



Apex Police Department General Order



Title Disciplinary System and Complaint Resolution Procedure		Order Number 310-20
Effective Date: July 15, 2020	Amends: 310-19	
CALEA Standard: 22.4.1, 22.4.2, 22.4.3, 26.1.4, 26.1.5, 26.1.6, 26.1.7, 26.1.8, 33.1.5	Rescinds:	
Reference: Town of Apex Personnel Policy Manual	Pages: 11	
Forms: F310 - Counseling Documentation F310a - Written Warning Documentation		

Disciplinary System and Complaint Resolution Procedure

Purpose

The purpose of this directive is to establish an effective disciplinary system in accordance with the disciplinary policy established for employees by the Town of Apex.

Policy

It is the policy of the Apex Police Department to recognize and reward appropriate behavior, identify and provide appropriate training for employees to perform satisfactorily in their assignments, and to effectively correct the behavior of employees who are not in compliance with written directives.

Definitions

Detrimental Personal Conduct – Behavior, whether on or off-duty, intentional or unintentional, of such a serious detrimental nature that the functioning of the Town may be or has been impaired, the safety of persons or property may be or have been threatened, the laws of any government may be or have been violated, or public confidence in Town government is likely to be undermined. (Reference: *Town of Apex Personnel Manual*)

Electronic Employee File – A file which contains current evaluation notes, counseling sessions, compliments, training requests, awards, etc. that are accessible by the employee’s supervisor(s).

Disciplinary System and Complaint Resolution Procedure

Performance Improvement Plan (PIP) – A written plan identifying specific actions an employee is expected to take within a specified period of time, to meet the expectations of his/her position. PIPs are generally developed between the employee and his/her supervisor and must be approved by the Division Commander.

Personnel File – A file which contains an employee's employment history and is maintained by the Office of the Chief and/or Town of Apex Human Resources.

Personnel Record – Per NCGS 160A-168 an employee's personnel record consists of any information in any form gathered by the Town with respect to that employee and, by way of illustration but not limitation, relating to his/her application, selection or non-selection, performance, promotions, demotions, transfers, suspension and other disciplinary actions, evaluation forms, leave, salary, and termination of employment. As used in this section, "employee" includes former employees of the Town.

Progressive Discipline – A process of disciplinary action that includes increased sanctions for unsatisfactory work performance or conduct.

Unsatisfactory Job Performance – Any aspect of the employee's job that is not performed as required to meet the standards set by the supervisor. (Reference: *Town of Apex Personnel Manual*)

Procedure

Rewarding Superior Performance

The specific procedures governing rewarding superior performance is outlined in General Order 303 - *Awards and Commendations*.

Types of Action (33.1.5)

1. Disciplinary action consists of punitive actions only.
2. Remedial actions, as a function of discipline, may be imposed in lieu of punitive action.
3. The type and nature of action generally will depend upon the gravity of the situation, the circumstances under which it occurred, and the employee's past history of performance and conduct.

Guidelines

1. Supervisors will treat each employee equitably and will take advantage of opportunities to apply constructive and positive measures in efforts to improve performance.

Disciplinary System and Complaint Resolution Procedure

2. Any personnel involved in any disciplinary system procedure will treat such action as a *personnel matter*, and will:
 - Handle all documents concerning the action confidentially
 - Not discuss the matter with any person uninvolved with the action, other than as required by applicable written directives
 - Document such measures *only* as outlined in General Order 302 – *Personnel Complaint Investigation* and other applicable written directives
3. All employee disciplinary action will be guided by the Town Of Apex Personnel Manual.
 - **NOTE:** Where there is a conflict, the Town of Apex Personnel Manual takes precedence over this General Order.

Remedial Actions (33.1.5)

Supervisor/Employee Coaching Session

1. Supervisor/Employee coaching session refers to the routine day-to-day mentoring of employees generally conducted to improve an employee's performance.
2. Coaching sessions may be documented in the employee's electronic personnel file to ensure the employee is aware of performance expectations, has the opportunity to respond beyond any conversation with his/her supervisor, and to provide clarity of the conversation and agreement reached during the coaching session.

Supervisor/Employee Counseling Session (26.1.4(b))

1. Supervisor/Employee counseling session refers to a discussion for purposes of clarifying performance expectations and modifying employee behavior.
2. A counseling session may result in:
 - A resolution of a problem
 - Better understanding of performance expectations
 - Initiation of remedial training
 - Recommendation that an employee seek consultation through the Town of Apex Employee Assistance Program (EAP), the North Carolina Law Enforcement Assistance Program, the Apex Police Department Peer to Peer Program, or another program
 - Disciplinary action
3. All counseling sessions will be documented either in the employee's electronic personnel file or on Form F310 - *Counseling Documentation*.

