



**3-46 DISCIPLINE SYSTEM**

**Related SOP(s), Form(s), Other Resource(s), and Rescinded Special Order(s):**

**A. Related SOP(s)**

- 1-62 Internal Affairs Professional Standards (IAPS) Division (Formerly 7-1)
- 3-41 Complaints Involving Department Personnel (Formerly 3-22 and 3-43)
- 3-44 Review of Completed Administrative Investigative Cases (Formerly 3-24 and 3-45)

**B. Form(s)**

- PD 1106 Area Command/Division Internal Complaint Disposition Form
- PD 1135 Chief of Police/Designee Recommendation Form
- PD 1138 Deputy Chief Recommendation Form
- PD 1139 Non-Disciplinary Corrective Action
- PD 1140 Pre-Determination Hearing Findings

**C. Other Resource(s)**

City of Albuquerque Personnel Rules and Regulations, § 902.3 General Provisions

**D. Rescinded Special Order(s)**

None

**3-46-1 Purpose**

The purpose of this policy is to articulate approved disciplinary practices in response to sustained violations of Albuquerque Police Department (Department) Standard Operating Procedures (SOP).

**3-46-2 Policy**

It is the policy of the Department to ensure that fair and consistent disciplinary action is taken for sustained policy violations in accordance with the tenets of progressive discipline that include the nature of the sustained violation, the employee’s disciplinary history, and applicable mitigating and aggravating factors.

**N/A**

**3-46-3 Definitions**

**A. Abeyance**

A temporary hold on part of a suspension to be served for a sustained policy violation. Abeyances are exceptions in the disciplinary process that shall be fully documented (see subsection 3-46-4 E.6.).



**B. Aggravating Circumstances**

Factors that increase culpability of the subject or the severity of the penalty associated with the act under the Chart of Sanctions. Aggravating circumstances must be objectively verifiable and credibly established in the investigation or by other means articulated by the disciplinary authority.

**C. Chart of Sanctions**

The appendix to this policy that identifies levels of disciplinary action to be imposed based on the classification of the offense and prior disciplinary history of the identified policy violations.

**D. Findings**

The recommended disposition for each allegation, based upon the totality of the evidence. Each allegation shall result in one of the following findings:

1. Administratively Closed: The allegations are duplicative or an investigation cannot be conducted because of the lack of information in the complaint.
  - a. Only the Commander of the Internal Affairs Professional Standards (IAPS) Division or Internal Affairs Force Division (IAFD) can approve this finding.
2. Exonerated: The investigation determines, by a preponderance of the evidence, that the alleged conduct did occur but did not violate Department SOPs, procedures, or training.
3. Not Sustained: The investigation is unable to determine, by a preponderance of the evidence, whether the alleged policy violation occurred.
4. Sustained: The investigation determined, by a preponderance of the evidence that the alleged policy violation did occur.
5. Unfounded: The investigation determined, by clear and convincing evidence, that the alleged policy violation did not occur or did not involve the employee.

**E. Internal Affairs (IA)**

The Divisions of the Department responsible for fairly, impartially, and thoroughly investigating internal complaints of policy violations by Department personnel and uses of force.

**F. Minor Policy Violations**

Conduct that, if sustained, would result in discipline or corrective action less severe than a suspension based on the Chart of Sanctions.



G. Mitigating Circumstances

Factors that decrease the culpability of the act or the severity of the penalty associated with the act under the Chart of Sanctions. Mitigating circumstances must be objectively verifiable and credibly established in the investigation or by other means articulated by the disciplinary authority.

H. Non-Disciplinary Corrective Action (NDCA)

An action other than discipline taken to enable or encourage an officer to improve their performance for minor violations.

I. Pre-Determination Hearing (PDH)

A hearing that allows classified Department personnel who are facing disciplinary action, such as, but not limited to, suspension, dismissal from service, or demotion, to address allegations against them in regards to the proposed discipline.

J. Presumptive Discipline

The presumed disciplinary range prior to consideration of additional factors.

K. Prior-Related Offense

A sustained violation of policy from the same group of prior-related offenses as set forth by Appendix II and consistent with the time limitations set forth in this SOP. Prior-related offenses shall be used for progressive discipline in determining the final discipline imposed.

L. Progressive Discipline

A graduated range or level of increased discipline based on previously sustained policy violations for prior-related offenses as set forth by Appendix II and consistent with the time limitations set forth in this SOP.

M. Sanction Classification

1. A level of seriousness and corresponding level of discipline designated to each type of policy violation. Sanction classifications range from 1 (most serious) to 7 (least serious).
2. To ensure consistent and objective application of discipline, all policy provisions shall receive a sanction classification based on the Chart of Sanctions:
  - a. Class 1: Any violation of law, policy, rule, or regulation, which:
    - i. Can foreseeably result in death or serious physical injury;
    - ii. Constitutes a willful and wanton disregard of Department guiding principles;



- iii. Constitutes a felony crime, or a lesser criminal offense that is substantially contrary to the standards of conduct reasonably expected of a Department employee;
  - iv. Involves any act or omission which demonstrates a serious lack of the integrity, ethics, or character related to an employee's fitness to hold their position;
  - v. Involves egregious violations substantially contrary to the standards of conduct reasonably expected, to include those whose sworn duty is to uphold the law;
  - vi. Involves conduct that constitutes the failure to adhere to any condition of employment required or mandated by law and the City's Personnel Rules and Regulations; or
  - vii. Involves conduct that effectively disqualifies an employee from continued employment as a law enforcement officer.
- b. Class 2: Conduct that involves the serious abuse or misuse of authority, unethical behavior, and/or acts that result in an actual serious, adverse impact on the Department's employee(s), the public, public safety, or to the professionalism of the Department.
  - c. Class 3: Conduct that involves an abuse or misuse of authority, unethical behavior, and/or acts that could reasonably have resulted in a serious adverse impact on the Department's employee(s), the public, or public safety, or to the professionalism of the Department.
  - d. Class 4: Conduct that is substantially contrary to the values of the Department; or that substantially interferes with the Department's mission, operations, or public trust; or that involves a serious risk to Department personnel or public safety.
  - e. Class 5: Conduct that has a pronounced negative impact on the operations or professional image of the Department, relationships with other Department personnel, agencies, or the public.
  - f. Class 6: Conduct that has more than a minimal negative impact on the operations or professional image of the Department; or conduct that negatively impacts relationships with other Department personnel, agencies, or the public.
  - g. Class 7: Conduct that has a minimal negative impact on the overall operations or professional image of the Department.

**6** 3-46-4 **Procedures**

A. Sanction Classifications

- 1. Violations subject to disciplinary action are identified by a sanction classification noted in the left margin next to the text it applies to in the policy.
  - a. When a policy or Special Order does not specifically list a sanction classification, the IAPS Division shall determine the proper sanction classification based on similar offenses and the definitions in this SOP.
  - b. In some cases, policies shall include sections for which a policy violation is not appropriate. These shall be noted by a "N/A" in the left margin.



