

POLICY/ADMINISTRATIVE PROCEDURE/ADMINISTRATIVE DIRECTIVE

SECTION: HUMAN RESOURCES	REFERENCE NUMBER: 109.01
SUBJECT: CORRECTIVE ACTION AND SEPARATION	INITIAL EFFECTIVE DATE: 04/19/88
TITLE: CORRECTIVE ACTION	LAST REVISION DATE: 11/19/2020

POLICY STATEMENT:

It is the policy of the City of Denton to maintain an effective and productive workforce to deliver outstanding quality services to the citizens of Denton. The purpose of this policy is to provide direction to supervisors. It does not provide contractual or property rights to any employee. All employees are employed strictly on an at-will basis.

Employees are expected to maintain high standards of performance and conduct, and to comply with all federal, state, and local laws, rules, regulations, and policies governing the conduct of public employees. Employees are also expected to perform their duties in accordance with the instructions and standards established by the employees' supervisors. Supervisors are responsible for communicating job duties, responsibilities, performance standards, and expectations. Supervisors accomplish this through job orientation, job instruction, coaching, and informal discussions with the employee.

City Council appointees and those employees governed by the provisions of Chapter 143 of the Texas Local Government Code are exempt from provisions of this policy that conflict with an existing contract (*e.g.*, an employment or Meet and Confer agreement). If there is a conflict, the contract will supersede the conflicting provision in this policy.

ADMINISTRATIVE PROCEDURES:

I. INTRODUCTION

The City of Denton is an **at-will** employer and may terminate employees at any time and for any reason, with or without cause or notice, and without the use of progressive levels of corrective action, unless expressly prohibited by law. This policy does not provide or guarantee an employee any rights that would change the employee's at-will employment status. Employees are responsible for reviewing and following all applicable City and departmental policies, guidelines, and job descriptions outlining employee responsibilities and standards of conduct.

These administrative procedures are established to provide appropriate guidelines in carrying out the policies of the City of Denton regarding corrective actions. They are intended to address the general application of the principles of corrective actions in typical situations. These procedures address a broad range of performance deficits and conduct concerns. They are not intended to address every problem or situation that may arise. It is the responsibility of the supervisor to determine the nature, extent, facts, and circumstances in each corrective action and to use reasonable judgment in the

POLICY/ADMINISTRATIVE PROCEDURE/ADMINISTRATIVE DIRECTIVE (Continued)

TITLE: CORRECTIVE ACTION	REFERENCE NUMBER: 109.01
--------------------------	-----------------------------

application of these policies and procedures. Supervisors shall administer corrective action equitably throughout the City without regard to race, color, religion, sex, gender, sexual orientation, gender identity, transgender status, national origin, age, disability, or any other characteristic protected by City policy or applicable law.

Corrective actions are designed to help the employee correct the problem and build a renewed commitment to the City and their job in an equitable and consistent manner, when applicable.

Corrective Action Guidelines:

Notwithstanding the fact that the City of Denton is an at-will employer when an employee's conduct or performance falls below expectations or violates any applicable law, rule, or regulation, the employee may be subject to corrective action. The City of Denton's corrective action guidelines typically consists of a system of increasingly significant measures to provide feedback to employees so employees can correct conduct or performance problems. The City of Denton recognizes four (4) types of corrective action:

- Written Reprimand
- Suspension Without Pay
- Involuntary Demotion
- Dismissal

Although one or more corrective action measures may be taken in connection with a particular performance or conduct problem, no formal order or sequence of actions or steps will be followed in all cases. The appropriate corrective action will depend on the totality of the circumstances, including the severity of the performance deficiency or conduct, the employee's role within the organization, and other relevant factors.

The City of Denton's use and publication of the corrective action model does not prohibit the supervisor from taking appropriately severe corrective action when the severity of the behavior or performance deficiency warrants such action.

Behavior that is illegal (*e.g.*, theft, fraud, driving while intoxicated or under the influence while conducting City business, possession of illegal drugs in the workplace) will likely be subject to dismissal, and such behavior may be reported to local law enforcement authorities.

