

Corrective Action

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1.0 POLICY

The Town of Carolina Beach attempts to provide for the uniform, fair and consistent administration of corrective action. However, employees may be dismissed at the will of the Town Manager or his designee

2.0 PURPOSE

This policy is to provide information to employees and supervisors about the behaviors and performance the Town of Carolina Beach considers unacceptable and guidance to supervisors about the rules and procedures that are to be followed in dealing with unacceptable behaviors and performance. The Town supports the use of progressive corrective action whenever possible and expects supervisors to use the process. However, in some cases, because of the circumstances surrounding the behavior or performance, the immediate suspension, demotion or dismissal of an employee may be appropriate.

3.0 SCOPE

Non-probationary benefit-eligible employees are covered by all sections of this policy. Other (non-benefit eligible) employees and employees in original probationary status are covered only by Section 5.1, D.

4.0 DEFINITIONS

- 4.1 Benefit-Eligible - Full time and part-time employees who are eligible for coverage and participation in the Town's benefit programs in addition to legally mandated coverage. See **Policy on Position Types**.
- 4.2 Other (not Benefit-Eligible) Employee - An employee assigned to a position designated roster, seasonal temporary or special project who is eligible for salary and mandated benefits only. See **Policy on Position Types**.
- 4.3 Unacceptable Behavior or Performance - Refer to Appendix 7.1, List of Unacceptable Employee Behavior and Performance for an illustrative list of examples of unacceptable employee behavior or performance.
- 4.4 Corrective Action - An action initiated by a supervisor to address and correct an employee's unacceptable behavior or performance. Corrective action is intended to obtain compliance with established rules of conduct and performance, not merely to punish an employee. (Note: Employee appeals of corrective action will conform to procedures outlined in this policy not those in **Policy on Employee Complaint Resolution**).
- 4.5 Progressive Corrective Action - A system of progressively impactful actions designed to correct unacceptable behavior or performance.
- 4.6 Authorized Manager - The Town Manager or the Assistant Town Manager are the only positions authorized to approve the suspension, demotion or dismissal of an employee.
- 4.7 Administrative Leave - Paid leave a department may use while conducting an investigation into an alleged employee misconduct/policy violation/performance related issue.

- 4.8 Coaching –A systematic process whereby a supervisor or manager provides ongoing constructive feedback about an employee’s work performance or behavior. Coaching in and of itself is not corrective action. It is a process which brings a work performance or behavior issue to the employee’s attention so that the employee can make the necessary modifications so that the performance or behavior issue does not become a matter for corrective action. Coaching is generally in-formal in nature and normally is a non-written form of feedback.
- 4.9 Oral Warning – A corrective action whereby a supervisor tells an employee that his behavior and/or performance is unacceptable.
- 4.10 Written Warning - A corrective action whereby a supervisor provides written notice to an employee that his behavior and/or performance is unacceptable.
- 4.11 Suspension - Corrective action in which an employee is placed out of work for a period of time without pay due to the employee’s unacceptable behavior or performance.
- 4.12 Demotion - The movement of an employee to a position in a lower job classification due to the employee’s unacceptable behavior or performance.
- 4.13 Dismissal - An act releasing an employee from continued employment with the Town of Carolina Beach as a result of the employee’s unacceptable behavior or performance.

