



WEBER COUNTY SHERIFF'S OFFICE
POLICY AND PROCEDURES
DISCIPLINARY SYSTEMS

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 Sheriff Signature

18.5.1 Purpose

To establish a disciplinary system to include procedures and criteria for using training as a function of discipline, procedures and criteria for counseling, and procedures and criteria for punitive actions in the interest of discipline.

18.5.2 Rationale

To assist the Sheriff's Office in establishing fair and consistent discipline within the agency and availing its members the opportunity of appealing decisions made by supervisors.

18.5.3 Definitions

- A. Positive Discipline: Training and attitudinal conditioning which may be used to reinforce desired conduct or alter behavior without invoking punishment.
- B. Negative Discipline: Discipline which takes the form of punishment.
- C. Corrective Action Plan: A corrective action plan is established when a deficiency is recognized. The plan will outline the steps the member should take to overcome the job performance deficiency and to allow job retention and rehabilitation. The plan should contain a description of the training, the performance objectives, the midterm performance review dates, the required completion date and any other necessary information and instructions that will help the member reach satisfactory performance.
- D. Initial Notice of Charges: The first notice the member receives by the supervisor of a pending investigation. Used to put the member on

leave. The form to be used is the Notice of Administrative Action.

- E. Formal Notice of Charges: This notice is given after the investigation is complete and a determination is made by the supervisor that formal charges are to be submitted. The form to be used is the Sheriff's Office Memo form.
- F. Predetermination Hearing: The hearing where the member is given the opportunity to participate when actions may result in suspension, reduction of pay, demotion or dismissal.
- G. Letter of Determination: This is a summary of the predetermination hearing and carries with it the recommendation from the supervisor on actions to be taken against the member. This will be on a Notice of Administrative Action Form to the Sheriff.

18.5.6 Policy

- A. Discipline is a tool used for the channeling of individual effort into behavior and performance consistent with office objectives and accepted modes of conduct. It may include such activities as counseling, encouragement, reward, training, or the imposition of punishment. The use of punishment as a disciplinary measure is normally invoked only when other forms of discipline have not succeeded or when the gravity of the violation dictates its use for the good of the office.
- B. Should an employee's performance, work habits, work history, overall attitude, or conduct become unsatisfactory, based on violations of Weber County's Personnel Policies and Procedures, Sections on Conduct & Code of Conduct and Discipline, corrective or other disciplinary action should be considered. Such measures include, but are not limited to the following:
 - 1. Training - The employee's supervisor and/or training supervisor may arrange for the employee to receive initial or additional training to improve his/her performance, in the area where needed. This action will be documented and retained by the employee's supervisor. Training provides a positive method for altering unacceptable employee behavior by providing insight or review into the correct methods of a members operation and conduct. Training should not be administered as a punishment. Instead, it should be used and viewed as a positive learning experience for the employee, designed to correct a deficiency rather than to punish unacceptable performance.
 - 2. Verbal Counseling - A discussion of the employee's performance designed

to provide constructive feedback without further discipline.

3. Documented Counseling -A written document prepared by the supervisor and given to the member that documents the counseling between the supervisor and the member. A corrective action plan, when applicable, should be included that outlines the steps necessary to correct the problem. Failure to successfully complete the corrective action plan may result in discipline of a higher step. A copy of the Documented Counseling and corrective action plan shall be placed in the member's administrative and internal affairs file maintained by the sheriff's executive secretary. A copy or copies of a Documented Counseling may go to Weber County Human Resources if it relates to a preventable accident as per Weber County Risk Management, or if necessary to show a continued pattern of discipline or at the request of the Weber County Director of Human Resources as it may relate to a more serious disciplinary need.
4. Notice of Reprimand -This is the first level of negative discipline and documents moderately serious policy violations and places the member on notice that he must conform to the Office Policies or face possibility of administrative action that could include suspension and/or termination. A formal corrective action plan must be included with this discipline action and failure to successfully complete the correction plan will constitute insubordination. Notices of Reprimand are to be sent to the Sheriff for his signature and will be filed in the Office Administrative files with copies sent to Internal Affairs and to County Human Resources.
5. Notice of Administrative Action -This level of discipline can be used to document the Initial Notice of Charges as well as the Letter of Determination stemming from the Predetermination Hearing. In some cases this action may take the form of suspension or termination. Members who are not terminated will be required to complete a formal corrective action plan. Failure to successfully complete the plan will constitute insubordination. Notices of Administrative Action will be filed in the Office Personnel Files with copies sent to Internal Affairs and to County Human Resources. These notices are permanent records and cannot be purged from the Personnel Files.
6. Performance Ratings - Employees are formally evaluated at least annually. Disciplinary action may affect a members' evaluation rating and compensation increases may be contingent on these ratings.
7. Suspension - Disciplinary time off with or without pay.
 - a. **Suspension / Leave With Pay.** A sergeant who is the member's supervisor, can relieve a member from duty, with pay, during the member's work shift for cause. After sending the member home,

the sergeant must immediately contact his lieutenant or bureau commander. A sergeant can only suspend a member from duty for not more than twenty-four (24) hours. A written memo outlining the reason(s) and actions taken will be immediately prepared and forwarded up through the supervisor's chain of command up to and including the Sheriff.