## B. Chart of Sanctions

1. The Chart of Sanctions shall provide the minimum, maximum, and presumptive discipline for the violation based on the sanction classification.
2. Time Limitations on Chart of Sanctions
  - a. For the purposes of determining progressive discipline, the Department shall consider prior-related offenses. The timeline for a sustained violation shall run from the date discipline was imposed on the prior violation(s) to the date of the alleged misconduct in the current investigation.
    - i. Discipline involving a sustained violation of Class 1-4 offense shall be considered for the duration of the officer's career.
    - ii. Discipline involving a sustained violation of a Class 5 offense shall be considered for two (2) years prior to the current offense.
    - iii. Discipline involving a sustained violation of a Class 6 or 7 offense shall be considered for one (1) year prior to the current offense.

## C. Aggravating and Mitigating Circumstances

1. Disciplinary authority shall take into account aggravating and mitigating circumstances when determining final discipline.
2. Aggravating circumstances may include, but are not limited to:
  - a. Prior disciplinary history;
  - b. Lack of remorse; or
  - c. Lack of acceptance of responsibility.
3. Mitigating circumstances may include, but are not limited to:
  - a. No disciplinary history;
  - b. Sincere remorse and acceptance of responsibility; or
  - c. Unique set of circumstances unlikely to reoccur.

## D. Disciplinary Action Packet (DAP)

1. The DAP is used to calculate the recommended disciplinary action to be taken for any sustained allegations investigated by IA and the Civilian Police Oversight Agency (CPOA). The Area Command/Division Internal Complaint Disposition form shall be completed for sustained allegations by other disciplinary authorities.
  - a. Investigating command staff or CPOA personnel shall complete the DAP.
  - b. Upon completion of the DAP, it shall be forwarded to the IAPS Division for review.



- c. Internal investigations completed by IAFD shall be forwarded to the Commander of IAFD.
- d. Investigating command staff or CPOA personnel shall complete the DAP consistent with the investigative agency responsible for conducting the investigation.
- e. The Executive Director of the CPOA will complete the recommended findings and discipline section of the DAP for CPOA cases.

## 2. Multiple Violations

- a. Multiple violations sustained in an investigation that are based on distinct acts or omissions shall be disciplined separately.
- b. Where an act or omission simultaneously results in sustained violations of two (2) or more regulations, such that one violation is a lesser included violation of the other or is otherwise not a separate and distinct violation, discipline shall be imposed on the more serious violation only.

## 3. Prior-Related Offenses

- a. Prior-related offenses shall be used for progressive discipline if they were within the timeline established by this SOP.
- b. If prior-related offenses are to be used for progressive discipline, they shall be considered as an additional offense for purposes of the Chart of Sanctions.
- c. Only violations of the same class sanction shall be used for used calculating progressive discipline
- d. Appendix II identifies what constitutes a prior-related offense.

4. The Commander of the IAPS Division or IAFD shall approve the DAP and forward the investigation, consistent with SOP Review of Completed Administrative Investigation Cases. The Executive Director of the CPOA shall approve the DAP for CPOA investigations.

## E. Imposition of Discipline or Corrective Action

### 1. Authority to Impose Discipline or Corrective Action

- a. The command-level disciplinary authority or executive staff at the rank of Deputy Chief of Police or higher shall have final authority to impose discipline for the following recommended disciplinary actions:
  - i. NDCA; and
  - ii. Verbal or written reprimand.
  - iii. Suspension of less than forty (40) hours;
- b. The Chief of Police or the Superintendent of Police Reform (Superintendent) shall have the final authority to impose discipline for the following recommended disciplinary actions:
  - i. Suspension of forty (40) hours or more;
  - ii. Demotion; and



iii. Dismissal from service.

2. Imposition of Discipline or Corrective Action

- a. When determining the appropriate discipline, the disciplinary authority shall consider the presumptive level of discipline as set forth in the DAP, as well as the actual level of discipline recommended in the DAP. Thereafter, consistent with the requirements of this SOP, the disciplinary authority shall assess and consider the aggravating and mitigating circumstances, if applicable, in determining the appropriate level of discipline.
- b. Executive staff shall articulate and document the basis for aggravating or mitigating circumstances when deviating from the range encompassed by the applicable maximum-presumptive-minimum levels of discipline set forth in the Chart of Sanctions.
  - i. The imposition of discipline that deviates from the maximum or minimum levels recommended in the DAP requires final approval from the Chief of Police or the Superintendent of Police Reform.

3. Pre-Determination Hearing (PDH)

- a. PDH Notice
  - i. Upon determining that a complaint is sustained, and discipline that results in suspension may be issued, the Department shall send a PDH Notice to the employee. The PDH Notice is confidential and shall include:
    1. A statement of the alleged acts or omissions or other policy violation that constitutes the basis for the proposed discipline, including specific laws, rules, and SOPs that are alleged to have been violated;
    2. Any proposed disciplinary action to be taken; and
    3. The date, time, and place at which the hearing will be held.
  - ii. The PDH shall be delivered to the employee with the notification of the right to attend a meeting to provide a response.
  - iii. The employee may provide a written response or waive any response.
    1. The employee shall sign all copies to acknowledge receipt of the PDH Notice.
  - iv. Pre-Determination Notices are not required for oral and written reprimands.
  - v. The employee's supervisor shall provide a copy of the signed PDH Notice to the appropriate IA Division.
  - vi. Upon notification of proposed discipline consisting of a Letter of Reprimand or higher, Department personnel may review and/or obtain a copy of the relevant investigative case file material, consistent with SOP Internal Affairs Professional Standards (IAPS) Division.
  - vii. All classified and non-probationary Department personnel facing suspension, demotion, or dismissal from service shall receive a PDH.
  - viii. The PDH provides the employee an opportunity to present reasons, either in person or in writing, why the hearing officer should reduce, hold in abeyance, or not impose the proposed discipline.



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1. Although facts may be presented, this is not a full evidentiary hearing and testimony of witnesses, other than the employee, shall not be allowed.
- ix. The Chief of Police, Superintendent, or their designee shall conduct the hearing for any suspension of forty (40) hours or more, demotion, or dismissal from service.
- x. A Deputy Chief of Police shall conduct the hearing for any suspension of less than forty (40) hours.
- xi. If final discipline results in suspension, demotion, or dismissal from service, IA Division personnel shall send to the Payroll Section a copy of the memorandum.
- xii. The employee may have up to two (2) representatives during the PDH.
- xiii. After the disciplinary authority has asked any questions during the PDH, the employee or employee's representatives shall be allowed a reasonable opportunity to respond to the allegations and proposed discipline.
- b. Final Decision Letter
  - i. A final decision letter shall be sent to the employee.
  - ii. The letter, signed by the Chief of Police or the Superintendent, Deputy Chief, Commander, or Division Manager, dependent upon the disciplinary severity, shall contain the following:
    1. A statement of the policy violation, act(s) or omission(s) which is the basis for the final decision;
    2. The section of the rules, laws, or procedures that was violated;
    3. An explanation of the basis for the final disciplinary action, including the basis for any mitigating or aggravating circumstances or abeyance resulting in the final disciplinary action;
    4. The date(s) the disciplinary action is to be effective; and
    5. Notice of the right of the employee to appeal, if applicable.
- c. Final Decision Letter Signature Authority
  - i. A final decision letter for disciplinary actions of less than forty (40) hours suspension may be signed by the Chief of Police or the Superintendent, Deputy Chief, Division Manager, or Commander.
  - ii. A final decision letter for all disciplinary actions resulting in forty (40) hours or more, including demotions and terminations, shall be signed by the Chief of Police or the Superintendent.
- d. The final decision letter and other personnel documents shall be signed by the employee to acknowledge receipt only. Signature of the employee does not constitute agreement with the sustained findings or with the discipline, nor does it constitute an admission of wrongdoing. Copies of the final decision letter shall be distributed to the following:
  - i. The employee's chain of command;
  - ii. The Behavioral Sciences Section (BSS), if applicable;
  - iii. The Payroll Section; and
  - iv. The IA Division.
- e. The employee's supervisor shall ensure the employee complies with the disciplinary conditions.



