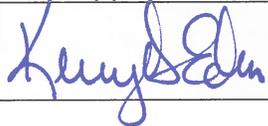
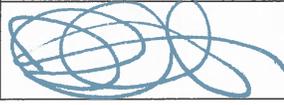




## Administrative Policy

<b>Title: Employee Conduct and Discipline</b>				
Administered By: Administrative Services (Human Resources)				
New Policy No.	Issue Date (Last Revised)	Renumber Date	Department Head Approved	City Manager Approved
01400.101	06-06-06 (N/A)	01-03-17		

This Policy had been numbered Policy 2.04.090. Effective on the Renumber Date noted above, this Policy is hereby renumbered as the Policy Number noted above.

The latest version of the Policy is attached hereto and incorporated herein by reference.

Attachment: Policy 2.04.090  
 Issued: 06-06-06  
 Revised: N/A



## ADMINISTRATIVE POLICY

### EMPLOYEE CONDUCT AND DISCIPLINE

#### 2.04.090

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#### **Section 2.04.091 Purpose**

The purpose of the Employee Conduct and Discipline Policy is to provide a uniform and consistent guide for the administration of disciplinary action within the workforce of the City of Corona.

#### **Section 2.04.092 Application**

Pursuant to Corona Municipal Code sections 2.40.050 and 2.80.090, Probationary Employees and employees excluded from the Competitive Service shall have no rights under this policy.

#### **Section 2.04.093 Procedure**

- A. Discipline, as relates to the enforcement of established policies, procedures, rules, regulations, or methods of practice, will be administered consistently with the statement contained herein.
- B. Disciplinary action arising out of minor infractions will be handled informally through counseling sessions, while more serious infractions resulting in discipline beyond a simple written reprimand not affecting compensation will be addressed with this formal procedure.
- C. Investigation and interrogation of Police Officers will be conducted in accordance with of Title I, Division 4, Government Code, Chapter 9.7 (commencing with Section 3300).
- D. Disciplinary action will be administered by the Department Head or his/her designee. The Department Head or his/her designee shall consult with Human Resources in all cases of proposed discipline greater than a written reprimand.
- E. Discipline shall be administered in a fair and consistent manner and without regard to race, religion, age, sex, national origin, or other unlawful consideration.

### **Section 2.04.094    *Grounds for Discipline***

The grounds for discipline stated herein are not intended to encompass all acts subjecting an employee to disciplinary action, but the grounds stated constitute some of the more common or serious offenses. Disciplinary action, up to and including discharge, may be imposed for behavior including:

1. Failure to maintain job performance standards;
2. Inattention to or failure to perform assigned duties;
3. Failure to maintain adequate personal appearance;
4. Lack of cooperation, respect, or courtesy towards a member of the public or another City employee;
5. Insubordination;
6. Willful failure to follow chain of command;
7. Failure to maintain satisfactory and harmonious working relationships with the public or fellow employees;
8. Insolent behavior towards the public or other employees; Using loud, abusive or obscene language;
9. Fighting, physical abuse, intimidation, or threats;
10. Punctuality and/or attendance problems; patterned absenteeism; falsifying reasons for an absence;
11. Leaving assigned work location without proper approval or appropriate reason;
12. Willful concealment of pertinent information from supervisor;
13. Failure to obtain approval for outside employment; Engaging in incompatible outside employment;
14. Fraud;
15. Acceptance of unlawful gifts or gratuities from the public or vendors in connection with performance of duties;
16. Using an official position or office for personal gain or advantage;
17. Disclosing confidential information;

