

Town of Duxbury, Massachusetts

OFFICE OF THE BOARD OF SELECTMEN AND TOWN MANAGER



PROGRESSIVE DISCIPLINE POLICY

General: Rules, regulations, policies, and procedures are necessary for the orderly operation of town business, to ensure that everyone does his/her share, and has equal opportunity for success. Generally, the rules and standards governing town employee behavior are found in town policies, department rules, regulations, collective bargaining contracts, and the Personnel By-Law. Additionally, some standards of conduct are so basic that employees should know that certain behaviors regardless of whether they are in writing, or not, are not permitted. It should be noted, however, that when corrective action is required, the discipline given should be dependent on the facts and circumstances relevant to the particular incident and the gravity of the offense.

DISCIPLINARY POLICY

Our progressive discipline policy and procedure is designed to provide a structured corrective action process to improve and prevent a reoccurrence of undesirable behavior and/or performance issues. Outlined below are the steps of our progressive discipline policy and related procedure. *The Town of Duxbury does reserve the right to combine or skip steps depending upon the facts relative to each situation and the nature of the offense.* The level of the disciplinary intervention may also vary. Some of the factors that will be considered depend upon whether the offense is repeated despite coaching, counseling and/or training, the employee's work record and the impact the conduct and performance issues have on our organization. Primary emphasis by the department head and supervisor shall be placed on preventing situations requiring disciplinary action. But when the department head and/or supervisor determines that disciplinary action is necessary, the employee will be informed of the reasons, which justify the action. Strict and accurate records regarding offense and events leading to it shall be kept in writing.

The Town of Duxbury's policy is to employ a system of progressive discipline. Progressive discipline is designed to correct, educate, and rehabilitate. However, it must be understood that this policy's primary objective is to provide a uniform disciplinary environment. Finally, this policy is intended to ensure that equitable penalties are imposed and that comparable action is taken in comparable cases.

AUTHORITY TO IMPOSE DISCIPLINE

Department heads and supervisors are responsible for resolving employee problems and when necessary, taking corrective actions. Such actions may include a verbal warning (in written form), written warning, or more severe disciplinary action. When recommending disciplinary action, the department head must consider the circumstances carefully.

The department head shall also be responsible for more severe disciplinary action including, but not limited to, suspension, demotion and dismissal after consultation with human resources, town manager, labor counsel and other authorities as warranted.

CAUSES FOR DISCIPLINARY ACTION

All employees should be aware of the town's and their department's rules, regulations, policies and operational procedures. Violations of the following provisions shall be cause for disciplinary action. The following list is not meant to be exhaustive, but to illustrate some behaviors, which may be cause for discipline. The list is only meant to call attention to general subject matter of rules, regulations, and procedures. Additionally other causes for discipline, including dismissal, include those subjects or conduct, which the employee knows or should reasonably know, would subject them to discipline.

1. Disruptive behavior - any action or language, which adversely affects moral or productivity of the department.
2. Poor judgment - failure to satisfactorily perform the duties of the position. (Specifically related to performance and execution of duties.)
3. Misuse, unauthorized use or deliberate loss or destruction of town property.
4. Failure to meet reasonable standards in dress and personal habit.
5. Failure to comply with administrative directives.
6. Disorderly conduct - any violent act or language, which adversely affects morale or maintenance of discipline, indecent or immoral conduct, fighting or threatening bodily harm.
7. Discourteous treatment of the public or fellow employee.
8. Violation of safety rules - failure to observe safety practices where danger to life or persons or loss of property is acute.
9. Misuse of uniform or position - unauthorized use for personal gain, or gain for another or influence or to obtain immunity.
10. Insubordination - deliberate delay or failure to carry out assigned work or instructions in a reasonable period of time. Refusal to obey legitimate directives, disrespect, insolence or like behavior.
11. Possession and or use of illegal drugs or under the influence of alcohol while working.
12. Possession, use, or sale of unauthorized controlled substances or illegal drugs.
13. False statements, misrepresentation, deceit, concealment, or collaborating a false claim.
14. Theft or scavenging - actual or attempted taking or carrying away of town property or the property of others.
15. Gambling on town property, or while using town property.
16. Dereliction, neglect or failure to perform the required duties of your position.
17. Disclosure of confidential information to any person except those who may be entitled to such information without permission of the department head.
18. Accepting or soliciting a bribe.
19. Feigning sickness or injury to avoid working.
20. Unauthorized possession or use of a dangerous weapon while working.
21. Engaging in dishonest, immoral, or scandalous conduct whether on or off the job, that affects the image or effectiveness of the town's activities or employee performance.
22. Engaging in criminal conduct on or off the job as defined by State and Federal law.

