or illegal use or possession of controlled substances on the job
- Reporting for work under the influence of intoxicants
- The use of drugs that creates a substantial risk of injury to self or others or impairs work performance
- Habitual or excessive absences or tardiness or abuse of sick leave privileges
- Absence from duty without authorization
- The failure to notify one's supervisor when unable to report to work on time
- Conviction of a felony or conviction of any crime if the conviction would tend to impair effectiveness as an Auditor's Office employee or tend to bring discredit or reproach upon the Auditor's Office or the City
- Violation of safety rules or policies
- Violation of federal or state law, City Charter or Code, or Auditor's Office or applicable City rules, regulations, or policies
- Discourteous treatment of the public or other employees, offensive conduct, or conduct unbecoming a public employee
- Dishonesty
- Fraud in securing employment
- Falsification of timesheets
- Insubordination, willful disobedience, or the failure to follow a lawful supervisory directive
- Inappropriate or unauthorized personal use of City resources (including but not limited to tools, equipment, materials, supplies, vehicles, facilities, grounds, work time, or information resources and technologies)
- Unauthorized use or disclosure of restricted or confidential information. See [Auditor's Office Administrative Rule 3.11 – Ethical Conduct, Chapter IV: Protection of Restricted and Confidential Information](#)

- Physical violence, including engaging in acts of bodily harm or threatening to inflict bodily harm, physical intimidation, verbal or written threats of violence
- Bullying. See [Examples of Bullying and Discourteous Behavior](#).

### **C. Due Process Requirements**

If a Division manager determines there is just cause for discharge, demotion, or suspension of a non-represented, permanent employee in the Auditor's Office classified service, the Division manager, in consultation with the City Auditor or designee and Operations Management, will provide the employee with notice of the proposed disciplinary action. Such notice must:

1. Be provided at least seven calendar days (or at least one day for suspensions of one day or less) prior to the effective date of the proposed disciplinary action.
2. Include the grounds for and effective date of the proposed action, and notice of the right to respond, orally or in writing, prior to the final determination of discipline.

### **D. Suspension or Discharge**

Unless withdrawn or otherwise amended, a disciplinary action will become effective as specified in the disciplinary notice. A copy of the notice, the employee's written response, if any, and the final action will be filed with Operations Management and become part of the employee's official personnel record.

### **E. Manager & Supervisor Responsibility**

Division managers and Operations Management are responsible for ensuring that all employees are advised of the [Auditor's Office's human resources rules](#) and that violation of the rules may result in discipline up to and including suspension and/or discharge for a first violation. Division managers are responsible for documenting discipline and Operations Management is responsible for keeping the official record of discipline.

### **F. Disciplinary Suspensions for Exempt Employees**

Employees designated by the Auditor's Office as exempt from the Fair Labor Standards Act (FLSA) generally are not subject to a disciplinary suspension of less than one week. However, exempt employees may be suspended without pay for one or more full days for major safety violations or violations of significant workplace conduct rules.

## **G. Appeals**

Any non-represented, permanent employee in the Auditor's classified service who is suspended without pay, demoted, or discharged may appeal the action to an impartial hearings officer. See [Auditor's Office Administrative Rule 3.12 - Civil Service for appeal procedures](#).

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### **Auditor's Office Administrative Rule Information and History**

Questions about these administrative rules may be directed to the [Auditor's Office's Operations Management Division](#).

These rules were originally adopted by the City Auditor on December 11, 2017.

Adapted from [City Human Resources Administrative Rule 5.01 – Discipline](#).

Adopted by Council on March 6, 2002 (Ordinance No. 176302). Last revised January 1, 2020.

Revised and adopted by the City Auditor as ARA 3.05 on *Click to enter date*.