

BANGOR POLICE DEPARTMENT
POLICY
Rules and Regulations

EMPLOYEE DISCIPLINE

This policy is effective May 14, 2021 and amends or supersedes all previous policies on this subject.

I. POLICY:

It is the department's policy to impose disciplinary action fairly and impartially and to offer adequate appeal procedures to ensure that the rights of employees are protected. Discipline is a process of imposing formal sanctions, designed to educate and reinforce, to the employee, the rules and regulations of the department as well as the behavioral and conduct expectations.

II. PURPOSE:

The purpose of this policy is to establish procedures regarding the use of disciplinary action and the use of non-disciplinary “coaching” or “feedback” for the purpose of developing employees and addressing performance and/or behavioral deficiencies and violation of department police and procedures. .

III. DEFINITIONS:

Days: The term "days," as used herein, shall mean calendar days provided, however, if the last day of any time period mentioned herein is a Saturday, Sunday, or holiday, the time period shall be extended to the next business day.

Relief from duty: An administrative action by a superior, whereby an employee is temporarily relieved from performing their duties.

Discipline: Used to address continued behavioral and/or performance deficiencies that have likely been previously communicated to the employee and the employee has not made progress to correct the deficiencies. Discipline is also used to address violations of department policy that warrant action greater than performance or behavioral coaching. This discipline may take the form of a written reprimand, suspension without pay, demotion or removal from a specialized function, or termination. Discipline may not be progressive, based on the nature and severity of the employee action. Discipline will be documented and retained in the employee file. This documentation must state the conduct or other facts on the basis of which disciplinary action is being imposed and the conclusions of the acting authority as to the reasons for that action, or as otherwise amended in the Maine Statute Title 30-A, Chapter 123, Subsection 2702.

When determining if disciplinary action is warranted and/or the level of disciplinary action to be taken, a disciplinary hearing will be held in order for the employee in question to have the

ability to provide information regarding the issue and any other information relevant to the issue they would like the hearing officer to take in to consideration when recommending or rendering a decision.

Performance or Behavioral Coaching: To address performance and/or behavioral based deficiencies that do not rise to the level of disciplinary action but need to be addressed with the employee in order to assist with their development or put the individual on notice of potential disciplinary action should their performance or behavior not change. This communication may be documented as a record of the communication with the employee but is not considered a disciplinary action.

IV. PROCEDURES:

- A. **Bargaining Agreements** - Specific language concerning procedures for discipline may vary among the different bargaining groups. Specific procedures in each bargaining agreement should be checked before administering discipline.
- B. **Consistency in discipline** - The department strives to abide by the philosophy that discipline must be applied consistently and uniformly. *Rules and Regulations: Subject Complaints Against Police* describes complaint procedures against department employees, whereas this policy provides discussion of employee infractions. The department does not purport to provide employees with an all-inclusive list of specifically prohibited behavior. One list of examples of such behavior appears in *Rules and Regulations Subject; Prohibited Conduct*, but no list can be all-inclusive. Employees are expected to have a reasonable perception or understanding of what constitutes proper behavior, based on police academy training and observed behavior of other officers generally.
- C. **Relief from duty** - shall be imposed whenever a supervisor, whether the chief of police, deputy chief of police, lieutenant or sergeant, questions an employee's physical or psychological fitness for duty. An internal affairs review or investigation may follow.
 - 1. A supervisor has the authority to relieve an employee from duty, for not more than one (1) day, but must promptly report such action to the chief of police and immediately submit a written report setting forth details and circumstances.

If an immediate need to relieve the officer from duty does not exist, the behavior or actions of the employee shall necessitate an internal review. In an internal affairs investigation, the chief of police solely may relieve from duty an employee. Only the chief of police, under consultation with the city manager, may suspend (with or without pay) an employee whose continued presence on the job constitutes a substantial and immediate threat to the welfare of the department, the public or to him or herself.

- 2. An employee who refuses to obey a direct order in conformance with the department's rules, regulations and orders may be relieved from duty by the supervisor who may recommend suspension or other disciplinary action to the

chief of police. The chief, in consultation with the city manager, may then suspend without pay.