Disciplinary System and Complaint Resolution Procedure

Remedial Training (26.1.4(a)) (33.1.5)

1. Remedial training may provide for the improvement of employee skills and may be imposed when recommended by a supervisor or when an employee:
 - Does not meet proficiency standards
 - Does not meet performance standards
 - Is not familiar with procedures or written directives
 - Displays conduct that indicates additional training would be beneficial
2. Supervisors recommending remedial training will notify their Division Commander through the chain of command.
3. Remedial training must be pre-approved by the Administrative Division Commander.
4. All remedial training will be documented and forwarded to the Training Unit.

Professional Counseling (26.1.4(b))

1. Professional counseling may take a variety of forms. Practitioners (including physicians, mental health counselors, and clergy) may be utilized to assist the employee in improving job performance.
2. Employees may seek assistance from the Employee Assistance Program or a practitioner of their choice, or may be referred to EAP or another program by a supervisor.
3. Details of professional counseling and utilization of the Employee Assistance Program is confidential and is not part of an employee file.

Performance Improvement Plan

1. A Performance Improvement Plan (PIP) may be used to outline specific job performance behaviors that are not being met and that require improvement.
2. PIP may be recommended by a supervisor, required as a result of an internal investigation, or recommended as a result of an Interim or Annual Evaluation.
 - The Division Commander or designee will work with the employee and his/her supervisor to develop a PIP, which will serve as a guide to help the employee meet expectations.
 - The employee and his/her supervisor(s) will receive a copy of the approved PIP.
3. Supervisors of employees placed on a PIP will monitor the employee's performance on an ongoing basis and will document their findings at least monthly.

Disciplinary System and Complaint Resolution Procedure

- Documentation will be forwarded through the chain of command to the Division Commander, who will review and ensure a copy is placed in the employee's electronic personnel file.
- Once approved, the documentation will be forwarded to the Office of the Chief of Police for filing in the employee's electronic personnel file.

Punitive Actions (26.1.4(c))

1. Punitive action will not be imposed without the approval of the Chief of Police, with the exception of immediate suspension as outlined in General Order 302 – *Personnel Complaint Process* and the *Town of Apex Personnel Manual*.
2. Punitive action may be considered in instances where an employee violates any of the following:
 - Federal or State laws
 - Town Ordinances
 - Town standards of required conduct for employees
 - Town or departmental directives, regulations, policies or procedures
 - Directives regarding Use of Force
 - Verbal or written instruction of a supervisor
 - Exhibits conduct that is unbecoming of an employee of the Apex Police Department
 - Exhibits a pattern of behavior and is not responsive to coaching, counseling, and other forms of action (i.e. remedial training)
 - Any behavior or performance that does not meet expectations

Written Warnings

1. Written Warnings may be given to an employee as the first step in the disciplinary process when, in the judgment of the Division Commander, Deputy Chief of Police, or Chief of Police, it would be appropriate in correcting performance issues.
 - Written Warnings indicate that future similar behavior or performance issues will not be tolerated and may lead to additional discipline being imposed.
 - A Final Written Warning puts the employee on notice that future incidents of unacceptable behavior or performance may result in additional discipline being imposed.
2. Both Written and Final Written Warnings will be documented on Form 310a – *Written Warning* and include, at a minimum:
 - The nature of the performance issue
 - Date and circumstances surrounding any previous related coaching and/or counseling sessions, Written Warnings or discipline
 - Measures deemed appropriate to correct the situation
 - Timeframe allotted to correct the situation

Disciplinary System and Complaint Resolution Procedure

- Future actions that may be taken if the situation is not corrected
3. A copy of each Written and Final Written Warning will be forwarded through the chain of command to the Office of the Chief of Police. (26.1.8)
 - All Written and Final Written Warnings will be maintained in the employee's electronic personnel file.
 - A copy will also be forwarded to the Town of Apex Human Resources Department.

Suspension

1. An employee may be suspended from duty in a disciplinary or non-disciplinary status in accordance with the *Town of Apex Personnel Manual*.
2. Employees who are suspended must immediately surrender their Apex Police Department identification card. Sworn employees must also surrender their badge(s), firearm, and all lethal and less lethal weapons.
3. While under suspension, employees will not perform any official duties nor represent themselves as a member of the Apex Police Department for the purposes of taking any action related to their job description.
4. While under suspension, employees will not wear any part of the department uniform; operate any Town of Apex or Apex Police Department vehicle; or carry, display or use any department issued equipment, except as directed by a supervisor. Employees under suspension must also return their assigned vehicles in accordance with General Order 608 - *Assigned Vehicle Program*.
5. While under suspension, employees may not be on Town property, to include in/on grounds of any police facility, unless being escorted by a supervisor of the rank of Corporal or above.