- b. A sheriff's office lieutenant, captain, chief deputy, or undersheriff has the authority to relieve a member from duty for more than twenty-four (24) hours **with pay**. There shall be a written notice of this action given to the member with copies given to those commanders in the lieutenant's chain of command, up to and including the sheriff. Superior supervisors to the lieutenant have the authority to amend suspension orders when circumstances require it.
 - c. **Suspension / Leave Without Pay.** Only the Sheriff and/or Undersheriff, in concert with the Weber County Human Resource Director, can place a member on Leave Without Pay. This may be done when a member is under suspicion of serious and/or criminal misconduct and the evidence warrants this status.
8. Demotion/Reduction in Pay - Assignment to a job of a lower grade and/or a decrease in salary. This action must be approved by the Sheriff and Director of the Human Resource Department.
 - a. Demotion is usually considered in cases in which the employee is not performing well in a higher level job but would likely be able to perform adequately in the lower level job. Because these actions are frequently appealed, the legal and personnel offices must be consulted before action is taken.
9. Termination - This action can only be taken by the Sheriff and must be reviewed and approved by the Director of Department of Human Resources. It is generally reserved for disciplinary problems of a repetitive and very serious nature. This form of employment termination does not include a County reduction in force (layoff) or completion of a term of temporary employment. Probationary employees may be terminated without cause at the discretion of the Sheriff with approval of the Director of Human Resource Department.
10. Counseling also provides a positive method for seeking change in employee behavior. When a supervisor assumes the role of counselor the following elements should be considered by the supervisor:
 - a. The supervisor should determine whether the type of counseling

needed is within the realm of his/her expertise.

- b. Facts relevant to the employee's work history, prior disciplinary actions and present levels of performance should be reviewed prior to the counseling session.
 - c. Counseling should be in private and enough time should be allotted to ensure uninterrupted attention to the employee and the issues to be discussed.
 - d. The goal of any counseling session should be to make the employee aware of the reason for the counseling and to reach an agreement on what will take place to correct performance deficiencies.
 - e. All employee verbal counseling sessions should be documented by the supervisor and retained in the Knowledge Point file.
- C. When positive methods of discipline do not succeed, or when they are inappropriate to the violation being addressed, negative discipline is applied. When negative discipline is applied, the office will adhere to the following requisites of punishment:
 - 1. Punishment must be fair and impartially applied with due process.
 - 2. Imposition of punishment shall be timely.
 - 3. Punishments for similar breaches of conduct must be consistent.
- D. Procedure for Counseling
 - 1. Verbal Counseling
 - a. When a supervisor uses verbal coaching the action will be documented and added to the Knowledge Point file.
 - b. No punishment is attached to this action and no record is kept in the Office Administrative Files or with County Human Resources.
 - c. An informal corrective action plan is suggested to provide the employee with the resources and direction needed to make an effective change in their behavior.
 - 2. Documented Counseling
 - a. When a supervisor gives a member documented counseling, the counseling record will be filed with the member's section or bureau, added to the Knowledge Point file, and a copy will be

forwarded to the Sheriff and to internal affairs. A copy of the Documented Counseling and, when applicable, corrective action plan shall also be placed in the members personnel file maintained by the sheriff's executive secretary. A copy or copies of a Documented Counseling may go to Weber County Human Resources if it relates to a preventable accident as per Weber County Risk Management, or if necessary to show a continued pattern of discipline or at the request of the Weber County Director of Human Resources as it may relate to a more serious discipline.

- b. A corrective action plan should be created to provide the member with the resources and direction needed to make an effective change in his/her performance.

E. Procedure for Imposing Negative Discipline

1. Probationary employees have no constitutionally protected property interest in their jobs.
2. Except in cases of aggravated misconduct, prior to the formal imposition of a disciplinary action, the supervisor will provide the member a written notice of charges. In cases of aggravated misconduct, punishment may be administered immediately and if dismissal is the consequence, appeal must be made directly to the Career Service Council pursuant to their rules and regulations. In other cases, appeal of a disciplinary decision can be taken as set forth in this section.
3. Except in cases of aggravated misconduct, the supervisor will advise the member of his/her opportunity to participate in a predetermination hearing prior to the commencement of any disciplinary action that may result in suspension, reduction in pay, demotion or dismissal. At this hearing the employee will have the right to present to the supervisor any information or evidence, orally or in writing, which he/she feels may mitigate or explain the employee's actions. A record of the employee's response should be made by the supervisor. After the employee and the supervisor have completed a discussion on the claims and the employees explanation for such, the meeting will be adjourned without making a decision concerning the discipline.
4. If, after reflection upon the claims against the member and the member's explanation for such, the supervisor decides discipline is warranted, this decision should be communicated in writing to the employee within five working days following the discussion via a Sheriff's Office Memo form. Any decision to suspend, demote, or dismiss an employee will first be authorized by the Sheriff and the Director of Human Resources. The

employee should be informed of their rights under the Weber County Personnel Policies and Procedures.

