

**CITY OF AVONDALE
DISCIPLINE POLICY**

**AMENDED AND RESTATED
May 19, 2014**

CHAPTER 18

Discipline

A. Statement

This Chapter applies to all employees including represented and certified employee units. Any action that reflects negatively upon the City of Avondale will be considered good cause for disciplinary action against any officer or employee. For all disciplinary actions that are implemented in hours, a 1.4 times conversion rate will be applied to sworn fire personnel on a 56 hour schedule.

As way of example only, the following are the types of behavior that constitute grounds for termination. These examples are simply that, and do not constitute an all-inclusive list:

1. Incompetency, inefficiency or in attendance to, or dereliction of duty.
2. Dishonesty, intemperate conduct, insubordination, discourteous treatment of the public or of fellow employees, any act or commission or omission tending to injure the public service, any failure on the part of the employee to properly conduct himself or herself, or violations of the Arizona Revised Statutes, City ordinances, or other rules and regulations applicable to the employee.
3. Any violation of the City's substance abuse policy.
4. Conviction of any felony or misdemeanor that involves dishonesty, scandal, or in any other way may bring disrepute to the employee or the City.
5. Arrest for any matter that makes it impossible and/or impractical to properly complete his/her duties.
6. Any violation of the policies contained in this manual, departmental rules, supervisory instructions, any other City rules/policies (e.g. those contained in the Ethics Handbook), or any other conduct that may bring discredit to the City.

B. Unlawful Acts Prohibited

1. No person will willfully make any false statement, certificate, mark, rating, or report in regard to any application for employment, test, rating, certification, or appointment held or made under these policies and procedures or ordinances of the City of Avondale. Such conduct may be grounds for disciplinary action, up to and including termination.
2. No person seeking appointment to or promotion in any position in the City service will either directly or indirectly give, promise, render, or pay any money, service, or anything else of value to any person for, on account of, or in connection with his/her test, appointment, proposed appointment, promotion, or proposed promotion.

C. Procedures

The City does not have a progressive discipline policy. It may take varying forms of discipline against its employees, as best serve the City's and the citizens' interests in each particular circumstance. The City reserves the right to take any appropriate disciplinary action that circumstances require. Temporary and probationary employees have no appeal rights for actions outlined in these policies. Part-time employees hired before June 18, 2014 have appeal rights for actions outlined in these policies, but part-time employees hired after June 18, 2014 have no appeal rights for actions outlined in these policies. When a department director identifies the need for employee discipline he/she shall meet with the Human Resources Director or designee prior to any discussion with the employee. Before any employee is given a letter of reprimand, notice of intent to suspend without pay, notice of intent to reduce pay, notice of intent to demote, or notice of intent to terminate, the Department Director shall consult with the Human Resources Director or designee. Below are examples of forms of discipline that the City may take. However, this is not an exclusive list.

1. Formal Reprimand

- a. The immediate supervisor, department director, one of the Assistant City Managers, or the City Manager may formally reprimand any employee under his/her supervision for cause.
- b. Such a formal reprimand will be in writing and addressed to the employee.
- c. A signed copy will be forwarded to the employee and the Human Resources Director for inclusion in the employee's personnel file. The City Manager will also be notified of the reprimand.
- d. Formal reprimands cannot be appealed to the Independent Hearing Officer.
- e. However, within ten (10) working days of receipt, the employee may file a letter of response to the reprimand, which will be attached to the reprimand in his/her file. In its sole discretion, City management may choose to modify or revoke the reprimand after reviewing the employee's letter and circumstances surrounding the discipline.

2. Suspension

- a. The City Manager or an Assistant City Manager, at his/her own discretion or upon the recommendation of a department director, may suspend an employee for cause without pay for a period or periods not exceeding thirty (30) calendar days in any twelve (12) month period — except as provided in subsection (2)(d) below.
- b. Suspensions of 40 hours or less cannot be appealed to the Independent Hearing Officer, except as specified for law enforcement officers and detention officers in ARIZ. REV. STAT. § 38-1101; however, the employee may request review of the decision within ten (10) working days of the notice. Upon receipt of the employee's request for review, the Human Resources Department shall coordinate and appoint another department director or supervisor to review the matter. The designated department director or supervisor will issue a written memorandum either upholding the non-appealable suspension or

suggesting that the City Manager reverse or modify the discipline. If the designated department director or supervisor suggests a reversal or modification, the City Manager will review the matter and make a final decision.

- c. If an employee appeals his/her suspension of more than 40 hours, he/she must first receive a hearing before the Assistant City Manager or designee prior to suspension. After the hearing, the Assistant City Manager or designee will determine whether this action is appropriate. The City Manager will be notified of the decision. If the suspension is upheld, the employee may request an appeal to the City's Independent Hearing Officer within ten (10) working days of receipt of the hearing decision. The appeal must be in writing and submitted to the Human Resources Director as outlined in Chapter 19. After the Independent Hearing Officer conducts a hearing as outlined in Chapter 19, he/she will make a written recommendation within (10) working days to the City Manager or designee for final determination. The Independent Hearing Officer serves an advisory role to the City Manager or designee.
- d. Any regular employee who is arrested for a serious public offense, other than minor traffic violations, whether imprisoned, pending probation or released on bail, may be suspended without pay until such time that judgment is rendered by the court; provided, however, if the employee is found not guilty, he/she will receive compensation for the period of suspension. The employee may not appeal a suspension under this provision.