Demotion

1. Demotion is defined as a reduction in rank and may be imposed in addition to other discipline.
2. Once a demotion decision is finalized, the affected employee will be given written notification by the Chief of Police, which will contain the following:
 - The reason for the demotion
 - The subsequent rank and pay reductions
 - A statement regarding the appeal procedure
3. A copies will be maintained the employee's electronic personnel file and forwarded to the Town of Apex Human Resources Department. (26.1.8)

Disciplinary System and Complaint Resolution Procedure

Dismissal/Termination

1. Dismissal/Termination is defined as the involuntary termination of employment and represents the most severe form of discipline.
2. Dismissal/Termination may be imposed in accordance with the *Town of Apex Personnel Manual*.
 - If dismissal/termination is the recommended outcome, the Chief of Police will discuss the recommendation with the Director of Human Resources and the Town Manager.
 - The Town Manager is the official terminating “authority;” as such, once approved, there is no internal appeal procedure.
3. If employee misconduct results in dismissal/termination, the Chief of Police, Human Resources Department, or other appropriate person/department will provide the following information to the employee in writing: (26.1.7)
 - The reason for dismissal/termination (26.1.7 (a))
 - The effective date of the dismissal/termination (26.1.7 (b))
 - A statement of the status of fringe and retirement benefits after dismissal/termination (26.1.7 (c))
 - **NOTE:** This requirement does not apply to those employees who are released from employment during their initial training phase, the probationary period or any other circumstance where misconduct was not the proximate cause for the dismissal/termination.
4. A copies will be maintained the employee’s electronic personnel file and forwarded to the Town of Apex Human Resources Department. (26.1.8)

Relief from Duty

1. Any sworn, Command Officer at the rank of Lieutenant or higher, may temporarily relieve an employee from duty on an emergency basis when it is deemed to be in the best interests of the department. The Division Commander, Deputy Chief of Police and Chief of Police will be notified as soon as possible.
2. The Chief of Police will determine if the employee is to be suspended pursuant to the *Town of Apex Personnel Manual*.
3. Employees relieved from duty will follow the applicable provisions of this directive related to suspensions (i.e. turn in of credentials, equipment, etc.).
4. Refer to General Order 302 – Personnel Complaint Process and the *Town of Apex Personnel Manual* for additional guidance.

Disciplinary System and Complaint Resolution Procedure

Procedures for Documenting Disciplinary and Remedial Actions (33.1.5)

1. When an employee fails to meet the job responsibilities of his/her position, the supervisor is responsible for correcting the substandard performance, initiating remedial action, or recommending disciplinary action when appropriate.
2. Disciplinary action, if imposed, is for the purpose of improving employee performance or behavior.
3. Disciplinary and/or remedial action may be imposed in accordance with the *Town of Apex Personnel Manual*.
4. The type of disciplinary and/or remedial action taken depends on the facts and circumstances of the situation, and may include counseling, training, Written Warning, Final Written Warning, Suspension, demotion, or dismissal/termination.
5. All disciplinary and remedial action will be documented in accordance with this and other applicable written directives.

Unsatisfactory Job Performance

Unsatisfactory job performance includes any aspect of the employee's job that is not performed as required to meet the standards set by the supervisor. Refer to the *Town of Apex Personnel Manual* for examples of unsatisfactory job performance.

Detrimental Personal Conduct

Detrimental personal conduct includes behavior of such a serious detrimental nature that the functioning of the Town may be or has been impaired, the safety of persons or property may be or have been threatened, or the laws of any government may be or have been violated. Refer to the *Town of Apex Personnel Manual* for examples of detrimental personal conduct.

Disciplinary and Remedial Action Process for Unsatisfactory Job Performance (33.1.5)

Refer to the *Town of Apex Personnel Manual* for the disciplinary action process.

Disciplinary Action for Detrimental Personal Conduct

Refer to the *Town of Apex Personnel Manual* for the disciplinary action for detrimental personal conduct process.

Disciplinary System and Complaint Resolution Procedure

Process for Disciplinary Suspension, Demotion or Dismissal

Refer to the *Town of Apex Personnel Manual* for the disciplinary suspension, demotion, and dismissal/termination process.

Non-Disciplinary Suspension

The Chief of Police, in consultation with the Human Resources Director, may suspend an employee with or without pay. Refer to the *Town of Apex Personnel Manual* for information on non-disciplinary suspension.

