

Number: 413
Sections: 1-7
Effective Date: May 5, 1995

SUBJECT: Constructive Action Plan (CAP) - Disciplining Alternative

1. Purpose. To provide an alternative disciplinary technique to traditional negative discipline.
2. Authority. City Charter Section 401 and 403.
3. References. Huntington Beach Personnel Rules, Rule 7.
4. Application. This regulation applies to all permanent employees of the City.
5. Policy. To allow employees, who would otherwise be subject to formal disciplinary action, to defer the proposed discipline, if they are willing to acknowledge the grounds for such proposed discipline and are prepared to submit to a plan to correct their performance or behavior.
6. Responsibility. Department heads and their immediate subordinate supervisors are responsible for disciplining decisions.
7. Procedure. Upon preparation of the Notice of Proposed Disciplinary Action, the preparer determines if a Constructive Action Plan (CAP) is desirable and appropriate to be offered in consideration of the offense.
 - 7.1 To assist in rendering a decision as to the appropriateness, review the attached list of charges (Attachment A) which would make the employee ineligible to participate in the Constructive Action Plan (CAP).
 - 7.2 If a CAP is deemed desirable to be offered in lieu of the proposed discipline the CAP language (Attachment B) should be added to the Notice of Proposed Adverse Action.
 - 7.3 An employee's participation in the program is completely voluntary. If the employee feels that the stated charges are incorrect, or the proposed action too severe, they may choose not to participate in the program. Under those circumstances, the employee is entitled to all available appeals rights.
 - 7.4 If the employee chooses to participate in the CAP, he/she is to bring a completed written action plan (Attachment C) to the Skelly hearing that describes what they intend to do to correct the problem.
 - 7.5 The department head or supervisor may include certain specific requirements, i.e., EAP referral, note from employees physician, etc, to the CAP to assure compliance or ease in administration.
 - 7.6 If the final written CAP is accepted by the employee, it is signed and dated (Attachment C). The proposed discipline is defined and the plan is implemented for a period of six (6) months.
 - 7.7 If the employee complies with the plan during the following six (6) months, the department issues a determination letter indicating that the matter is resolved.

7.8 All information regarding the proposed adverse action and the CAP remains indefinitely in the employee's personnel file for purposes of documentation and progressive discipline.

7.9 If at any time during the six (6) months CAP period, the employee fails to comply with the plan, another Notice of Proposed Adverse Action is issued (in accordance with AR-404) and the original discipline is imposed.

A

CHARGES

EXAMPLES

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| 1. | Failure to meet performance standards as a probationary employee. | Employee has failed to demonstrate they are capable of satisfactorily performing the duties of the classification during their probationary period. |
| 2. | Job abandonment. | When an employees actions indicate they are not returning to work. |
| 3. | Unlawful activity of a serious nature or actions which result in formal charges being filed. | Theft of City property, criminal falsification of records, engaging in acts or moral turpitude, willful destruction of City property. |
| 4. | Endangering the health, safety or welfare of the employee, co-workers or citizens, or placing the City in a position of extreme liability. | Use or sale of drugs, alcohol or weapons; insubordination; fighting; driving a City vehicle without a valid driver license; serious violations of established safety standards. |
| 5. | Failure to abide by Employee Assistance Program rules and regulations when they are made a condition of continued employment. | Failure to comply with the terms or a EAP treatment plan. |
| 6. | Failure to conform to the terms of a Constructive Action Plan. | Repeated or serious violations of a previously agreed to plan. |
| 7. | Other serious offenses not specifically identified above. | Racial or sexual harassment or discrimination; actions which bring extreme discredit to the City; inexcusable neglect of duty. |

B

Added to Notice of Proposed Disciplinary Action

CONSTRUCTIVE ACTION PROGRAM

You are eligible to participate in the Constructive Action Program, as an alternative to receiving discipline. This program allows employees, who acknowledge their responsibility for these improper actions, to submit a plan to correct and improve their behavior or performance to conform to departmental standards. (See attached form for Constructive Action Program). Should you choose to participate in this program, you must present your completed plan at your scheduled "Skelly" hearing on _____. If your plan is acceptable, the City will defer imposition of the discipline. If there are no further violations of rules during the following six (6) months, the department will issue a determination letter stating the matter is resolved. This information will remain in the employees personnel file, however, for the purposes of documentation and progressive discipline. If there is a reoccurrence of the rule violation during the ensuing six (6) months, the Constructive Action Plan will be terminated and the discipline imposed.

The Constructive Action Program is completely VOLUNTARY. If you feel the stated charges are incorrect, you may elect not to participate in this program. If you do not choose to participate in this program, you are still entitled to appeal this action as provided in the Personnel Rules.

Supervisor

I hereby acknowledge receipt of this letter:

Employee Date