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- f. The supervisor shall make arrangements with the Payroll Section for the employee to sign any other necessary documents.
  - i. The employee shall be referred to the Insurance and Benefits Division of the City's Human Resources Department for information regarding conversion of benefits following termination.
  - ii. City Human Resources Department personnel will provide to all dismissed employees a statement as to the content of the employee's employment record relating to the dismissal.
4. Mandatory Reporting to the New Mexico Law Enforcement Academy (NMLEA)
  - a. The IAPS Division Commander shall inform the NMLEA Director within three (3) business days when sworn personnel or a telecommunicator is arrested or indicted on a felony charge.
  - b. The IAPS Division Commander shall inform the NMLEA Director within ninety (90) days after the initiation of an internal affairs review or otherwise having notice, of sworn personnel or telecommunicator having committed the following acts:
    - i. Being convicted or entering a plea of guilty or nolo contendere (no contest) to any felony charge;
    - ii. Being convicted or entering a plea of guilty or nolo contendere (no contest) to any federal or state law or local ordinance relating to aggravated assault, theft, driving while intoxicated, controlled substances, or other crime involving moral turpitude;
    - iii. Making false statements or giving false information to the Academy Division in connection with an application for admission/certification;
    - iv. Committing acts which indicate a lack of good moral character, or which constitute dishonesty or fraud, and which adversely affect one's ability to exercise their duties as a certified law enforcement officer;
    - v. In the case of sworn personnel, committing acts of violence or brutality which indicate that the officer has abused the authority granted to them as a commissioned law enforcement officer; and
    - vi. Committing acts which would be grounds for denial of an application for certification.
  - c. The IAPS Division Commander shall report these matters to the NMLEA Director, even if sworn personnel or telecommunicators resign.
5. Non-Disciplinary Corrective Action (NDCA)
  - a. The Commander approving an action of NDCA shall complete the Non-Disciplinary Corrective Action form and include the form with the DAP.
    - i. If mandatory training is required, the Commander shall also submit a Mandatory Training Request to the Academy Division.
6. Suspensions Held in Abeyance



- a. Discipline shall only be held in abeyance when the use of other provisions in this SOP and the Chart of Sanctions do not lead to a fair and consistent result.
- b. Discipline shall not be held in abeyance longer than six (6) months, consistent with City of Albuquerque Personnel Rules and Regulations, Section 902.3.
- c. When a final decision to discipline involves a suspension, the Chief of Police may elect to hold no more than twenty-five percent (25%) of the suspension in abeyance. Discipline shall not be held in abeyance for more than six (6) months.
  - i. At the completion of the abeyance period, if the employee has not had any further allegations of policy violations, the discipline held in abeyance shall expire.
  - ii. During the period of abeyance, if an employee has a sustained finding of a policy violation, the abeyance shall be revoked and all original discipline shall be imposed.
- d. Abeyance is only appropriate in the following situations:
  - i. The employee accepted responsibility for their actions;
  - ii. The employee has no more than one (1) prior offense during the period in which the prior offense may be considered for progressive discipline; and
  - iii. Further offenses are unlikely to occur.
- e. Abeyance is inappropriate in the following situations:
  - i. The employee refuses to admit any wrongdoing;
  - ii. Past attempts to correct behavior have been ineffective;
  - iii. The employee has served any suspension in the previous two (2) years;
  - iv. Violations find purposeful, physical harm resulted to an individual;
  - v. Violations find serious harm resulted to the reputations of the Department; or
  - vi. Where the conduct constituting the violation was planned or part of an on-going scheme.

7. Demotion

- a. The Chief of Police or Superintendent may consider whether demotion is appropriate, where the discipline imposed includes a suspension of forty (40) or more hours.

**4** F. Expectations for Department Personnel on Suspension or Dismissal from Service

1. During a Suspension

- a. Department personnel shall not wear any identifiable part of the official uniform.
- b. Department personnel shall be prohibited from working any overtime the day that a suspension is served.
  - i. If the Department employee is serving a suspension of forty (40) hours or more, they shall not be allowed to work overtime during that work week.

**6** 2. Suspensions of forty (40) hours or more shall be served in 40-hour blocks.

**6** 3. Suspensions of less than forty (40) hours shall be served within thirty (30) days of final notice.



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4. Suspension of forty (40) hours or more shall be served within sixty (60) days of final notice.
5. Upon dismissal from service, sworn personnel shall surrender their badge of office, their take-home vehicle, and all other Department property.

REDLINED



**Appendix I: Chart of Sanctions**

The Chart of Sanctions below shall be used to determine the range of discipline that shall be imposed for a sustained violation of a Department policy. Use of the Chart of Sanctions and the DAP shall ensure both fair and consistent application of discipline across the Department.

Every sanction classification carries a minimum, presumptive, and maximum penalty. The presumptive level of discipline must first be considered and a level of discipline should be imposed within the range of the maximum-presumptive-minimum penalties unless the disciplinary authority finds substantial aggravating or mitigating circumstances that, in the interest of fairness and the best interests of the Department, and consistent with this SOP, warrant a downward or upward departure from the range. Aggravating and mitigating factors shall be articulated in the DAP or by the disciplinary authority before imposition of final discipline.

Misconduct that rises to the level of suspension shall result in a suspension of a full forty (40) hour workweek or incremental full workweeks (eighty (80) hours, one-hundred twenty (120) hours).

- Min. = Minimum Discipline
- Pres. = Presumptive Discipline
- Max. = Maximum Discipline
- W.R. = Written Reprimand
- Hrs. = Hours of Suspension
- Dis. = Dismissal