Role of Supervisors in Discipline (26.1.5) (33.1.5)

Corporal, Sergeant, and Communications Shift Supervisor

The Corporal, Sergeant, and Communications Shift Supervisor is responsible for the identification and documentation of superior employee performance, and the identification, reporting and potentially the investigation of poor performance and employee misconduct. The Corporal/Sergeant/Communications Shift Supervisor may conduct counseling sessions, recommend remedial training, recommend punitive actions and, with approval, issue Written and Final Written Warnings.

Lieutenant, Communications Manager, and Records/IT Manager

The Lieutenant, Communications Manager, and Records/IT Manager is responsible for the identification and documentation of superior employee performance and the identification, reporting and potentially the investigation of poor performance and employee misconduct. The Lieutenant, Communications Manager, and Records/IT Manager may conduct counseling sessions, recommend remedial training, institute emergency relief from duty, recommend punitive action and, with approval, issue Written and Final Written Warnings.

Division Commander

The Division Commander is responsible for the identification and documentation of superior employee performance and the identification, reporting and investigation of poor performance and employee misconduct. The Division Commander may conduct counseling sessions, recommend remedial training, institute emergency relief from duty, develop PIPs, recommend punitive action, and, with approval, issue Written and Final Written Warnings.

Deputy Chief of Police

The Deputy Chief of Police is responsible for the identification and documentation of superior employee performance and the identification, reporting and investigation of poor performance and employee misconduct. In addition, the Deputy Chief of Police is responsible for managing and overseeing the disciplinary process, ensuring the proper investigation, resolution and

Disciplinary System and Complaint Resolution Procedure

documentation of all complaints, Personnel Early Warning System indications, PIPs and other activities related to these processes. The Deputy Chief of Police may conduct counseling sessions, recommend remedial training, institute emergency relief from duty, develop PIPs, recommend punitive action, and, with approval, issue Written and Final Written Warnings. In the absence of the Chief of Police, the Deputy Chief of Police may, based on the procedures found in the *Town of Apex Personnel Manual*, suspend, demote, or dismiss/terminate employees.

Chief of Police

The Chief of Police is responsible for the identification and documentation of superior employee performance and the identification, reporting and assigning for investigation of poor performance and employee misconduct. The Chief of Police may conduct counseling sessions, recommend remedial training, institute emergency relief from duty, issue punitive action, Written and Final Written Warnings, and conduct pre-disciplinary activities. The Chief of Police may, based on the procedures found in the *Town of Apex Personnel Manual*, suspend, demote, or dismiss/terminate employees.

Internal Complaint Resolution Process (26.1.6)

1. The Complaint Resolution Process for the Town of Apex is considered the “grievance” process.
2. All complaint resolution procedures will be conducted in accordance with *Town of Apex Personnel Manual*. (22.4.1)
3. The Town of Apex Human Resources Director is responsible for coordinating complaint resolution procedures and for the maintenance and control of complaint resolution records for the Apex Police Department. (22.4.2)
4. Refer to the *Town of Apex Personnel Manual* for matters subject to the Complaint Resolution Process. (22.4.1)
5. Refer to the *Town of Apex Personnel Manual* for the information that needs to be submitted during the complaint resolution. (22.4.1)
6. If the employee wishes to be accompanied by a representative, the employee may submit a written request, through the chain of command, to the Chief of Police to request approval. Generally, representatives must be employees of the department and may include supervisors or a command officers of the employee’s choice. (22.4.1)
 - The role of the assisting person is to be a witness, not to participate in the discussion, etc.

Disciplinary System and Complaint Resolution Procedure

Adverse Action Appeal Procedure for Discrimination (26.1.6)

When an employee, former employee, or applicant, believes that any employment action discriminates illegally (i.e. is based on age, sex, race, color, national origin, religion, creed, political affiliation, or disability), he/she has the right to appeal such action using the procedures outlined in the *Town of Apex Personnel Manual*. Refer to the manual for the process of filing a complaint based on discrimination.

Analysis of Matters Subject to the Complaint Resolution Process (22.4.3)

1. The Deputy Chief of Police or designee will conduct an annual analysis of matters subject to the complaint resolution process. The analysis should outline the following:
 - The nature of matters during the past year
 - Trends that may indicate a policy failure
 - Any recommended steps that may minimize the causes of future matters
2. The review will be completed and submitted to the Chief of Police, through the chain of command, no later than January 31st of the year following the period subject to the review.
 - This date may be extended with the approval of the Chief of Police.

Text in “Green” notes a significant change to policy.

BY ORDER OF:



John W. Letteney
Chief of Police