D. **Penalties** - The following penalties are available depending on the level of policy violation and/or continued or repeated occurrence of policy violation(s):

1. Written reprimand
2. Demotion or suspension without pay
3. Dismissal from department

E. **Written reprimand.**

1. A written reprimand, issued by the chief of police, documents an incident(s) of unacceptable employee behavior and/or conduct or a minor violation of policy. The document will provide corrective action and expectations needed to be met by the employee and may outline future disciplinary action should the corrective actions and expectation not be met. A written reprimand becomes a permanent part of the employee's personnel record. An employee may appeal a written reprimand in writing in accordance with the Department's working agreement.

F. **Demotion or suspension without pay.** - If the situation warrants, the chief of police, in consultation with the city manager, may demote an employee or suspend without pay, measures normally considered coequal.

1. Suspensions without pay will normally apply to a period of up to 15 days, as determined by the chief of police and city manager.
2. Whenever suspension is deemed necessary, the department shall provide written notice to the employee as part of the disciplinary hearing process.
3. If an employee becomes a candidate for a second suspension within a one year period, the employee may be dismissed.
4. Suspensions resulting from criminal investigations may be prolonged beyond 15 days pending court action.
 - a. In no case shall an employee convicted of a felony continue to work for the department.
 - b. If an employee is acquitted of criminal charges, the employee may still be disciplined, at the discretion of the chief of police, or reinstated with full or partial back pay.
5. During any suspension, the officer must return to the chief of police or the chief's designee their badge, identification card, and issued firearm.

6. During a suspension, the employee shall not undertake any official duties.
7. Demotion shall be to the next lowest rank.
8. An employee may appeal a suspension or demotion as per current working agreement(s).
9. The city manager may reinstate a suspended employee at any time, with back pay, benefits, and original rank or position.

G. Dismissal from department.

1. Dismissals are made in cases of extreme misfeasance, malfeasance or nonfeasance of duty. An employee may also be dismissed from the department through the progressive disciplinary action process for violation of city or department policy or continued failure to meet the behavior and/or conduct expectations of the department.
2. Employees may appeal a dismissal as provided by current working agreement(s) or city personnel rules.
3. Whenever dismissal is contemplated, the department shall provide written notice to the employee as part of the disciplinary hearing process.

V. INFRACTIONS AND PUNISHMENTS

Supervisors should, depending on the presented facts, first attempt to take corrective actions through employee coaching, redirecting, or training when an employee is not meeting the expectations of their position prior to engaging in the progressive disciplinary process. Should the employee continue to not meet the expectations of their position following coaching, redirection, education or training, progressive disciplinary action may be necessary to guide the employee and document the concerns of the employer. Although this is the preferred method to help develop an employee, some issues may immediately rise to the level of progressive discipline based on the severity of the violation of policy or conduct/behavior.

- A. Examples of conduct or behaviors that either do not rise to the level of disciplinary action or do rise to the level of disciplinary action are outlined below. This information is not intended to be a comprehensive list of examples, but provide a guideline of incidents which a supervisor may use as a reference.
 1. Examples of when to coach or provide feedback to an individual:
 - a. Absences, tardiness
 - b. Abuse of duty time
 - c. Obscene language

- d. Inadequate or unsatisfactory job performance
- e. Disruptive behavior

A continuation of these types of behaviors or conduct could lead to progressive discipline.

2. Examples of when to issue written disciplinary action:
 - a. Failure to follow supervisor's instructions, perform assigned work, or otherwise comply with policy, dependent on the level of policy violation. Written disciplinary action may be appropriate for minor policy violations/failures to comply.
 - b. Violating safety rules without a threat to life.
 - c. Unauthorized time away from work assignments without permission during duty hours.
 - d. Failure to report to work without proper notice to a supervisor.
 - e. Unauthorized use or misuse of department property.
 - f. Refusal to work overtime in accordance with *Extra Work Rules*.
 - g. Sleeping on duty.

A subsequent infraction within two years may result in suspension of up to 15 days or demotion or dismissal.

3. Example of when to issue suspension or dismissal:
 - a. Failure to follow supervisor's instructions, perform assigned work, or otherwise comply with policy, dependent on the level of policy violation. Suspension or dismissal may be appropriate for more severe policy violations/failures to comply.
 - b. Absence in excess of three days without notice to a superior.
 - c. Use of alcohol or unlawful possession or use of a controlled substance while on duty.
 - d. Reporting to work under the influence or when ability is impaired by alcohol or the unlawful use of controlled substances.
 - e. Insubordination or serious breach of discipline.
 - f. Falsification of any reports such as, but not limited to, vouchers, official reports, time records leave records, or knowingly make any false official statement.
 - g. Willfully or negligently damage or destroy city property.