3. Reduction in Pay in Lieu of Suspension

- a. A department director may choose to impose a reduction in pay of an employee instead of a suspension without pay. Any reduction in pay in lieu of suspension that is equal to forty (40) hours or less cannot be appealed to the Independent Hearing Officer, except as specified for law enforcement officers and detention officers in ARIZ. REV. STAT. § 38-1101; however, the employee may request review of the decision within ten (10) working days of the effective date. Upon receipt of the employee's request for review, the Human Resources Department shall coordinate and appoint another department director or supervisor to review the matter. The designated department director or supervisor will issue a written memorandum either upholding the non-appealable reduction in pay or suggesting that the City Manager reverse or modify the discipline. If the designated department director or supervisor suggests a reversal or modification, the City Manager will review the matter and make a final decision.
- b. The total dollar amount of the reduction in pay shall not exceed the dollar amount of the suspension for which the reduction is substituted.
- c. The reduction in pay shall not reduce the employee's salary below the Federal minimum wage.
- d. If an employee appeals his/her reduction in pay in lieu of suspension (for amounts equivalent to or more than forty (40) hours' suspension), he/she must first receive a hearing before an Assistant City Manager or designee prior to implementing a reduction in pay in lieu of suspension. After the hearing, the Assistant City Manager or designee will determine whether this action is appropriate. The City Manager will be notified of the decision. If the reduction in pay in lieu of suspension is upheld, the employee may

appeal the decision within ten (10) working days of receipt of the hearing decision. The appeal must be in writing and submitted to the Human Resources Director as outlined in Chapter 19. After the Independent Hearing Officer conducts a hearing as outlined in Chapter 19, he/she will make a written recommendation within (10) working days to the City Manager or designee for final determination. The Independent Hearing Officer serves an advisory role to the City Manager or designee.

4. Demotion

- a. The City Manager or an Assistant City Manager, at his/her own discretion or upon the recommendation of a department director, may demote an employee for cause. If appealed pursuant to subsection 4(b) below, the City Manager or designee will make the final determination after receiving a recommendation from the Independent Hearing Officer.
- b. If an employee appeals his/her demotion, he/she must first receive a hearing before the Assistant City Manager or designee prior to implementing the demotion. After the hearing, the Assistant City Manager or designee will determine whether the demotion is appropriate. The City Manager will be notified of the decision. If the demotion is upheld, the employee may request an appeal to the Independent Hearing Officer within ten (10) working days of receipt of the hearing decision. The appeal must be in writing and submitted to the Human Resources Director as outlined in Chapter 19. After the Independent Hearing Officer conducts a hearing as outlined in Chapter 19, he/she will make a written recommendation within (10) working days to the City Manager or designee for final determination. The Independent Hearing Officer serves an advisory role to the City Manager or designee.
- c. All regular employees demoted for disciplinary reasons will not be eligible for promotion or an increase in compensation for a period of one (1) year from the time of the demotion.

5. Termination

- a. The City Manager or an Assistant City Manager may terminate for cause any employee of the City by delivery of a Notice of Intent to Terminate, which outlines a statement of reasons for potential termination. In most cases, the Assistant City Manager or designee will make the initial termination decision. If appealed, the City Manager or designee will make the final determination after receiving a recommendation from the Independent Hearing Officer.
- b. Part-time employees or employees serving in the probationary period need not receive a Notice of Intent to Terminate prior to termination.
- c. Pre-Termination Hearing

If an employee appeals his/her termination, he/she must receive a pre-termination hearing before the Assistant City Manager or designee prior to termination.
- d. Final Decision

After the pre-termination hearing, the Assistant City Manager or designee will determine whether termination is appropriate. The City Manager will be notified of the termination decision. If terminated, the employee may request an appeal Independent Hearing Officer within ten (10) working days of receipt of the hearing decision. The appeal must be in writing and submitted to the Human Resources Director as outlined in Chapter 19. After the Independent Hearing Officer conducts a hearing as outlined in Chapter 19, he/she will make a written recommendation within (10) working days to the City Manager or designee for final determination. The Independent Hearing Officer serves an advisory role to the City Manager or designee.

e. Process

Managers requesting termination of an employee as a disciplinary measure will first consult with the Human Resources Director or designee.

6. Exit Interviews

Any employee leaving the City's services is given the option to provide Human Resources with an exit interview.

D. For the purposes of this Chapter:

1. "Working Days" means Monday through Thursday, exclusive of City designated Holidays.
2. "Law Enforcement Officer" means an individual, other than a probationary employee, who is certified by the Arizona Peace Officer Standards and Training Board and employed by the City of Avondale.
3. "Detention Officer" means a detention officer, other than a probationary employee, who is employed by the City of Avondale.