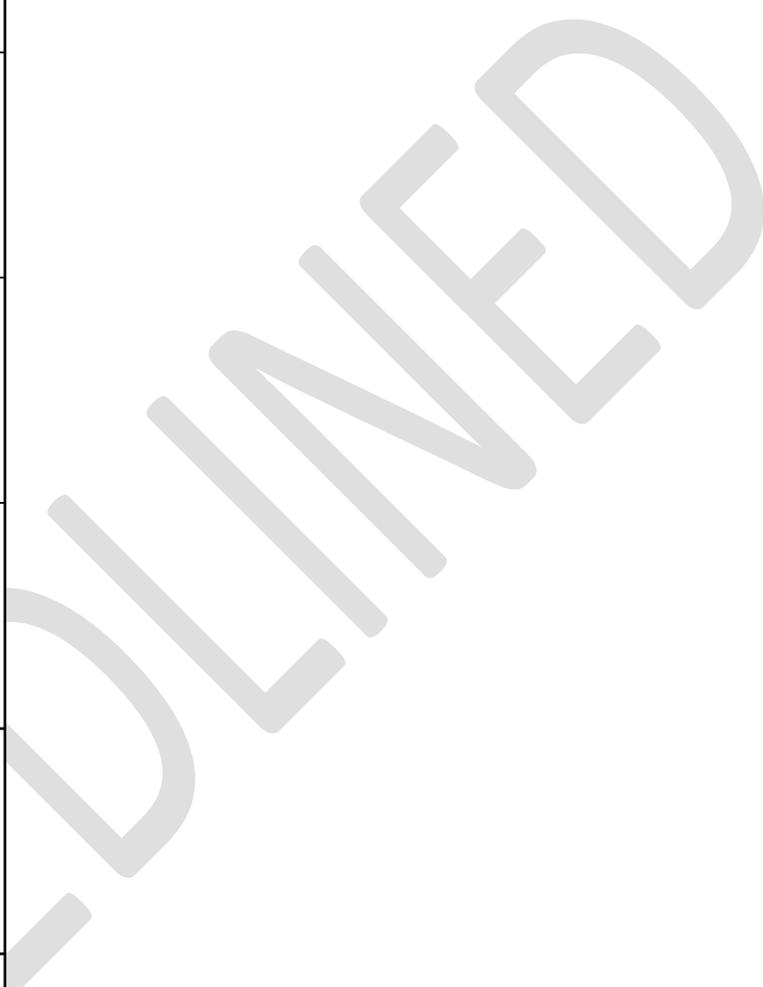


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Class	First Offense			Second Offense			Third Offense			Fourth Offense			Fifth Offense			Sixth Offense			Seventh Offense			Eighth Offense					
	Min.	Pres.	Max.	Min.	Pres.	Max.	Min.	Pres.	Max.	Min.	Pres.	Max.	Min.	Pres.	Max.	Min.	Pres.	Max.	Min.	Pres.	Max.	Min.	Pres.	Max.			
7	NDCA	V.R.	W.R.		W.R.	8Hrs	8Hrs	16Hrs	16Hrs	8Hrs	16Hrs	24Hrs	8Hrs	16Hrs	24Hrs	8Hrs	16Hrs	24Hrs	8Hrs	16Hrs	24Hrs	8Hrs	16Hrs	24Hrs			
6	NDCA	W.R.	8Hrs		8Hrs	16Hrs	8Hrs	16Hrs	24Hrs	8Hrs	16Hrs	24Hrs	8Hrs	16Hrs	24Hrs	8Hrs	16Hrs	24Hrs	8Hrs	16Hrs	24Hrs	8Hrs	16Hrs	24Hrs			
5	W.R.	8Hrs	16Hrs		8Hrs	16Hrs	8Hrs	16Hrs	24Hrs	8Hrs	16Hrs	24Hrs	8Hrs	16Hrs	24Hrs	8Hrs	16Hrs	24Hrs	8Hrs	16Hrs	24Hrs	8Hrs	16Hrs	24Hrs			
4	16Hrs	40Hrs	80Hrs		80Hrs	120Hrs	80Hrs	120Hrs	120Hrs	80Hrs	120Hrs	Dis.	80Hrs	120Hrs	Dis.	80Hrs	120Hrs	Dis.	80Hrs	120Hrs	Dis.	80Hrs	120Hrs	Dis.			
3	40Hrs	80Hrs	120Hrs		80Hrs	120Hrs	80Hrs	120Hrs	Dis.	80Hrs	120Hrs	Dis.	80Hrs	120Hrs	Dis.	80Hrs	120Hrs	Dis.	80Hrs	120Hrs	Dis.	80Hrs	120Hrs	Dis.			
2	80Hrs	120Hrs	Dis.		120Hrs	Dis.	120Hrs	Dis.	Dis.	120Hrs	Dis.	Dis.	120Hrs	Dis.	Dis.	120Hrs	Dis.	Dis.	120Hrs	Dis.	Dis.	120Hrs	Dis.	Dis.			
1	Dismissal			Dismissal			Dismissal			Dismissal			Dismissal			Dismissal			Dismissal			Dismissal			Dismissal		





Appendix II: Prior-Related Offenses

<b>Category of Violation</b>	<b>Description: This is a non-exhaustive list; the IAPS Division maintains the discretion to determine the category of a violation.</b>
Attendance	<ul style="list-style-type: none"><li>• Unauthorized leave</li><li>• Missed court</li><li>• Failing to report for duty</li></ul>
Misconduct	<ul style="list-style-type: none"><li>• Failure to activate/record a mandatory recording event</li><li>• Out of policy use of force</li><li>• Constitutional Violations</li><li>• Violation of the law</li><li>• Harassment/Discrimination/Retaliation</li><li>• Insubordination/failure to obey orders</li><li>• Social media policy violations</li><li>• Conduct-related CASA policy violations</li><li>• Insufficient supervisory review of use of force</li><li>• Abuse of authority</li><li>• Violation of substance abuse policy</li><li>• Failure to report alleged or potential misconduct</li><li>• Lack of truthfulness</li><li>• Fraud/fraudulent use of city time</li><li>• Failure to meet conditions of employment; maintain certifications</li><li>• Non-permitted political activity</li><li>• Improper dissemination or handling of confidential information</li><li>• Failure to request ECIT/CIT/MCT when required by policy</li><li>• Theft or intentional destruction of Department/co-workers' property</li><li>• Violation of the pursuit or tire deflation device policy</li><li>• Failure to call emergency medical services/render aid</li><li>• Failure to supervise/ Insufficient supervision</li></ul>
Performance	<ul style="list-style-type: none"><li>• Late or incomplete reports</li><li>• Missed deadlines</li><li>• Profanity/derogatory language</li><li>• Not being prepared or equipped for duty</li><li>• Refusing to furnish name upon request</li><li>• Line inspection</li><li>• Failure to upload OBRD; failure to charge OBRD</li><li>• Driving violations</li><li>• Uniform and grooming standards</li><li>• Improperly tagging evidence</li><li>• Improper radio use/etiquette</li><li>• Failure to collect necessary information</li><li>• Incompetence-related violations</li><li>• Negligent damage to Department policy</li></ul>



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- |  |   |
|--|---|
|  | <ul style="list-style-type: none"><li>• Negligent use of computers</li><li>• Working unauthorized time/violation of the overtime policy</li></ul> |
|--|---|

REDLINED



### 3-46 DISCIPLINE SYSTEM

#### Related SOP(s), Form(s), Other Resource(s), and Rescinded Special Order(s):

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- ~~3-42 Investigation of Police Personnel~~ 3-42 Investigation of Police Personnel (Formerly 2-30)
- ~~3-43 Relief of Duty~~ 3-43 Relief of Duty (Formerly 3-23 and 3-44)
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- ~~3-45 Due Process Notification to Personnel~~
- ~~3-47 Acceptance of Disciplinary Action and Right to Appeal~~ 3-47 Acceptance of Disciplinary Action and Right to Appeal

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D. Rescinded Special Order(s)

~~SO 13-21 Accidental Discharge of Weapons~~ None

#### 3-46-1 Purpose

The purpose of this policy is to articulate approved disciplinary practices in response to sustained violations of Albuquerque Police Department (Department) Standard Operating Procedures (SOP).