18. Failure to exercise good judgment in connection with the requirements of the position held by the employee;
19. Unauthorized possession, control, and / or duplication of City records, regardless of physical form or characteristics;
20. Falsifying City documents, including time reports, mileage reports, expense accounts, or other work oriented documents;
21. Failure to pay amounts due the City;
22. Willful or negligent damage of property;
23. Misappropriation of City property or property of others;
24. Using City time or possessing property and / or equipment without authorization;
25. Using, possessing, or under the influence of alcohol, drugs, or narcotics while on duty;
26. Failure to consent to a physical or psychological examination; failure to comply with a supervisor's referral to the Employee Assistance Program; failure to complete a mandatory counseling program without good cause;
27. Violation of Resolutions, Administrative and Department Rules and Policies;
28. Reprisal or retaliation because of an employee's filing of a grievance or other lawful action;
29. Misconduct, on or off the job, seriously reflecting on the City, City employees, or employment;
30. Violation of a safety rule;
31. Negligence or recklessness which threatens to cause or causes harm to persons or property;
32. Engaging in horseplay on the job which may lead to physical injury or damage to equipment or property;
33. Loss of required motor vehicle operator's license or insurability to operate a vehicle on behalf of the City or other license or certification required to perform the duties of an employee's position;
34. Possessing unauthorized firearms or dangerous weapons while on duty;

### **Section 2.04.095 Written Reprimand**

A department head or his/her designee may reprimand an employee by furnishing him or her with a statement, in writing, of the specific reasons for such reprimand. A copy of the written reprimand shall be given to the Human Resources Department for inclusion in that employee's personnel file.

A written reprimand not resulting in loss of pay or benefits shall not be subject to appeal, but the employee shall have the right of rebuttal. The issuing authority may then let stand, modify, or withdraw the reprimand at his or her discretion.

### **Section 2.04.096 Minor Discipline**

In the case of minor discipline, which shall include, but is not limited to, an unpaid suspension of ten (10) days or less; a reduction in pay equal to an unpaid suspension of ten (10) days or less; a demotion not affecting pay; regular fulltime employees shall be afforded the following:

- A. Notice of Proposed Disciplinary Action:
  - 1. Prior to the imposition of a minor disciplinary action all regular fulltime employees shall be presented with a written Notice of Proposed Disciplinary Action informing the employee as to his/her right to respond either orally or in writing.
  - 2. The Notice of Proposed Disciplinary Action shall include:
    - a. A description of the discipline proposed;
    - b. A statement of the reasons for which the action has been proposed, which shall include a description of the alleged facts upon which the proposed action is being taken and a statement of any employer rules, regulations, etc. or laws that are alleged to have been violated; and, if applicable, a list of any previous disciplinary actions, counseling, evaluations, or other relevant actions which support the action proposed;
    - c. Copies of any documents relied upon in reaching a decision to propose the discipline action; and
    - d. A statement advising the employee that he or she may respond to the Department Head or his/her designee, regarding the proposed disciplinary action, orally or in writing, before it takes effect. This part of the Notice of Proposed Disciplinary Action shall include the name of

the person to whom the response is to be made, if other than the Department Head, and the last date upon which a response may be made.

B. Employee's Response:

1. The employee shall have five (5) working days from the date of the Notice of Proposed Disciplinary Action to respond to the charges. Upon a showing of good cause, the City may extend the time for response beyond five (5) working days. The employee may respond orally and request a *Skelly Conference* or may, instead, elect to submit a written response. The employee may elect to have a representative of his/her choice assist in the presentation of a written response.
  - a. In the event that the employee chooses to respond orally, the employee must, within the period given to respond, request a pre-disciplinary *Skelly Conference* with the Department Head or his/her designee and a Human Resources representative.

The pre-disciplinary *Skelly Conference*, pursuant to *Skelly v. State Personnel Board* (1975) 15 Cal.3d 194, is not a full evidentiary hearing. Rather, it is a meeting to give the employee a meaningful opportunity to tell their "side of the story." Its purpose, according to the courts, is to minimize the risk of the employer making an error in the action that it takes.

1. The proceedings of the pre-disciplinary *Skelly Conference* shall be transcribed or recorded.
2. The Human Resources representative shall introduce the parties and their representatives, provide a brief explanation of the proposed disciplinary action, and review the pre-disciplinary *Skelly Conference* procedures.
3. During the pre-disciplinary *Skelly Conference*, the employee or the employee's representative may present any reasons why the employee feels that the proposed action is not proper. The employee's presentation may include introduction of documentary materials as well as an oral presentation.
4. The Department Head or his/her designee shall listen to the employee's presentation, but shall not present any evidence on behalf of the City.