23. Violation of town rules, regulations, policy, or directives not specifically mentioned herein.

RESPONSIBILITIES

The department head and supervisors are charged with the responsibility of assigning, reviewing, and checking the work of subordinates. They are also responsible for maintaining proper conduct and discipline among employees of their department.

Department heads and supervisors:

- A. Keep all employees informed of rules, regulations, policies, standards, and directives.
- B. Take all possible steps to prevent situations, which may lead to disciplinary action.
- C. Address employees individually and in private whenever possible.
- D. Treat all employees impartially without favoritism or discrimination in the assignment of duties or tasks. No employee shall be discriminated against based on characteristics considered "Protected Classes" by State or Federal law.
- E. Supervisors may when circumstances warrant, initiate, and issue a verbal or written warning or may recommend to the department head more severe disciplinary action.

Department heads and supervisors are expected to maintain confidentiality, discipline, and administer disciplinary actions equitably. A primary responsibility is to determine that all employees know the rules, regulations, administrative instructions, and conditions of employment, which they must observe.

Administration of discipline in an equitable fashion does not imply that the discipline for each violation of a rule will be the same. Each individual violation is different and each case is different. It is the totality of the circumstances in each case, which must be considered in the determination of discipline.

PROGRESSIVE DISCIPLINE PROCESS

Investigation- Every employee is required to participate in any workplace investigation fully and honestly. Refusal to participate is grounds for discipline or insubordination up to dismissal. When a concern becomes known that the department head or supervisor determines warrants an investigation, an individual must be assigned to conduct the investigation. This individual must keep the matter confidential, observe, gather, analyze and document all facts and carefully considering the circumstances before taking disciplinary action, especially action more severe than warnings. All employees are required to participate in any workplace investigation, fully and honestly. Refusal to participate is grounds for discipline for insubordination up to and including dismissal. Meet with the employee, offer Weingarten rights (relative to union representation), provide a truthfulness warning (explain that you are going to ask questions and the employee and witnesses are obligated to tell the truth and provide complete answers).

Disciplinary Hearing – Provide the employee, and union representative if applicable, with a factual and written notice of the charges. Allow the employee and their representative to caucus privately before responding to the charges. Inform the employee that you will be recording the process, walk through the evidence relative to the charges.

Disciplinary Decision – Factors leading to the discipline determination include the preponderance of evidence, severity of the conduct, progressive discipline process, and the similarity of the offenses, disparate treatment, and past practice, and the elements of the written decision including all relevant reasons.

Step 1 - COUNSELING AND VERBAL WARNING

- A. A verbal warning is a discussion between a supervisor and an employee regarding some particular aspect of the employee's performance or conduct. The supervisor should discuss with the employee the nature of the problem or violation of policies or procedures. The supervisor is expected to clearly outline expectations and steps the employee must take to improve performance or resolve the problem. A written record that the warning occurred detailing the related time frame and nature of the incident shall be maintained in the employee's personnel file.
- B. This type of disciplinary action should be taken as a result of relatively minor infraction, administered as soon as possible after the incident. A verbal warning will be noted in a written document and will be placed in the employee's personnel file.

