



POLICY & PROCEDURE

ELKHART LAKE POLICE DEPARTMENT

SUBJECT: **DISCIPLINARY PROCEDURES**

SCOPE: All Department Personnel

DISTRIBUTION: Policy & Procedure Manual

REFERENCE: WI State Statute: 62.13(5), Chapter 164
2021 WI Act 82

NUMBER: 4.02

ISSUED: 06/01/2015

EFFECTIVE: 07/15/2015

RESCINDS

AMENDS

WILEAG 4TH EDITION

STANDARDS: 4.2.1, 4.2.2, 4.2.3,
4.2.4

INDEX AS: Counseling
Disciplinary System

PURPOSE: The purpose of this Policy & Procedure is to establish a disciplinary system to include procedures and criteria for the use of counseling and disciplinary actions in the interest of maintaining order within the Elkhart Lake Police Department and ensuring citizen trust. Levels of discipline include counseling, verbal reprimand, written reprimand, suspension, demotion, and dismissal.

This Policy & Procedure consists of the following numbered sections:

- I. PRINCIPLES OF DISCIPLINE
- II. COUNSELING AS A FUNCTION OF DISCIPLINE
- III. LEVELS OF DISCIPLINE
- IV. AUTHORITY TO USE DISCIPLINE
- V. APPEAL PROCEDURES
- VI. COMMAND STAFF RESPONSIBILITY
- VII. DISCIPLINE RECORDS

VIII. EMPLOYMENT FILE AND DISCIPLINE

I. PRINCIPLES OF DISCIPLINE

- A. Discipline is the process by which the Department ensures that each employee's conduct conforms to the standards of decorum and performance set by the Department. Disciplinary action against subordinates is granted and outlined by WI State Statute 62.13(5).

In the Elkhart Lake Police Department these standards are generally set forth in this Policy & Procedure as well as other Policy & Procedures covering policy and procedure. Standards may also be set by Code of Conduct, Special Order, Standard Operating Procedure, and memorandum or any other written directive approved by the Chief of Police.

- B. Discipline can take two forms of action:

1. Positive Action - When a violation occurs and a supervisor attempts to deal with the employee's misconduct through encouragement and persuasion, such as counseling and/or training.
2. Discipline - This is punishment of the employee for misconduct and can include an oral or written reprimand, suspension, demotion, or discharge.

- C. When carrying out the process of discipline, the following principles must be adhered to:

1. Whether the employee could reasonably be expected to have had knowledge of the probable consequences of the alleged conduct;
2. Whether the rule or order that the employee allegedly violated is reasonable;
3. Whether before filing the charge against the employee, the supervisor made a reasonable effort to discover whether the employee did in fact violate a rule or order;
4. Whether the effort described under sub. (3) was fair and objective;
5. Whether the supervisor discovered substantial evidence that the employee violated the rule or order as described in the charges filed against the employee;
6. Whether the supervisor is applying the rule or order fairly and without discrimination against the employee; and
7. Whether the proposed discipline reasonably relates to the seriousness of the alleged violation and to the employee's record of service with the Department.

- D. Supervisors will not reprimand subordinates in the presence of others of subordinate rank, civilian employees, or the public. This rule does not preclude a supervisor from immediately correcting the performance of a subordinate whenever it is necessary.
- E. Supervisors shall recognize the rights of employees and employ procedural safeguards to an employee requiring discipline.

II. COUNSELING AS A FUNCTION OF DISCIPLINE (WILEAG 4.2.1.1)

- A. The use of the counseling function within the disciplinary system is intended to provide the supervisor with an opportunity to bring noted deficiencies to the employee's attention.
- B. The supervisor should employ the counseling function to firmly advise the employee of the need to improve their performance, work habits, behavior or attitude.
- C. The counseling of the employee should serve as a firm warning to the employee against further repetition of the conduct in question.
- D. Supervisors should use the occasion to identify and define the areas needing improvement and inform the employee as to how much improvement is expected to be realistically achieved.
 - 1. If the counseling efforts of the employee's supervisor fail to bring about a remedy to the perceived problem, and the employee's unsatisfactory performance continues, one of the following steps may need to be considered:
 - a) Remedial training;
 - b) Punitive action; or if appropriate;
 - c) A referral to outside counselors, as appropriate.
 - 2. Supervisors will, in all cases, document all employee counseling sessions, including the results;
 - 3. Counseling sessions will be documented by written memorandum to the employee, with a copy to the employee's personnel file. This documentation will be removed from the file after twelve (12) months.
 - 4. Any documentation will indicate the details of performance that required the counseling, the intended purpose of the counseling, and the supervisor's observation of any effect that the counseling may have had on the employee.