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  - a. Only the Commander of the Internal Affairs Professional Standards (IAPS) Division or Internal Affairs Force Division (IAFD) can approve this finding.
2. Exonerated: The investigation determines, by a preponderance of the evidence, that the alleged conduct did occur but did not violate Department SOPs, procedures, or training.
3. Not Sustained: The investigation is unable to determine, by a preponderance of the evidence, whether the alleged policy violation occurred.
4. Sustained: The investigation determined, by a preponderance of the ~~evidence,~~ the evidence that the alleged policy violation did occur.
5. Unfounded: The investigation determined, by clear and convincing evidence, that the alleged policy violation did not occur or did not involve the employee.

#### E. Internal Affairs (IA)



The Divisions of the Department responsible for fairly, impartially, and thoroughly investigating internal complaints of policy violations by Department personnel and uses of force.

F. Minor Policy Violations

Conduct that, if sustained, would result in discipline or corrective action less severe than a suspension based on the Chart of Sanctions.

G. Mitigating Circumstances

Factors that decrease the culpability of the act or the severity of the penalty associated with the act under the Chart of Sanctions. Mitigating circumstances must be objectively verifiable and credibly established in the investigation or by other means articulated by the disciplinary authority.

H. Non-Disciplinary Corrective Action (NDCA)

An action other than discipline taken to enable or encourage an officer to improve their performance for minor violations.

I. Pre-Determination Hearing (PDH)

A hearing that allows classified Department personnel who are facing disciplinary action, such as, but not limited to, suspension, dismissal from service, or demotion, to address allegations against them in regards to the proposed discipline.

J. Presumptive Discipline

The presumed disciplinary range prior to consideration of additional factors.

K. Prior-Related Offense

A sustained violation of policy from the same group of prior-related offenses as set forth by Appendix II and consistent with the time limitations set forth in this SOP. Prior-related offenses shall be used for progressive discipline in determining the final discipline imposed.

L. Progressive Discipline

A graduated range or level of increased discipline based on previously sustained policy violations for prior-related offenses as set forth by Appendix II and consistent with the time limitations set forth in this SOP.

M. Sanction Classification



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1. A level of seriousness and corresponding level of discipline designated to each type of policy violation. Sanction classifications range from 1 (most serious) to 7 (least serious).
2. To ensure consistent and objective application of discipline, all policy provisions shall receive a sanction classification based on the Chart of Sanctions:
  - a. Class 1: Any violation of law, policy, rule, or regulation, which:
    - i. Can foreseeably result in death or serious physical injury;
    - ii. Constitutes a willful and wanton disregard of Department guiding principles;
    - iii. Constitutes a felony crime, or a lesser criminal offense that is substantially contrary to the standards of conduct reasonably expected of a Department employee;
    - iv. Involves any act or omission which demonstrates a serious lack of the integrity, ethics, or character related to an employee's fitness to hold their position;
    - v. Involves egregious violations substantially contrary to the standards of conduct reasonably expected, to include those whose sworn duty is to uphold the law;
    - vi. Involves conduct that constitutes the failure to adhere to any condition of employment required or mandated by law and the City's Personnel Rules and Regulations; or
    - vii. Involves conduct that effectively disqualifies an employee from continued employment as a law enforcement officer.
  - b. Class 2: Conduct that involves the serious abuse or misuse of authority, unethical behavior, and/or acts that result in an actual serious, adverse impact on the Department's employee(s), the public, public safety, or to the professionalism of the Department.
  - c. Class 3: Conduct that involves an abuse or misuse of authority, unethical behavior, and/or acts that could reasonably have resulted in a serious adverse impact on the Department's employee(s), the public, or public safety, or to the professionalism of the Department.
  - d. Class 4: Conduct that is substantially contrary to the values of the Department; or that substantially interferes with the Department's mission, operations, or public trust; or that involves a serious risk to Department personnel or public safety.
  - e. Class 5: Conduct that has a pronounced negative impact on the operations or professional image of the Department, relationships with other Department personnel, agencies, or the public.
  - f. Class 6: Conduct that has more than a minimal negative impact on the operations or professional image of the Department; or conduct that negatively impacts relationships with other Department personnel, agencies, or the public.
  - g. Class 7: Conduct that has a minimal negative impact on the overall operations or professional image of the Department.



A. Sanction Classifications

1. Violations subject to disciplinary action are identified by a sanction classification noted in the left margin next to the text it applies to in the policy.
  - a. When a policy or Special Order does not specifically list a sanction classification, the IAPS Division shall determine the proper sanction classification based on similar offenses and the definitions in this SOP.
  - b. In some cases, policies shall include sections for which a policy violation is not appropriate. These shall be noted by a "N/A" in the left margin.

B. Chart of Sanctions

1. The Chart of Sanctions shall provide the minimum, maximum, and presumptive discipline for the violation based on the sanction classification.
2. Time Limitations on Chart of Sanctions
  - a. For the purposes of determining progressive discipline, the Department shall consider prior-related offenses. The timeline for a sustained violation shall run from the date discipline was imposed on the prior violation(s) to the date of the alleged misconduct in the current investigation.
    - i. Discipline involving a sustained violation of Class 1-4 offense shall be considered for the duration of the officer's career.
    - ii. Discipline involving a sustained violation of a Class 5 offense shall be considered for two (2) years prior to the current offense.
    - iii. Discipline involving a sustained violation of a Class 6 or 7 offense shall be considered for one (1) year prior to the current offense.

C. Aggravating and Mitigating Circumstances

1. Disciplinary authority shall take into account aggravating and mitigating circumstances when determining final discipline.
2. Aggravating circumstances may include, but are not limited to:
  - a. Prior disciplinary history;
  - b. Lack of remorse; or
  - c. Lack of acceptance of responsibility.
3. Mitigating circumstances may include, but are not limited to:
  - a. No disciplinary history;
  - b. Sincere remorse and acceptance of responsibility; or
  - c. Unique set of circumstances unlikely to reoccur.

D. Disciplinary Action Packet (DAP)



1. The DAP is used to calculate the recommended disciplinary action to be taken for any sustained allegations investigated by IA and the Civilian Police Oversight Agency (CPOA). The ~~Chain of Command Discipline Recommendation~~ Area Command/Division Internal Complaint Disposition form shall be completed for sustained allegations by other disciplinary authorities.
  - a. Investigating command staff or CPOA personnel shall complete the DAP.
  - b. Upon completion of the DAP, it shall be forwarded to the IAPS Division for review.
  - c. Internal investigations completed by IAFD shall be forwarded to the Commander of IAFD.
  - d. Investigating command staff or CPOA personnel shall complete the DAP consistent with the investigative agency responsible for conducting the investigation.
  - e. The Executive Director of the CPOA will complete the recommended findings and discipline section of the DAP for CPOA cases.
2. Multiple Violations
  - a. Multiple violations sustained in an investigation that are based on distinct acts or omissions shall be disciplined separately.
  - b. Where an act or omission simultaneously results in sustained violations of two (2) or more regulations, such that one violation is a lesser included violation of the other or is otherwise not a separate and distinct violation, discipline shall be imposed on the more serious violation only.
3. Prior-Related Offenses
  - a. Prior-related offenses shall be used for progressive discipline if they were within the timeline established by this SOP.
  - b. If prior-related offenses are to be used for progressive discipline, they shall be considered as an additional offense for purposes of the Chart of Sanctions.
  - b.c. Only violations of the same class sanction shall be used for used calculating progressive discipline
  - e.d. Appendix II identifies what constitutes a prior-related offense.
4. The Commander of the IAPS Division or IAFD shall approve the DAP and forward the investigation, consistent with SOP Review of Completed Administrative Investigation Cases. The Executive Director of the CPOA shall approve the DAP for CPOA investigations.