5. Upon a finding of a sustained allegation, the supervisor must indicate on the Notice of Administration form the description of the violation and policy number violated.

F. Appeals

1. If the member desires to appeal the decision, the member may present a written appeal to the next level supervisor within five working days after the decision of the immediate supervisor. A copy of the written appeal shall be sent to the Director of Human Resources. The appeal shall state the details of the issues involved, and the remedy or action requested. A written decision shall be given to the member, with a copy sent to the Director of Human Resources, within ten working days of the date of filing. If the appeal remains unresolved or if the decision is considered unacceptable, the member may proceed to the next step.
2. Within five working days after the receipt of the decision in 1., or after the decision is due, if the member desires to appeal the decision, the member or his/her representative shall present the written appeal to the Chief Deputy. After reviewing the written material and the decisions of the supervisors, the Chief Deputy shall issue a written decision within ten working days and provide a copy to the employee and to the HR Director. If the appeal remains unresolved or if the decision is considered unacceptable, the member may proceed to the next step.
3. Within five working days after the receipt of the decision in 2., or after the decision is due, if a member desires to appeal the decision, the member or his/her representative shall present the written appeal to the Undersheriff. After reviewing the written material and the decision of the Chief Deputy, the Undersheriff will respond with a written decision within ten working days and provide a copy to the employee and to the HR Director. If the appeal remains unresolved or if the decision is considered unacceptable, the member may proceed to the next step.
4. Within five working days after the receipt of the decision in 3., or after the decision is due, the member or their representative may present the written appeal to the Sheriff. The Sheriff shall then schedule a conference with the involved party(ies) within five working days after the receipt of the appeal. The Sheriff shall render a written decision to the member, with a copy sent to the Director of Human Resources, within ten working days after the completion of the conference. If the appeal remains unresolved or if the decision is considered unacceptable, the member may proceed to the next step if the issue being appealed involves suspension, transfer to a

lower position, demotion or dismissal. In such cases the Sheriff will forward his decision to the Career Service Council.

5. Within ten working days after the receipt of the decision in 4., or after the decision is due, the member may present the appeal in writing to the Career Service Council. The Career Service Council shall proceed as outlined in the Weber County Personnel Policies & Procedures Manual, Appeals Chapter.
6. In the absence of an appeal to the Career Service Council, copies of disciplinary charges shall not be made public without the consent of the charged member or pursuant to State Law.
7. Members not in agreement with the actions of the Career Service Council may appeal to the District Court.
8. Disciplined members may make a written request to the Sheriff to have their personnel files purged of disciplinary actions as set forth in Sec18.10, Documentation.

G. The following information must be included with the written appeal presented to the Chief Deputy, the Undersheriff, the Sheriff and the Career Service Council:

1. Written statement of the issues and the facts upon which they are based.
2. A written statement of the remedy or adjustment sought.
3. All available written materials pertaining to the appeal or notation as to what is available and in whose possession it resides.
4. A list of potential witnesses.
5. Whether the member will represent him or her self or be represented by another person and the identity of such other person.
6. Copies of all written decisions made by supervisors on the issues being considered.

H. Motor Vehicle Accidents

1. Accident Review - Risk Management Committee: All accidents involving deputies or Sheriff's Office employees will be reported to the Claims Division of the County Attorney's Office and will be reviewed by the Risk Management Committee. The Committee will make a determination if the accident was preventable or non-preventable and shall recommend appropriate disciplinary or corrective action. The Committee will consist of the following County Officials or their designees: Sheriff, Clerk-Auditor, Health Department Director, Human Resources Director, Safety Officer, Fleet Director, Director of Operations, Chief Civil Deputy County Attorney, Claims Manager (non-voting member, staff for minutes and presentations). **Refer to the Weber County Risk Management**

Committee Policy and Procedure.