Other examples of behavior that the corrective action may be dismissed include, but are not limited to:

- Harassment,

POLICY/ADMINISTRATIVE PROCEDURE/ADMINISTRATIVE DIRECTIVE (Continued)

TITLE: CORRECTIVE ACTION	REFERENCE NUMBER: 109.01
--------------------------	-----------------------------

- Bullying,
- Substance abuse,
- Intoxication on the job,
- Falsification of documents,
- Willful insubordination,
- Gross incompetence,
- Dishonesty, and
- Fighting and other acts of violence at work.

The foregoing list of reasons for dismissal is a sample only and not a complete list of actions that may result in an employee's dismissal.

II. GENERAL CRITERIA TO BE CONSIDERED IN CORRECTIVE ACTIONS

Corrective action may be taken depending on the circumstances surrounding the employee's behavior or performance deficiencies. The supervisor may consider the following criteria when determining the appropriate corrective action to take:

- Severity and type of offense(s);
- Impact of the offense(s) on other employees, the City, or citizens;
- Employee's length of service and work record;
- Period of time since the discussion with the employee about a similar problem or recent corrective action for the same or similar problem;
- Employee's prior performance appraisals if any; or,
- Past corrective actions taken by the City for the same or similar problem.

If a supervisor determines that the nature, severity, and impact of the employee's action(s) require corrective action, the supervisor should thoroughly investigate the situation, discuss it with the next level supervisor and a representative of Human Resources, and obtain approval from the supervisor's director and the Director of Human Resources or designee before taking any action. Based on the facts of the situation, Human Resources will provide guidance to the supervisor relating to the recommended course of corrective action.

III. RESPONSIBILITY AND AUTHORITY FOR ADMINISTERING CORRECTIVE ACTIONS

Supervisors are responsible for enforcing all City policies and procedures, accomplishing the goals and objectives of a division or department, maintaining work performance, and attendance and conduct standards of their employees. They are vested with the authority to take appropriate corrective action under the directions and guidelines outlined in these procedures.

POLICY/ADMINISTRATIVE PROCEDURE/ADMINISTRATIVE DIRECTIVE (Continued)

TITLE: CORRECTIVE ACTION	REFERENCE NUMBER: 109.01
--------------------------	-----------------------------

Before any corrective action is administered, the supervisor shall conduct a thorough examination of the situation before recommending any corrective action.

Before a supervisor takes action to administer any corrective action identified below, the supervisor must consult with the Human Resources Department and receive approval to administer the corrective action. The Director of Human Resources or designee will review the proposed corrective action before any formal action is taken against an employee.

All corrective actions shall be properly documented to substantiate the action being taken. Both the employee and the supervisor shall sign the corrective action document. The employee should understand that the employee's signature indicates receipt of the document only, not necessarily agreement with its contents. If the employee refuses to sign, the supervisor should have a witness (who must be of a supervisory level or a member of Human Resources and may not be a work peer of the employee) sign that the corrective action document was read to the employee, the employee was given an opportunity to ask questions about the corrective action, and that a copy of the document was given to the employee. A copy of the corrective action document shall be forwarded to Human Resources to be placed in the employee's personnel file.

IV. CORRECTIVE ACTION PROCESS

The following corrective action process may be applied to an employee whose performance of duties or personal behavior is unsatisfactory. The following process is intended to be descriptive and serve only as a guide to the types of corrective action that may be appropriate. This listing is not intended to be exhaustive or exclusive:

A. Written Reprimand:

1. Any supervisor in the employee's chain of command may issue a subordinate employee a reprimand. If a reprimand is issued by someone other than the employee's direct supervisor, a report of such action shall be made to the direct supervisor. A reprimand may be issued, for example, when the employee has demonstrated an inability to perform required job duties, has excessive absences that constitute an abuse of the attendance policy, or has minor conduct problems.
2. An employee who demonstrates a significant inability to perform required duties or a serious conduct problem may be issued a reprimand without first having coaching or a previous discussion about the problem with the supervisor.