E. Imposition of Discipline or Corrective Action

1. Authority to Impose Discipline or Corrective Action



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- a. The command-level disciplinary authority or executive staff at the rank of Deputy Chief of Police or higher shall have final authority to impose discipline for the following recommended disciplinary actions:
    - i. NDCA; and
    - ii. Verbal or written reprimand.
    - iii. Suspension of less than forty (40) hours;
  - b. The Chief of Police or the Superintendent of Police Reform (Superintendent) shall have the final authority to impose discipline for the following recommended disciplinary actions:
    - i. Suspension of forty (40) hours or more;
    - ii. Demotion; and
    - iii. Dismissal from service.
2. Imposition of Discipline or Corrective Action
- a. When determining the appropriate discipline, the disciplinary authority shall consider the presumptive level of discipline as set forth in the DAP, as well as the actual level of discipline recommended in the DAP. Thereafter, consistent with the requirements of this SOP, the disciplinary authority shall assess and consider the aggravating and mitigating circumstances, if applicable, in determining the appropriate level of discipline.
  - b. Executive staff shall articulate and document the basis for aggravating or mitigating circumstances when deviating from the range encompassed by the applicable maximum-presumptive-minimum levels of discipline set forth in the Chart of Sanctions.
    - i. The imposition of discipline that deviates from the maximum or minimum levels recommended in the DAP requires final approval from the Chief of Police or the Superintendent of Police Reform.
3. Pre-Determination Hearing (PDH)
- a. PDH Notice
    - i. Upon determining that a complaint is sustained, and discipline that results in suspension may be issued, the Department shall send a PDH Notice to the employee. The PDH Notice is confidential and shall include:
      1. A statement of the alleged acts or omissions or other policy violation that constitutes the basis for the proposed discipline, including specific laws, rules, and SOPs that are alleged to have been violated;
      2. Any proposed disciplinary action to be taken; and
      3. The date, time, and place at which the hearing will be held.
    - ii. The PDH shall be delivered to the employee with the notification of the right to attend a meeting to provide a response.
    - iii. The employee may provide a written response or waive any response.
      1. The employee shall sign all copies to acknowledge receipt of the PDH Notice.
    - iv. Pre-Determination Notices are not required for oral and written reprimands.



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- v. The employee's supervisor shall provide a copy of the signed PDH Notice to the appropriate IA Division.
  - vi. Upon notification of proposed discipline consisting of a Letter of Reprimand or higher, Department personnel may review and/or obtain a copy of the relevant investigative case file material, consistent with SOP Internal Affairs Professional Standards (IAPS) Division.
  - vii. All classified and non-probationary Department personnel facing suspension, demotion, or dismissal from service shall receive a PDH.
  - viii. The PDH provides the employee an opportunity to present reasons, either in person or in writing, why the hearing officer should reduce, hold in abeyance, or not impose the proposed discipline.
    1. Although facts may be presented, this is not a full evidentiary hearing and testimony of witnesses, other than the employee, shall not be allowed.
  - ix. The Chief of Police, Superintendent, or their designee shall conduct the hearing for any suspension of forty (40) hours or more, demotion, or dismissal from service.
  - x. A Deputy Chief of Police shall conduct the hearing for any suspension of less than forty (40) hours.
  - xi. If final discipline results in suspension, demotion, or dismissal from service, IA Division personnel shall send to the Payroll Section a copy of the memorandum.
  - xii. The employee may have up to two (2) representatives during the PDH.
  - xiii. After the disciplinary authority has asked any questions during the PDH, the employee or employee's representatives shall be allowed a reasonable opportunity to respond to the allegations and proposed discipline.
- b. Final Decision Letter
- i. A final decision letter shall be sent to the employee.
  - ii. The letter, signed by the Chief of Police or the Superintendent, Deputy Chief, Commander, or Division Manager, dependent upon the disciplinary severity, shall contain the following:
    1. A statement of the policy violation, act(s) or omission(s) which is the basis for the final decision;
    2. The section of the rules, laws, or procedures that was violated;
    3. An explanation of the basis for the final disciplinary action, including the basis for any mitigating or aggravating circumstances or abeyance resulting in the final disciplinary action;
    4. The date(s) the disciplinary action is to be effective; and
    5. Notice of the right of the employee to appeal, if applicable.
- c. Final Decision Letter Signature Authority
- i. A final decision letter for disciplinary actions of less than forty (40) hours suspension may be signed by the Chief of Police or the Superintendent, Deputy Chief, Division Manager, or Commander.
  - ii. A final decision letter for all disciplinary actions resulting in forty (40) hours or more, including demotions and terminations, shall be signed by the Chief of Police or the Superintendent.



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- d. The final decision letter and other personnel documents shall be signed by the employee to acknowledge receipt only. Signature of the employee does not constitute agreement with the sustained findings or with the discipline, nor does it constitute an admission of wrongdoing. Copies of the final decision letter shall be distributed to the following:
    - i. The employee's chain of command;
    - ii. The Behavioral Sciences Section (BSS), if applicable;
    - iii. The Payroll Section; and
    - iv. The IA Division.
  - e. The employee's supervisor shall ensure the employee complies with the disciplinary conditions.
  - f. The supervisor shall make arrangements with the Payroll Section for the employee to sign any other necessary documents.
    - i. The employee shall be referred to the Insurance and Benefits Division of the City's Human Resources Department for information regarding conversion of benefits following termination.
    - ii. City Human Resources Department personnel will provide to all dismissed employees a statement as to the content of the employee's employment record relating to the dismissal.
4. Mandatory Reporting to the New Mexico Law Enforcement Academy (NMLEA)
- a. The IAPS Division Commander shall inform the NMLEA Director within three (3) business days when sworn personnel or a telecommunicator is arrested or indicted on a felony charge.
  - b. The IAPS Division Commander shall inform the NMLEA Director within ninety (90) days after the initiation of an internal affairs review or otherwise having notice, of sworn personnel or telecommunicator having committed the following acts:
    - i. Being convicted or entering a plea of guilty or nolo contendere (no contest) to any felony charge;
    - ii. Being convicted or entering a plea of guilty or nolo contendere (no contest) to any federal or state law or local ordinance relating to aggravated assault, theft, driving while intoxicated, controlled substances, or other crime involving moral turpitude;
    - iii. Making false statements or giving false information to the Academy Division in connection with an application for admission/certification;
    - iv. Committing acts which indicate a lack of good moral character, or which constitute dishonesty or fraud, and which adversely affect one's ability to exercise their duties as a certified law enforcement officer;
    - v. In the case of sworn personnel, committing acts of violence or brutality which indicate that the officer has abused the authority granted to them as a commissioned law enforcement officer; and
    - vi. Committing acts which would be grounds for denial of an application for certification.
  - c. The IAPS Division Commander shall report these matters to the NMLEA Director, even if sworn personnel or telecommunicators resign.



5. Non-Disciplinary Corrective Action (NDCA)

- a. The Commander approving an action of NDCA shall complete the Non-Disciplinary Corrective Action form and include the form with the DAP.
  - i. If mandatory training is required, the Commander shall also submit a Mandatory Training Request to the Academy Division.