2. Appeal of Committee Actions: The Sheriff will make an appeal of a “preventable” accident decision by the Committee upon the request of the affected employee. An Appeal Hearing will be held and will be heard by a three member board appointed by the County Commission.
3. Accident Classifications and Definitions:
 - a. Preventable Accident: an accident in which an individual failed to act reasonably to prevent the accident.
 - b. For the **sole purpose** of defining the severity parameters of an accident, the following should be considered a guideline.
 - i. Minor Accident: when damage to a County vehicle and damage to any other vehicle or property does not exceed \$3000 in the aggregate and no injury to any person results.
 - ii. Moderate Accident: when aforementioned damage is more than \$3000 but does not exceed \$6000 in the aggregate and/or when any injury to any person results, but does not require overnight hospitalization or exceed \$1000 in medical costs.
 - iii. Severe Accident: when aforementioned damage exceeds \$6000 in the aggregate, and/or when any person is injured and said injury requires hospitalization for one or more days or medical expenses exceeding \$1000.(delete underlined)
4. Disciplinary Action: In cases where an accident is **determined to be preventable** by the Risk Management Committee, disciplinary action by the Sheriff or designee shall be determined as follows and may include a corrective action plan which may include a defensive driving course:
 - a. The Undersheriff or his designee shall convene a board of review consisting of the Executive Command. The board shall consider all mitigating and aggravating circumstances involved in the accident. These may include but are **not** limited to the following criteria:
 - i. Severity parameters. Special attention shall be given to the financial cost of an accident in order to be aware of external factors that determine this cost. (i.e. speed or actions of the other driver, repair costs of used or available materials, etc.)
 - ii. Time in service of the operator

- iii. Duty Assignment
- iv. Weather
- v. Time of Day
- vi. Accident history (preventable only)
- vii. Driving Status (response condition)
- viii. Road Material/Condition
- ix. Reason for Vehicle Use
- x. Vehicle Maintenance Records or equipment failure or wear
- xi. Internal distractions (radar, computer, radio t5traffic, etc.)
- xii. Any other items as specific to each accident as noted.

b. Disciplinary Actions:

- 1. Documented counseling with corrective action plan
- 2. Letter of Reprimand, with corrective action plan
- 3. Days Off (To be determined by board with consideration to frequency and severity of accidents)
- 4. Termination (outside of special conditions in 18.6.8 D(3))
- 5. The above suggestions will be submitted to the Sheriff for the final determination.

c. Special Condition: Termination may result for an accident of any degree of severity wherein an employee is found to be guilty of driving under the influence of alcohol or drugs, or is convicted of alcohol/drug related reckless driving.

d. Accident Record Expungement: The Sheriff may consider written requests for expungement of accident records after three years, and a review by a board appointed by the Undersheriff.

I. Shooting Review Board (SRB): The SRB is charged with the responsibility of examining each member's discharge of a firearm, except those exempted in the Firearms Policy of this Office. The SRB will make written advisory findings and recommendations to the Sheriff. The SRB shall consist of six Office members as designated by the Sheriff, with a Captain designated by the Sheriff to Chair the Board.

J. Review Board Procedures: The Review Board will meet as requested by the Sheriff. A majority will constitute a quorum for each Board meeting. Review Boards are investigatory and fact finding in purpose. Their recommendations are advisory in nature, suggesting to the Sheriff the opinions of its members. In order to replace members who may not be impartial on a particular matter, or to limit review of a member's conduct to superiors, the Sheriff may designate temporary members of any Review Board.

- 1. The Review Board Chairmen will direct the hearing proceedings. The

Board is not bound by formal procedures or rules of evidence. In the absence of the designated chairman, the senior ranking member will Chair the Board. A majority vote is required for findings and recommendations. Dissenting opinions may be submitted by members not in the majority. Reports from the Review Boards will include a review of the voting of each member. The majority report will specifically identify the reasoning leading to the findings and recommendations submitted. A tape recording shall be made of all hearings. Findings and recommendations will be submitted to the Sheriff, in writing, within ten calendar days after the hearing is completed. Upon submitting its findings and recommendations, the Review Board will also submit all evidence presented, all reports and other documents and the tape of the proceedings to the Sheriff.

2. The Review Board shall make its finding using the “substantial evidence” standard.
3. Review Boards conduct fact finding hearings only and do not charge members with specific misconduct. Members whose conduct is under review must attend Shooting Review Boards and formal Accident Review Board hearings. Members are entitled to written notification of the Review Board Hearing five calendar days prior to its occurrence, along with notification of the complaint or incident being reviewed. Members are entitled to be present during the hearing, but not during the deliberations or voting of the Board on its findings and recommendations. Members may be represented by counsel or by some other representative. A member or representative shall not have the right to question or cross-examine witnesses or otherwise raise objections to the conduct of the Board’s hearings, unless allowed by the Chairman. The member, upon request, may receive a copy of the findings and recommendations and the rationale for the Board’s decisions.

K. **Appeals of Accident Review or Shooting Review Board Disciplinary Actions:** may be made using guidelines outlined in Chapter/Sections 18.5.4, F & G.