5. Neither party shall present witnesses for examination, but may state the existence of witnesses.
6. The Department Head may ask questions for the purposes of clarification, but may not cross examine either the employee or his/her representative.
  - b. If the employee elects, in lieu of a pre-disciplinary *Skelly* Conference, to submit a written response, it must be received in the office of the Department Head or his/her designee no later than 5:00 p.m. on the last day given to respond.
2. Failure by the employee or the employee's representative to respond to the Notice of Proposed Disciplinary Action within the period allowed shall result in disciplinary action taking effect as proposed. No further administrative remedy shall be available.

C. City's Response:

1. The Department Head or his/her designee shall take an employee's timely response into consideration and shall make a determination as to whether or not the proposed action, or a different action, or no action shall be taken. The decision shall be discussed with the Human Resources Director, who will then confer with the City Manager as appropriate.
2. In the case of minor discipline, no further right of appeal is provided. The Department Head's decision shall be final.

## **Section 2.04.097 Major Discipline**

In the case of major discipline, which shall include, but is not limited to, an unpaid suspension of more than ten (10) days, a reduction in pay equal to an unpaid suspension of ten (10) days or more; a demotion affecting pay, and discharge, all regular, fulltime employees shall be afforded the following:

### **A. Notice of Proposed Disciplinary Action:**

1. Prior to the imposition of a major disciplinary action all regular fulltime employees shall be presented with a written Notice of Proposed Disciplinary Action informing the employee as to his/her right to respond either orally or in writing.
2. The Notice of Proposed Disciplinary Action shall include:
  - a. A description of the discipline proposed;
  - b. A statement of the reasons for which the action has been proposed, which shall include a description of the alleged facts upon which the proposed action is being taken and a statement of any employer rules, regulations, etc. or laws that are alleged to have been violated; and, if applicable, a list of any previous disciplinary actions, counseling, evaluations, or other relevant actions which support the action proposed;
  - c. Copies of any documents relied upon in reaching a decision to propose the discipline action; and
  - d. A statement advising the employee that he or she may respond to the Department Head or his/her designee, regarding the proposed disciplinary action, orally or in writing, before it takes effect. This part of the Notice of Proposed Disciplinary Action shall include the name of the person to whom the response is to be made, if other than the Department Head, and the last date upon which a response may be made.

### **B. Employee's Response:**

1. The employee shall have five (5) working days from the date of the Notice of Proposed Disciplinary Action to respond to the charges. Upon a showing of good cause, the City may extend the time for response beyond five (5) working days. The employee may respond orally and request a *Skelly Conference* or may, instead, elect submit a written response. The employee may elect to have a representative of his/her choice assist in the presentation of the response.

- a. In the event that the employee chooses to respond orally, the employee must, within the period given to respond, request a pre-disciplinary *Skelly* Conference with the Department Head or his/her designee and a Human Resources representative.

The pre-disciplinary *Skelly* Conference, pursuant to *Skelly v. State Personnel Board* (1975) 15 Cal.3d 194, is not a full evidentiary hearing. Rather, it is a meeting to give the employee a meaningful opportunity to tell their "side of the story." Its purpose, according to the courts, is to minimize the risk of the employer making an error in the action that it takes.

1. The proceedings of the pre-disciplinary *Skelly* Conference shall be transcribed or recorded.
  2. The Human Resources representative shall introduce the parties and their representatives, provide a brief explanation of the proposed disciplinary action, and review the pre-disciplinary *Skelly* Conference procedures.
  3. During the pre-disciplinary *Skelly* Conference, the employee or the employee's representative may present any reasons why the employee feels that the proposed action is not proper. The employee's presentation may include introduction of documentary materials as well as an oral presentation.
  4. The Department Head or his/her designee shall listen to the employee's presentation, but shall not present any evidence on behalf of the City.
  5. Neither party shall present witnesses for examination, but may state the existence of witnesses.
  6. The Department Head may ask questions for the purposes of clarification, but may not cross examine either the employee or his/her representative.
- b. If the employee elects, in lieu of a pre-disciplinary *Skelly* Conference, to submit a written response, it must be received in the office of the Department Head or his/her designee no later than 5:00 p.m. on the last day given to respond.