6. Suspensions Held in Abeyance

- a. Discipline shall only be held in abeyance when the use of other provisions in this SOP and the Chart of Sanctions do not lead to a fair and consistent result.
- b. Discipline shall not be held in abeyance longer than six (6) months, consistent with City of Albuquerque Personnel Rules and Regulations, Section 902.3.
- c. When a final decision to discipline involves a suspension, the Chief of Police may elect to hold no more than twenty-five percent (25%) of the suspension in abeyance. Discipline shall not be held in abeyance for more than six (6) months.
  - i. At the completion of the abeyance period, if the employee has not had any further allegations of policy violations, the discipline held in abeyance shall expire.
  - ii. During the period of abeyance, if an employee has a sustained finding of a policy violation, the abeyance shall be revoked and all original discipline shall be imposed.
- d. Abeyance is only appropriate in the following situations:
  - i. The employee accepted responsibility for their actions;
  - ii. The employee has no more than one (1) prior offense during the period in which the prior offense may be considered for progressive discipline; and
  - iii. Further offenses are unlikely to occur.
- e. Abeyance is inappropriate in the following situations:
  - i. The employee refuses to admit any wrongdoing;
  - ii. Past attempts to correct behavior have been ineffective;
  - iii. The employee has served any suspension in the previous two (2) years;
  - iv. Violations find purposeful, physical harm resulted to an individual;
  - v. Violations find serious harm resulted to the reputations of the Department; or
  - vi. Where the conduct constituting the violation was planned or part of an on-going scheme.

7. Demotion

- a. The Chief of Police or Superintendent may consider whether demotion is appropriate, where the discipline imposed includes a suspension of forty (40) or more hours.

**4** F. Expectations for Department Personnel on Suspension or Dismissal ~~f~~From Service

1. ~~During a suspension~~ Suspension



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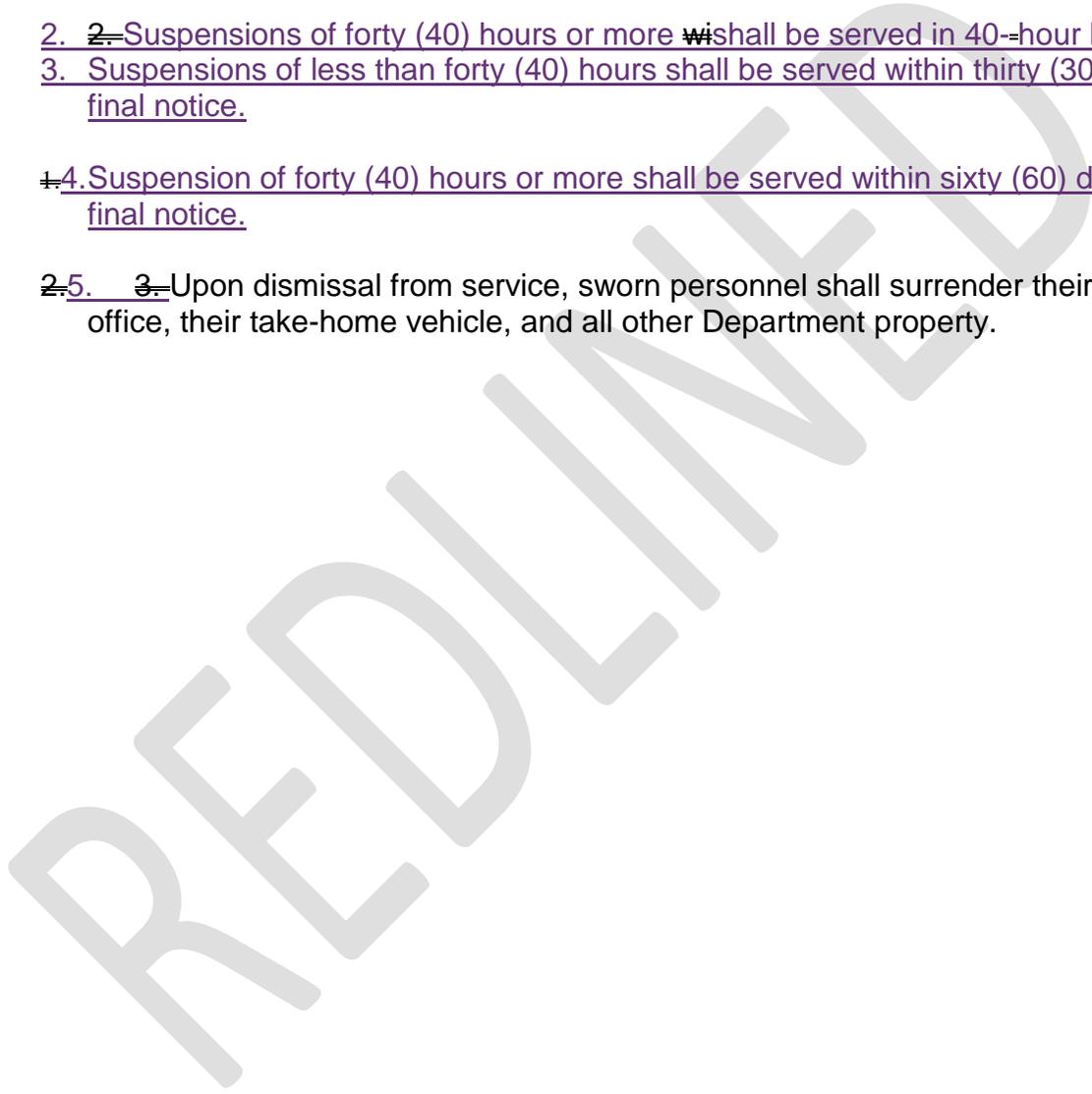
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- a. ~~Department personnel shall not wear any identifiable part of the official uniform.~~
- b. ~~Department personnel will not be allowed to~~ shall be prohibited from working any overtime the day that a suspension is served.
  - i. ~~If the Department employee is serving a suspension of forty (40) hours or more, department personnel will~~ they shall not be allowed to work overtime during that work week.

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- 2. ~~2=~~ Suspensions of forty (40) hours or more ~~wi~~ shall be served in 40=~~hour~~ blocks.
- 3. ~~Suspensions of less than forty (40) hours shall be served within thirty (30) days of final notice.~~
- ~~4.~~ ~~Suspension of forty (40) hours or more shall be served within sixty (60) days of final notice.~~
- ~~2=~~ ~~5.~~ ~~3=~~ Upon dismissal from service, sworn personnel shall surrender their badge of office, their take-home vehicle, and all other Department property.





### Appendix I: Chart of Sanctions

The Chart of Sanctions below shall be used to determine the range of discipline that shall be imposed for a sustained violation of a Department policy. Use of the Chart of Sanctions and the DAP shall ensure both fair and consistent application of discipline across the Department.

Every sanction classification carries a minimum, presumptive, and maximum penalty. The presumptive level of discipline must first be considered and a level of discipline should be imposed within the range of the maximum-presumptive-minimum penalties unless the disciplinary authority finds substantial aggravating or mitigating circumstances that, in the interest of fairness and the best interests of the Department, and consistent with this SOP, warrant a downward or upward departure from the range. Aggravating and mitigating factors shall be articulated in the DAP or by the disciplinary authority before imposition of final discipline.