Step 2 - WRITTEN WARNING

The intent is that the performance, conduct, or attendance issues that were identified in verbal warning have been corrected. However, this may not always be the case. A written warning involves a more formal documentation of performance, conduct or attendance issues, and consequences. During step 2, the supervisor, department head and possibly human resources will meet with the employee and review any additional incidents or information about the performance, conduct or attendance issues as well as any prior incidents or corrective action plans. The consequences of continued failure to meet expectations will be outlined for the employee in written form. A formal performance improvement plan (PIP) requiring the employees' immediate and sustained corrective action will be issued within five business days of a step 2 meeting. A written warning outlining that the employee may be subject to additional discipline up to and including termination if immediate and sustained corrective action is not taken may be included in the written warning. This is an official record placed in the employee's personnel file, concerning a violation(s) of rules and policies.

- B. A written warning may result from a specific formal charge or because of an accumulation of minor or repeated infractions, which in the opinion of the department head, board, or committee requires more severe disciplinary action.
- C. A written warning may be administered by a supervisor, department head, or board or committee member based on information/observation, investigation, and proof of written allegations and charges.

Step 3 - SUSPENSION AND FINAL WRITTEN WARNING

- A. There may be performance, conduct, or safety incidents so problematic and harmful that the most effective action may be the temporary removal of the employee from the workplace. When immediate action is necessary to ensure the safety of the employee or

others, the department head and immediate supervisor may suspend and provide a written warning or place the employee on paid administrative leave pending the results of an investigation.

- B. A suspension is a designated absence from work in non-pay status, which may be imposed for a serious violation(s) of rules, policies, regulations, operating standards, administrative directives or for breaches of good order and discipline.
- C. Suspensions that are recommended as part of this progressive discipline policy and procedure are subject to approval from the department head, human resources, labor counsel, and the town manager based on information/observation or review of incident(s), the related investigation, and proof of charges.
- D. The duration of the suspension is tied to the seriousness of the charge. Short-term suspensions are those that are 1, 2, 3, 4 or 5 days long. Long-term suspensions run from 6 to 60 days. Depending on the seriousness of the infraction, the employee may be suspended without pay in full-duty increments consistent with federal, state, and local wage-and-hour employment laws. Pay may be restored to the employee if an investigation of the incident or infraction absolves the employee. A suspension may only be administered by the department head, board or committee, or town manager.

Step 4 (a) - DEMOTION

- A. A demotion is a reduction in classification, which may be imposed for a single serious violation or series of violations of the department's policy rules, regulations, operating standards, or administrative directives.
- B. A demotion may be administered by the town manager, board of selectmen, board, or committee. It must be based on, information/observation or review of a report of an incident(s) and recommendations, based on investigative proof of another's charges.

Step 4 (b) - DISMISSAL

- A. The last and most serious step in the progressive discipline procedure is a recommendation to terminate employment. Generally, the town will try to exercise the progressive nature of this policy by first providing verbal and written warnings and/or suspension from the workplace before proceeding to a recommendation to terminate employment. However, the town reserves the right to combine and/or skip steps depending on the circumstances of each situation and the nature of the offense. Furthermore, employees may be terminated without prior notice or disciplinary action if a singular serious act or behavior justifies dismissal. Additionally, dismissal may be precipitated because the employee has failed to modify behavior or conform to rules and policy after having been progressively disciplined by less severe means.
- B. A pre-discharge hearing before the town manager is to be held prior to discharge, to review the recommendation to discharge (even in situations that involve probationary employees who are not subject to the progressive discipline policy). The final decision to discharge will be made by the town manager in conjunction with the department head, board of selectmen, board, or committee in accordance with the hearing's findings.

- C. Any employee subject to discharge hearings shall be notified prior to the hearing.
- E. All dismissals by the town manager shall be subject to ratification by the board of selectmen, which shall act upon each removal within fifteen days following notification thereof. Failure of the board to act within the fifteen-day period shall constitute assent.