III. LEVELS OF DISCIPLINE (WILEAG 4.2.1.2)

- A. The level of discipline taken in any instance shall be determined by the seriousness of the misconduct and by the extent of wrongdoing or injury to any person.

It shall also be commensurate with the circumstances surrounding the total incident and the employee's service record, including prior sustained instances of misconduct. When an employee's misconduct is similar or identical to previous cases of his or her misconduct, the level of discipline shall be more severe than the previous offense.

- B. The three levels of disciplinary action are as follows:

1. Minor Infraction

- a) A minor infraction is defined as a minor violation of rules, policies, and procedures, which will not discredit the Department or employee.
- b) A minor infraction shall be handled by any supervisor with counseling and/or training; or by discipline through an oral reprimand, or by the Chief or designee with a written reprimand.

2. Serious Infraction

- a) A serious infraction is defined as a violation of rules, policies, and procedures, which might discredit the Department or one of its employees. A record of minor infractions shall be handled at this level also.
- b) A serious infraction shall be handled by the Chief; and discipline shall range from a written reprimand up to a suspension and/or demotion.

3. Major Infraction

- a) A major infraction is defined as a violation of rules, policies, and procedures, which discredits the Department, threatens the Department's integrity, adversely affects the Department's efficiency, or adversely affects the employee's ability to perform their assignment. A record of infractions shall be handled at this level.
- b) A major infraction shall be handled by the Chief and range from a suspension and/or demotion to dismissal.

4. These three levels are guidelines only. The Chief may take discipline outside these guidelines when circumstances are present to warrant deviation.

- C. If an incident of employee misconduct results in discipline (oral reprimand, written reprimand, suspension, demotion, termination), the action shall be documented in written format.

1. The notice shall state the reason and effective date of the discipline.

2. The employee shall receive a copy: and the original shall be placed in the employee's personnel file located in the Chief's office.
 3. The employee shall also be informed of his/her appeal rights.
- D. Permanent employees may be discharged for just cause.
 - E. Probationary employees may be discharged or their probationary period extended for an additional one (1) year at any time during the probationary period without cause.
 - F. In disciplinary actions, sworn employees shall be afforded their rights and safeguards as outlined in WI. State Statutes, Chapter 164: Law Enforcement Officer's Bill of Rights; also refer to Policy & Procedure 4.03: Citizen Complaints/Internal Affairs. (WILEAG 4.2.1.3)

IV. AUTHORITY TO USE DISCIPLINE

- A. Counseling and/or training – A Senior Officer or higher rank
- B. Verbal reprimand - Chief of Police
- C. Relieved from duty with pay: Chief of Police
- D. Written reprimand - Chief of Police
- E. Suspension with or without pay - Chief of Police
- F. Demotion - Chief of Police/Administration and Finance Committee
- G. Discharge - Chief of Police/Administration and Finance Committee

V. APPEAL PROCEDURES

- A. Non-sworn employees may appeal disciplinary action to the Village Administrator as discussed in the Village of Elkhart Lake Employee Manual.
- B. Sworn employees have the right to request a hearing before the Police Review Commission for disciplinary action resulting in suspension, demotion, or dismissal.

VI. COMMAND STAFF RESPONSIBILITY

- A. Command staff members are members of the Department holding the rank of Captain and above.
- B. Command Staff are responsible for the orderly day-to-day operations of the Department. Command Staff review the activities of line personnel on a continual basis, assuring adherence to Department Policy & Procedures, directives, and memorandum.

Command Staff are also responsible for making recommendations to the Chief, which deal with levels of discipline beyond their authority (i.e., written reprimand, demotion, suspension, and dismissal).

- C. Command Staff are granted the authority to carry out the requirements of this Policy & Procedure. Command Staff are held accountable to the Chief for their actions and the actions of their subordinates.

VII. DISCIPLINE RECORDS

- A. All discipline records are maintained in the Office of the Chief of Police, separate from any other records.

VIII. EMPLOYMENT FILE AND DISCIPLINE

- A. Per 2021 WI Act 82, effective November 8th, 2021, all discipline shall be included in each Department member's employment file. Also refer to Policy & Procedure 2.07: Performance Evaluations

Michael Meeusen
Chief of Police

This Policy & Procedure cancels and supersedes any and all written directives relative to the subject matter contained herein.

Initial 06/01/2015