Misconduct that rises to the level of suspension shall result in a suspension of a full forty (40) hour workweek or incremental full workweeks (eighty (80) hours, one-hundred twenty (120) hours).

- Min. = Minimum Discipline
- Pres. = Presumptive Discipline
- Max. = Maximum Discipline
- W.R. = Written Reprimand
- Hrs. = Hours of Suspension
- Dis. = Dismissal

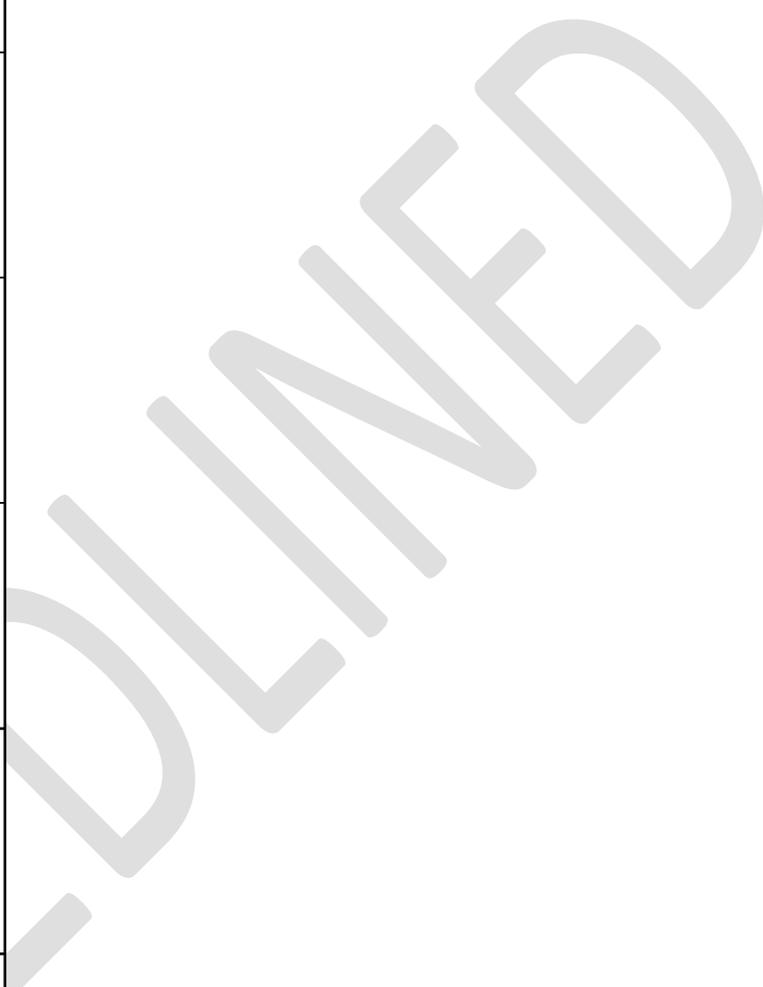


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Class	First Offense			Second Offense			Third Offense			Fourth Offense			Fifth Offense			Sixth Offense			Seventh Offense			Eighth Offense	
	Min.	Pres.	Max.	Min.	Pres.	Max.	Min.	Pres.	Max.	Min.	Pres.	Max.	Min.	Pres.	Max.	Min.	Pres.	Max.	Min.	Pres.	Max.		
7	NDCA	V.R.	W.R.		W.R.	8Hrs	8Hrs	16Hrs	16Hrs	8Hrs	16Hrs	24Hrs	8Hrs	16Hrs	24Hrs	8Hrs	16Hrs	24Hrs	40Hrs	40Hrs	80Hrs	120Hrs	Dismissal
6	NDCA	W.R.	8Hrs		8Hrs	16Hrs	8Hrs	16Hrs	24Hrs	8Hrs	16Hrs	24Hrs	24Hrs	40Hrs	80Hrs	120Hrs	Dis.	Dismissal	120Hrs	Dis.	Dismissal	Dismissal	
5	W.R.	8Hrs	16Hrs	8Hrs	16Hrs	24Hrs	8Hrs	16Hrs	24Hrs	24Hrs	40Hrs	80Hrs	40Hrs	80Hrs	120Hrs	Dis.	Dismissal	120Hrs	Dismissal	Dismissal	Dismissal		
4	16Hrs	40Hrs	80Hrs	40Hrs	80Hrs	120Hrs	80Hrs	120Hrs	Dis.	120Hrs	Dis.	Dismissal	120Hrs	Dismissal	Dismissal				Dismissal	Dismissal	Dismissal		
3	40Hrs	80Hrs	120Hrs	80Hrs	120Hrs	Dis.	120Hrs	Dismissal	Dismissal	Dismissal	Dismissal	Dismissal	Dismissal	Dismissal	Dismissal				Dismissal	Dismissal	Dismissal		
2	80Hrs	120Hrs	Dis.	120Hrs	Dismissal	Dismissal	Dismissal	Dismissal	Dismissal	Dismissal	Dismissal	Dismissal	Dismissal	Dismissal	Dismissal				Dismissal	Dismissal	Dismissal		
1	Dismissal																						





Appendix II: Prior-Related Offenses

<b>Category of Violation</b>	<b>Description: This is a non-exhaustive list; the IAPS Division maintains the discretion to determine the category of a violation.</b>
Attendance	<ul style="list-style-type: none"><li>• Unauthorized leave</li><li>• Missed court</li><li>• Failing to report for duty</li></ul>
Misconduct	<ul style="list-style-type: none"><li>• Failure to activate/record a mandatory recording event</li><li>• Out of policy use of force</li><li>• Constitutional Violations</li><li>• Violation of the law</li><li>• Harassment/Discrimination/Retaliation</li><li>• Insubordination/failure to obey orders</li><li>• Social media policy violations</li><li>• Conduct-related CASA policy violations</li><li>• Insufficient supervisory review of use of force</li><li>• Abuse of authority</li><li>• Violation of substance abuse policy</li><li>• Failure to report alleged or potential misconduct</li><li>• Lack of truthfulness</li><li>• Fraud/fraudulent use of city time</li><li>• Failure to meet conditions of employment; maintain certifications</li><li>• Non-permitted political activity</li><li>• Improper dissemination or handling of confidential information</li><li>• Failure to request ECIT/CIT/MCT when required by policy</li><li>• Theft or intentional destruction of Department/co-workers' property</li><li>• Violation of the pursuit or tire deflation device policy</li><li>• Failure to call emergency medical services/render aid</li><li>• Failure to supervise/ Insufficient supervision</li></ul>
Performance	<ul style="list-style-type: none"><li>• Late or incomplete reports</li><li>• Missed deadlines</li><li>• Profanity/derogatory language</li><li>• Not being prepared or equipped for duty</li><li>• Refusing to furnish name upon request</li><li>• Line inspection</li><li>• Failure to upload OBRD; failure to charge OBRD</li><li>• Driving violations</li><li>• Uniform and grooming standards</li><li>• Improperly tagging evidence</li><li>• Improper radio use/etiquette</li><li>• Failure to collect necessary information</li><li>• Incompetence-related violations</li><li>• Negligent damage to Department policy</li></ul>



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|  | <ul style="list-style-type: none"><li>• Negligent use of computers</li><li>• Working unauthorized time/violation of the overtime policy</li></ul> |
|--|---|

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