3. Failure by the employee or the employee's representative to respond to the Notice of Proposed Disciplinary Action within the period allowed shall result in disciplinary action taking effect as proposed.

C. City's Response:

The Department Head or his/her designee shall take an employee's timely response into consideration and shall make a determination as to whether or not the proposed action, or a different action, or no action shall be taken.

D. Right to Appeal:

1. Any regular, fulltime employee shall have the right to an Appeal Hearing for any major disciplinary action subsequent to a pre-disciplinary *Skelly* Conference or an employee's written response, including, an unpaid suspension equal to an unpaid suspension of ten (10) days or more, a reduction in pay equal to an unpaid suspension of ten (10) days or more, a demotion affecting pay, or a discharge.
2. Requests for an Appeal Hearing shall be made in writing, signed by the employee, and filed with the Department Head within ten (10) working days of the effective date of the outcome of a pre-disciplinary *Skelly* Conference. Failure to do so shall constitute waiver of the right to appeal and exhaust administrative remedies.
3. The City Council or its designee shall appoint a Hearing Officer to hear the appeal and recommend a decision, which shall be certified to the City Manager. The Appeal Hearing shall be closed unless an open hearing is requested by the employee filing the appeal.
4. The Human Resources Director shall notify the employee and the Department Head or his/her designee of the date, time, and place of the Appeal Hearing.
5. The employee and any witnesses shall appear personally before the Hearing Officer at the Appeal Hearing and may be represented by Counsel of their choice. In the event that the employee fails to appear personally, the appeal shall be deemed waived and administrative remedies exhausted.
6. The Appeal Hearing shall be conducted as follows:
  - a. The hearing shall be called to order by the Human Resources Director or his/her designee.
  - b. The hearing shall be tape recorded or transcribed.

- c. The Human Resources Director or his/her designee shall introduce the parties and their representatives and give a brief explanation of the disciplinary action giving rise to the appeal before the Hearing Officer.
  - d. The City shall present its case for the disciplinary action from which the appeal is taken. The City shall have the burden of proving, by a preponderance of the evidence, that the disciplinary action from which the appeal is taken is reasonable according to existing City policies, and other applicable legal standards. The Appeal Hearing shall not be conducted according to technical rules relating to evidence and witnesses, except as hereinafter provided. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions. Hearsay evidence may be admitted, but it may not be the sole basis upon which a finding is made, unless it would be admitted under a recognized exception to the Hearsay Rule in a civil proceeding.
  - e. Following the City's presentation of its case, the employee and / or his Counsel shall have the right to respond to the City's case and may produce evidence on the employee's own behalf.
  - f. All parties and witnesses to be heard at the Appeal Hearing shall be placed under oath and shall be subject to confrontation and cross-examination. Exhibits shall be properly introduced and identified before being admitted into evidence.
  - g. Following the presentation of the City's and the employee's cases and the introduction for rebuttal evidence by either party, each shall be entitled to make closing argument and rebuttal.
  - h. During the course of the Appeal Hearing, the Hearing Officer may pose questions to the parties or their witnesses.
  - i. The Hearing Officer may render his or her decision immediately or may adjourn the hearing and retire for deliberation before reaching a decision.
7. The Hearing Officer shall issue a written response and recommendations, along with the hearing record or an appropriate summary of the hearing record, to the Human Resources Director. Every effort will be made to obtain the response in a timely manner.

8. The Human Resources Director shall deliver a certified copy of such finding and recommendations of the Hearing Officer to the City Manager. The Department Head shall also receive a copy. The City Manager may then adopt, reject, or modify such recommendations. The decision of the City Manager shall be final for all purposes.