POLICY/ADMINISTRATIVE PROCEDURE/ADMINISTRATIVE DIRECTIVE (Continued)

TITLE: CORRECTIVE ACTION	REFERENCE NUMBER: 109.01
------------------------------------	-----------------------------

B. Suspension Without Pay:

1. A supervisor may recommend a suspension without pay (suspension) for up to thirty (30) days. In determining the length of the suspension, the supervisor should consider the nature and severity of the conduct, impact on the organization, and previous corrective actions. A suspension or combination of suspensions shall not exceed 30 working days in a 12-month period. A suspension or combination of suspensions for more than 30 days in a 12-month period would result in a dismissal of the employee.
2. Employees classified as exempt under the Fair Labor Standards Act may not be suspended for any period of time less than a full work period (Friday midnight to Friday midnight) for any general performance related deficiencies or for any misconduct that fails to meet the standards set by the Department of Labor's regulations relating to the Fair Labor Standards Act.

C. Involuntary Demotion:

1. An involuntary demotion may be considered when an employee fails to satisfy the performance standards established for a position but is able to function productively in another capacity and when an open lower-level position is available in the employee's department.
2. An involuntary demotion typically should not be considered unless the employee has been informed of and understands the standards established for their current position, has been counseled, and given sufficient time to correct any existing deficiencies.
3. Typically, employees who are demoted will have their pay reduced to pay in line with the new position. Factors to be considered when reducing pay will be the pay range for the position that they are being demoted to, the pay of other employees in the position, the employee's qualifications, and market conditions. Further, employees who are demoted will typically have their annual review date changed to the effective date of the demotion.

D. Dismissal:

1. A supervisor may propose to the Director of Human Resources or designee that an employee be dismissed from employment with the City of Denton. Human Resources will request a review and legal advice from the Legal Department if the Director of Human Resources or designee deems that review by the Legal Department is warranted.
2. The employee shall be given an opportunity to speak with the Director of Human Resources or designee to discuss the proposed dismissal before any final action is taken.

POLICY/ADMINISTRATIVE PROCEDURE/ADMINISTRATIVE DIRECTIVE (Continued)

TITLE: CORRECTIVE ACTION	REFERENCE NUMBER: 109.01
--------------------------	-----------------------------

At such time, the employee may respond to the supervisor's reasons for the requested dismissal if the employee chooses to do so.

3. Employees who have a positive drug or alcohol screen, without sufficient justification for such result, as outlined in the City's Anti-Substance Abuse and Rehabilitation policy (no. 108.12), will be dismissed. Reconsideration of dismissals for a positive drug or alcohol screen is outlined in policy 108.12.
4. **Upon review by the City Attorney or designee, consultation with the Director of Human Resources or designee, and approval of the City Manager or designee, the supervisor may deviate from any or all of these procedures and dismiss any employee at any time for any reason or for no reason, pursuant to the City of Denton's at-will employer status.**

The corrective action process will not always commence with a written reprimand or include a sequence of steps stated herein. Some acts, particularly those that are intentional or serious, warrant more severe action on the first or a subsequent offense. Consideration may be given to the seriousness of the offense, your intent and motivation to change the performance or behavior, and the environment in which the offense took place. Each case will be judged on its own merits and circumstances.

V. EXAMPLES OF PERFORMANCE DEFICIENCIES AND PERSONAL CONDUCT SUBJECT TO CORRECTIVE ACTION

Coaching and informal discussions are everyday responsibilities performed by supervisors to ensure that employees are performing their jobs and conducting themselves in an acceptable manner. If a performance, attendance, or conduct problem arises, the supervisor should coach and informally discuss the problem with the employee. The objective is to assist the employee in recognizing that a problem exists and to develop effective solutions to correct the problem. Normally, the employee corrects most problems in this manner. When informal discussions fail to bring about the appropriate changes in the employee's behavior, formal corrective action may be taken. The following actions are intended to be descriptive and serve only as a guide to the types of problems for which corrective action may be appropriate. This listing is not intended to be exhaustive or exclusive of the types of conduct for which corrective action may be taken:

A. Performance of Duties:

The following are examples relating to unsatisfactory performance of duties for which corrective action may be taken. This list is not intended to be all-inclusive or exclusive. It provides examples of unsatisfactory performance that management believes are unacceptable and could jeopardize an employee's continued employment. Examples include:

POLICY/ADMINISTRATIVE PROCEDURE/ADMINISTRATIVE DIRECTIVE (Continued)

TITLE: CORRECTIVE ACTION	REFERENCE NUMBER: 109.01
------------------------------------	-----------------------------

1. Failure to satisfactorily meet performance standards for the position.
2. Patterned absenteeism without sufficient medical justification.
3. Absence without approved leave or improper use of leave privileges.
4. Tardiness as a habitual pattern or failure to report for duty at the assigned time and place.
5. Violation of departmental policies regarding the performance of duties.
6. Neglect or carelessness in the performance of duties or in the use of City property or equipment. Negligently causing damage to City property.
7. Discourteous treatment of the public or other employees.
8. Failure to meet or maintain specified conditions of employment, such as failure to obtain or maintain a license or certificate required as a condition for performing a job.
9. Causing or contributing to an accident by operating City equipment in an unsafe, unauthorized, or improper manner.

B. Personal Conduct:

The following are examples relating to personal conduct for which corrective action may be taken. The list is not intended to be all-inclusive or exclusive. It provides examples of conduct that management believes are unacceptable and could jeopardize an employee's continued employment. Examples include:

1. Violating a federal, state, or local law or regulation, or City policy.
2. Failure to preserve or produce business-related information or business-related communication stored on privately-owned device(s) in a timely manner upon request.
2. Theft of any kind (including aiding or encouraging).
3. Destroying City records without authorization.
4. Falsifying City records, including applications for employment, time records, employee benefit information, or other information concerning employment status.

POLICY/ADMINISTRATIVE PROCEDURE/ADMINISTRATIVE DIRECTIVE (Continued)

TITLE: CORRECTIVE ACTION	REFERENCE NUMBER: 109.01
------------------------------------	-----------------------------

5. Willful damage to public property or willful waste of public supplies, service, or equipment.
6. Insubordination: the intentional refusal to comply with a supervisor's lawful and reasonable work request or directive.
7. Physical assault committed on the job upon a City employee, member of the public, or City official.
8. Using an official position or office for economic gain or soliciting favors or gratuities for performing services required by the employee's position.
9. Disclosing confidential information.
10. Unauthorized use or possession of City funds or property.
11. Possession or use of weapons on City property or while performing City responsibilities except as authorized as part of the job (*i.e.*, law enforcement), the Workplace Violence Prevention policy (no. 108.05), or by applicable laws.
12. Making express or implied threats against another employee or a member of the public.
13. Engaging in any employment activity or enterprise that constitutes a conflict of interest.
14. Using City property or equipment without authorization.
15. Dereliction of duty that is detrimental to the proper performance of the functions of the City. Examples include:
 - a. Failure of a supervisor to immediately take action when a violation of policies, rules, or regulations comes to the supervisor's attention, regardless of the supervisor's or violator's assignment or position in the City.
 - b. Failure to observe and adhere to city, state, or federal laws or the policies or procedures of the employee's division or the City.
 - c. Failure to deliver to the official City custodian any property found by, confiscated by, or relinquished to employees of the City without undue delay and, in any event, before the workday is ended.
16. Misusing delegated authority in the performance of duties.

POLICY/ADMINISTRATIVE PROCEDURE/ADMINISTRATIVE DIRECTIVE (Continued)

