



LINCOLN POLICE DEPARTMENT GENERAL ORDERS

NUMBER: 1440
TOPIC: DISCIPLINARY ACTION
ISSUED BY: TERESA EWINS, CHIEF OF POLICE
DATE: 1-1-2022
SUPERSEDES: G.O. 1440, 2018
REFERENCE: G.O. 1430

I. POLICY

The Lincoln Police Department has adopted a system of disciplinary action as a means for educating or counseling employees about their performance and professional responsibility, as well as correcting employee behavior. Disciplinary action will be thoroughly documented, fairly and impartially administered, and commensurate with the violation.

II. PROCEDURE

A. Cause for Disciplinary Action

1. The following violations are cause for disciplinary action:
 - a. Violations of law;
 - b. Violations of supervisory orders;
 - c. Violations of department written directives.

B. Responsibility for Initiating Disciplinary Action (26.1.5, 26.2.1)

1. Any supervisor becoming aware of a violation is responsible for initiating disciplinary action.
2. All supervisors have the authority to discipline. Supervisors are empowered to immediately relieve from duty with pay any employee who commits a violation necessitating immediate suspension or who is physically or emotionally unable to discharge their duties. (26.3.7)
 - a. Any action taken under this section requires immediate notification through chain of command or a command officer.
3. Authority to suspend without pay, demote, or discharge is vested in the chief of police.
4. The chief of police shall make all final departmental determinations in any instance of disciplinary action, based on the circumstances of the incident, a review of records and reports, and the recommendations of supervisors.

C. Disciplinary Investigation

1. Whenever a supervisor believes that an in-depth investigation is necessary to determine if a violation has in fact occurred, they shall confer with their commanding officer or unit manager to determine the scope of any necessary investigation.
2. Investigations are not normally appropriate when the violation is evident and undisputed, and supervisors should not delay the initiation of disciplinary action in such circumstances by unneeded investigation.
3. An investigation by the Internal Affairs Unit may be initiated at the direction of the chief of police, following the guidelines of General Order 1430, "Internal Affairs."

D. Levels of Disciplinary Action (26.1.4)

1. Education: Notification, education, and advice to the employee when the violation was very minor. Education is appropriate when the conduct was unintentional, the result of a lack of knowledge, or involved slight negligence.
2. Warning: An official admonition to the employee when the violation was minor in nature and consequence but was intentional or involved a greater degree of negligence.
3. Reprimand: Official censure when the violation was serious and intentional, or involved substantial negligence.
4. Suspension: Official censure and the enforced loss of duty hours when the violation was severe and intentional, or involved gross negligence.
5. Termination: Censure and termination of employment when the violation was so grave that continued employment would affect the operational effectiveness of the department.

E. Determining the Level of Disciplinary Action (26.1.4)

1. The following factors will be considered in determining the appropriate level of disciplinary action for a given violation:
 - a. Severity of the violation itself;

- b. The employee's general past performance and work history;
 - c. Action taken in similar circumstances for the same violation.
2. The department will employ "progressive discipline", that is, repeated similar violations will result in an increasing level of disciplinary action, even when the individual violation would not ordinarily warrant the higher level of disciplinary action.
 3. Mitigating and aggravating circumstances will be considered:
 - a. The character of the violation as intentional or inadvertent;
 - b. The actual or reasonably foreseeable consequences of the violation;
 - c. The prevailing conditions and circumstances at the time of the violation.

F. Documentation and Reports

1. Disciplinary action will be thoroughly documented by supervisors on the Employee Incident Report or Personnel Action Report, and other attachments that may be needed.
2. Supervisors will use the Employee Incident Report for action in the category of education or warning. (26.3.8)
 - a. The supervisor will complete the information section at the top of the form.
 - b. The control number should be left blank, to be completed once the form is routed to the division's assistant chief.
 - c. The supervisor will mark the type of action (education or warning.)
 - d. The supervisor will complete a conclusion of fact of the incident, attaching additional memoranda or documentation if needed.
 - e. The supervisor will then complete the disposition section of the form and will have the employee involved initial and date the form in the space provided.
 - f. The employee, after initialing the form, will be given a copy of the form by the supervisor. The remaining copies of the form will then be delivered by the supervisor to the commanding officer or unit manager.
 - g. The commanding officer or unit manager will review and initial the report, then forward to the division's assistant chief.
3. Supervisors will use the Personnel Action Report for action at the level of reprimand or greater.

- a. The supervisor shall complete the informational and narrative sections and attach any additional documentation.
 - b. The disposition level at the top of the form will be left blank.
 - c. The employee may make comments in the section provided for that purpose and shall initial the report to indicate that they have read the report.
 - d. The form will then be delivered to the commanding officer or unit manager.
 - e. The commanding officer or unit manager will review and initial the report, then forward to the division's assistant chief.
 - f. The assistant chief may confer with other commanding officers and unit managers, and with the chief of police to determine the appropriate level of discipline.
 - g. The Personnel Action Report will then be presented to the employee, who will initial the final action, and indicate if they wish to meet with the assistant chief regarding the matter.
4. Maintenance of Disciplinary Records (26.1.8)
 - a. A copy of all Personnel Action Reports will be maintained in the employee's personnel file.
 - b. A copy of all EIRs in the categories of education, warning, or commendation will be maintained in the employee's personnel file. All other EIRs will be maintained in the chief's custody.
 - c. The department shall follow all applicable labor agreement provisions relating to the maintenance and purging of disciplinary reports and records.

G. Administrative Hearings

1. For LCEA represented members when a reprimand is contemplated as a possible outcome of disciplinary action, the chief of police will schedule a pre disciplinary hearing.
2. When suspension or termination is contemplated as a possible outcome of disciplinary action, the chief of police will schedule an administrative hearing.
3. The purpose of the hearing is for the employee to have an opportunity to be advised of the facts and circumstances surrounding the proposed action, and an opportunity to contest any information, present any rebuttal, or make any remarks for consideration prior to the disciplinary action.
4. The supervisor who initiated the action and other supervisors in the employee's chain of command may be required to attend.

5. The employee shall attend and may be represented by any other person of their choice, including legal counsel.
6. Following the presentation and discussion, the chief of police will make a determination on the proposed disciplinary action and level of discipline.