- h. Theft or unauthorized removal of departmental records or city or employee property.
- i. Unlawful gambling on city property or on duty.
- j. Acts of physical violence or fighting (except official police actions).
- k. Violating safety rules where there is a threat to life.
- l. Participating in any kind of work slowdown or sit-down or any other concerted interference with town/county operations.
- m. Unauthorized possession or use of firearms, dangerous weapons, or explosives.
- n. Threatening or coercing employees or supervisors.
- o. Criminal convictions for acts of conduct occurring on or off the job which are plainly related to job performance or are of such that to continue the employee in the assigned position could constitute negligence in regard to the department's duties to the public.
- p. Failure to take physical or mental examination as required. The chief of police may require mental or physical examinations of a member or employee by a designated psychiatrist, psychologist, or physician when, in the chief's estimation, it is in the best interest of the employee, or the department.
- q. Using public office for private gain.
- r. Engaging in criminal conduct on or off the job.
- s. Engaging in dishonest or immoral conduct that undermines the effectiveness of the agency's activities or employee performance, whether on or off the job.
- t. Willful disobedience of a lawful command of a supervisor.
- u. Disclosure of confidential information to any person except those who may be entitled to such information.
- v. Taking any action which will impair the efficiency or reputation of the department, its members, or employees.
- w. Acceptance of any bribe, gift, token, money, or other things of value intended as an inducement to perform or refrain from performing any official act, or any action of extortion or other means of obtaining money or anything of value through his position.
- x. Manifesting cowardice, feigning illness, or otherwise attempting to shirk official duty.
- y. Involvement in any compromise between persons accused of crime and the person or persons who may have suffered from criminal acts with the purpose of allowing the accused to escape punishment.
- z. Failure to answer questions specifically directed and related to official duties or job fitness. (Unless criminal prosecution is contemplated.)
- aa. The use of unnecessary force during an arrest/custody procedure.
- bb. Deviation from established procedures in the disposition of summons or arrest cases.

These offenses include acts of such severity as to merit suspension or dismissal at a single occurrence. These offenses may result in suspension for up to 15 days (or longer, with approval of the city manager) or demotion or dismissal.

B. Probationary Employees

1. Probationary employees shall be dismissed, suspended, or otherwise disciplined according to the foregoing. Probationary employees do not have a right of appeal.

Approved: May 4, 2021
Effective: May 14, 2021

Mark J. Hathaway
Chief of Police

Appendix A

An example of how final discipline will be documented as described in Section III (*Definitions*) of this policy. A copy of final discipline shall be provided to the employee and retained by the department and in the employee's personnel file.



BANGOR POLICE DEPARTMENT

240 Main Street
Bangor, Maine
04401
207-947-7382

TO: [employee name]
FR: [name], Chief of Police
DT: [date]
RE: Investigation # [XXX]
Employee Personnel File

Procedural History:

[*outline of complaint*]

Ex. On (date), we received a complaint, which alleged that you made a disparaging comment during an exchange with a member of the public on or about (date of incident). We performed an internal review to determine if the conduct occurred and if there was a violation of policy. As part of this review, we examined whether or not there was a compelling reason for you to have made a disparaging comment.

Findings:

[*results of department review*]

Ex. The investigation into this matter is complete. The investigation revealed that you used a disparaging word, more specifically [*actual comment*] or similar language, to describe a person during an interaction. This behavior is a violation of department policy (1-6) Prohibited Conduct.

Discipline:

[*course of action*]

Ex. You are hereby issued this written reprimand for a violation of (1-6) Prohibited Conduct. Senseless comments erode the trust of the community and ultimately have a damaging impact on you, your peers and the police department. Public trust, requiring professional actions and complete transparency, is essential.

Further, and to help prevent any future occurrences, you will complete training titled "Principals of Integrity and Ethics" and provide a notice of completion to the Deputy Chief by (date). Any similar acts of misconduct will lead to progressive disciplinary action to include potential suspension or dismissal.

Cc: Deputy Chief [name]