TITLE: CORRECTIVE ACTION	REFERENCE NUMBER: 109.01
------------------------------------	-----------------------------

17. Using abusive language toward employees or the public.
18. Unnecessarily disrupting the work of other employees.
19. Operating, conducting, or engaging in gambling on the job or on City property.
20. Violations of safety rules or practices that endanger the employee or others, or that damage City property or equipment.
21. Playing tricks or jokes or engaging in horseplay that adversely affects job performance or safety.
22. Making derogatory remarks related to a person's race, age, ethnicity, sex, sexual orientation, gender identity or expression, transgender status, or any characteristic protected by the City's Equal Employment Opportunity policy (no. 100.01), Ethics policy (no. 10.00), Harassment Prevention policy (no. 108.10), and any other relevant City policies that govern off-duty comments and conduct.
23. Engaging in personal business while on duty without the supervisor's authorization.
24. Failure of an employee to report damage they cause to property of others or damage they cause, discover, or should have discovered (*e.g.*, pre-trip/post-trip inspections) to City equipment or property in their care and custody.
25. Appropriating City property (*e.g.*, equipment, furniture, or construction materials) that has been abandoned or discarded.
26. Utilizing City data or information systems for any reason other than City business.
27. Sleeping on the job.
28. Falsely reporting illness or injury or otherwise attempting to deceive the employee's supervisor or any other City official as to a health or medical condition.
29. Failing to cooperate fully during an administrative investigation (*e.g.*, making false or misleading statements, omitting pertinent information).
30. Intentional dishonesty.

POLICY/ADMINISTRATIVE PROCEDURE/ADMINISTRATIVE DIRECTIVE (Continued)

TITLE: CORRECTIVE ACTION	REFERENCE NUMBER: 109.01
------------------------------------	-----------------------------

31. Engaging in unbecoming conduct, either on or off duty. "Unbecoming conduct" shall include that which brings the City, the City Council, City Administration, or the City's reputation into disrepute or reflects discredit upon the employee as an employee of the City, or that which impairs the operation or efficiency of the City or the employee. The exercise of constitutional rights or other legally protected activities are not unbecoming conduct.
32. Employees may receive corrective action up to and including dismissal for conduct that occurs outside regularly scheduled working hours if such conduct affects the employee's ability to work for the City or if it places the City Council, City Administration, or the City's reputation in a negative light. An example that might be considered a negative light is a conviction for an offense that jeopardizes citizen trust or confidence in an employee's ability to perform required job duties and responsibilities. Pursuant to such policy, an employee may also receive corrective action for failing to report an arrest or conviction for an offense that could jeopardize citizen trust or confidence in the employee's ability to perform required job duties and responsibilities. An employee who is arrested or convicted for such an offense should report the arrest or conviction to their supervisor, a person in their chain of command, or Human Resources within three (3) business days of the offense or conviction.

IF THE EMPLOYEE HAS ANY QUESTIONS ABOUT THE NECESSITY OF REPORTING AN ARREST, THE EMPLOYEE SHOULD CONTACT HUMAN RESOURCES AND NOTIFY THE DIRECTOR OF HUMAN RESOURCES OR DESIGNEE OF THE ARREST.

POLICY/ADMINISTRATIVE PROCEDURE/ADMINISTRATIVE DIRECTIVE (Continued)

TITLE: CORRECTIVE ACTION	REFERENCE NUMBER: 109.01
--------------------------	-----------------------------

VI. USE OF PRIVATELY-OWNED DEVICES AND PUBLIC INFORMATION

Employees and former employees of the City who use privately-owned electronic devices (*e.g.*, cell phones, tablets, personal computers, etc.) are subject to the Texas Public Information Act ("Act") if those privately-owned devices are used in the performance of their job duties and store or contain work-related information including communications such as texts, tweets, emails, notes, or pictures.

If the device contains information that is subject to public disclosure under the Act, the employee or employer must preserve it and make it available for disclosure. It is the information on the device, not the type of device or who owns it, that controls whether it is subject to the Act.

Employees and former employees of the City who have public information stored on a privately-owned device **must**:

1. **Forward or transfer the public information to the City** or a City server so that it can be properly preserved as a public record; OR
2. **Preserve the public information** in its original form in a backup or archive ***and*** on the privately-owned device for the time required by current law.

Failure to properly preserve public information subject to the Act could result in possible criminal charges.

VII. REVIEW OF CORRECTIVE ACTIONS

If an employee believes that a corrective action taken against them violates an existing City of Denton policy, the corrective action violates an existing state or federal law or regulation, or if the employee believes that the conduct for which the employee received corrective action constitutes the exercise of a constitutional right or a statutorily protected activity, the employee may request reconsideration in accordance with the City's Appeal policy (no.109.03). The City's Appeal policy does not apply to temporary, seasonal, or employees subject to the Texas Local Government Code, Chapter 143, and a duly ratified Meet and Confer Agreement and Council Appointees.