APPEAL OF DISCIPLINARY ACTION

- A. All employees will have the opportunity to present information that may challenge the information that has used to issue disciplinary action. The purpose of this process is to provide insight into extenuating circumstances that may have contributed to the employee performance and/or conduct issues while allowing for an equitable solution. If the employee does not present this information during any of the step meetings, he or she will have five business days after the meeting to present the information.

Performance and conduct issues not subject to progressive discipline behavior that is illegal may be reported to local law enforcement. Theft, intoxication at work, fighting, and other acts of violence, or other serious misconduct, are also not subject to progressive discipline and may be grounds for immediate termination.

DOCUMENTATION

The employee will be provided with copies of all progressive discipline documentation, including all performance improvement plans. Copies of these documents will be placed in the employee's personnel file.

Attachments: Verbal Warning Form
Written Warning form
Performance Improvement Plan Form

Approved by the Town of Duxbury Board of Selectmen on March 24, 2014



Town of Duxbury
VERBAL WARNING FORM

Employee Name _____ Date _____

*The following warning has taken place:
(Check and give details under explanation)*

- | | |
|---|---|
| <input type="checkbox"/> Absence | <input type="checkbox"/> Harassment |
| <input type="checkbox"/> Tardiness | <input type="checkbox"/> Dishonesty |
| <input type="checkbox"/> Violation of Company Policy | <input type="checkbox"/> Violation of safety rules |
| <input type="checkbox"/> Horseplay | <input type="checkbox"/> Leaving work without authorization |
| <input type="checkbox"/> Smoking in unauthorized areas | <input type="checkbox"/> Poor performance |
| <input type="checkbox"/> Failure to follow instructions | <input type="checkbox"/> Insubordination |
| <input type="checkbox"/> Unauthorized use of equipment, materials | <input type="checkbox"/> Falsification of records |
| | <input type="checkbox"/> Other |

Summary of violation _____

Summary of corrective plan of action _____

FOLLOW UP DATE(S) _____

SUPERVISOR

SIGNATURE _____

DATE _____

EMPLOYEE

SIGNATURE _____

DATE _____

cc: Employee File



Town of Duxbury
WRITTEN WARNING FORM

Employee Name _____ Date _____

Supervisor: _____

Department: _____

Subject: _____

This is official notice of disciplinary action. The purpose of this written warning is to bring to your attention ongoing deficiencies in your conduct and/or performance. The intent is to define for you the seriousness of the situation so that you may take immediate corrective action.

This written warning will be placed in your personnel file and shall serve as notice of progressive discipline in accordance with the town's progressive discipline policy. If you have further questions concerning this, please review them with me.

The reason for this action _____

Summary of corrective plan of action _____

Follow up date(s) _____

The above has been discussed with me by my supervisor. I understand the contents and acknowledge and understand the corrective action required. I also acknowledge and understand the potential consequences of non-compliance. I have read this written notice of disciplinary action, but do not necessarily agree with its content

EMPLOYEE _____ DATE _____

SUPERVISOR _____ DATE _____

DEPT. HEAD _____ DATE _____

cc: Employee File



Town of Duxbury
PERFORMANCE IMPROVEMENT PLAN FORM

Employee's Name: _____

Position/Title: _____

Manager/Supervisor: _____

Dates of Plan – From: _____ To: _____

Department Goals: (Filled in by Supervisor)

1. _____
2. _____
3. _____
4. _____

Position Goals: (Filled in by Supervisor)

1. _____
2. _____
3. _____
4. _____

Individual Employee Goals: (Filled in by Employee)

Your individual goals should tie in to the above Department and Position and goals.

1. _____
2. _____
3. _____
4. _____

For your individual goals – please indicate the anticipated date of completion

1. _____

2. _____

3. _____

4. _____

For your individual goals – please list any support or training you will need to accomplish these goals.

1. _____

2. _____

3. _____

4. _____

Employee Signature: _____

Supervisor Signature: _____

Date agreed to: _____