5.0 ORGANIZATIONAL RULES

- 5.1 General Corrective Action Rules
 - A. Supervisors should consult Appendix 8.1, Guidance for Supervisors to Consider Prior to Implementing Corrective Action.
 - B. The Town Manager and the Assistant Town Manager are the only positions authorized to approve the suspension, demotion or dismissal of an employee.
 - C. The Human Resources Department should be involved in all corrective actions to ensure the process is uniform, fair and consistent. The Human Resources Department will consult as warranted and determine the involvement of the Town Attorney in resolving personnel matters.
 - D. Benefit-eligible employees in an original probationary status, and other (non-benefit-eligible) employees, are subject to dismissal at any time. If corrective action up to and including dismissal is taken, procedures outlined in this policy are not mandatory. However, all employees should be given an opportunity to respond prior to a decision to take corrective action.
 - E. Departments may establish other corrective action procedures that meet unique needs of the department provided these department rules are not in conflict with rules in the Personnel Policy Manual and are reviewed by the Human Resources Director and approved by the Town Manager.
 - F. If an employee resigns or retires during a corrective action process or a corrective action appeal process, the Town reserves the right to withhold discretionary terminal payments and/or any benefits until an investigation is completed and a final employee/retiree status determination is made.
- 5.2 Suspensions
 - A. Suspensions for corrective action are limited to a maximum of eighty (80) consecutive working hours, unless approved by the Town Manager.

B. If the employee is suspended and later is proved not at fault, he is to be reinstated to his same duties, classification, and rate of pay, and he is to receive pay at his regular rate for the time lost.

C. In regard to exempt employees, the Town may dock an exempt employees' wages on a day-to-day basis for serious violations of workplace conduct and infractions of workplace safety rules of major significance. An exempt employee may be suspended without pay for one or more full-day increments for violating written policies related to serious workplace conduct policies that prohibit sexual harassment, workplace violence, drug or alcohol abuse, or a violation of a state or federal law. This provision refers to serious misconduct, not performance or attendance issues. Serious infractions of workplace safety rules of major significance include rules related to the prevention of serious danger in the workplace or to other employees. A deduction from pay as a penalty for violating a safety rule of major significance can be made in any amount. Except as noted above, exempt employees may only be suspended for any unacceptable performance or behavior in increments of full FLSA workweeks. See Appendix 7.3, Guidance on Suspension of Exempt Employees for guidance on suspensions of employees exempt from the overtime compensation provisions of the Fair Labor Standards Act.

D. Non-exempt employees may be suspended for violations including, but not limited to: poor performance; poor attendance; violations of safety rules of major significance; workplace harassment; workplace violence; violations of State or federal laws; and impaired job performance due to alcohol or drug use.

6.0 PROCEDURES

- **6.1 At-will Employment**
The procedures outlined in this policy in no way guarantees the employee a right to continued employment. None of the practices or procedures contained herein shall be construed as an expressed or implied contract of employment or a promise of continued employment. None of these procedures are intended, by reason of their publication, to confer any rights or privileges upon any employee. The information appearing in this policy is not binding on the Town of Carolina Beach and is subject to change at the sole discretion of the Town of Carolina Beach.
- **6.2 Internal Investigations**
Internal investigations of employee behavior or performance shall be completed within two (2) weeks unless written permission is granted from the Town Manager or his designee and are delayed due to exceptional circumstances concerning the investigation. Supervisors should consult Appendix 7.2, Guidance for Conducting Personnel Investigations, for guidance concerning the conduct of personnel investigations. If additional guidance is required, supervisors should consult with the Human Resources Department.
- **6.3 Administrative Leave**
Administrative leave is not, in itself, a corrective action and is not subject to appeal. Administrative leave must be approved by the Town Manager or Assistant Town Manager. Administrative leave in excess of two (2) weeks must receive prior approval of the Town Manager.
- **6.4 Coaching**
Prior to implementing corrective action the supervisor should typically engage in coaching. The supervisor should explain the nature of the performance deficiency,

problem, inappropriate behavior or rule violation. The supervisor should also review the employee's job description, goals and expectations and other job requirements to assure accuracy and understanding. Most importantly, the supervisor should, in concert with the employee, identify potential solutions to the specific performance or behavior problem.

- 6.5 Oral Warning

If an oral warning is issued, the supervisor should write down the date of the warning and a brief summary of what was involved. This written record is for the supervisor's future use if appropriate.

- 6.6 Written Warning

A copy of the written warning should be sent to the Human Resources Department. The documentation should include the following:

- A. A brief summary of the unacceptable behavior or performance and the employee's response.
 - B. Dates and substance of any related previous warnings.
 - C. Specific actions the employee needs to take to establish satisfactory performance or behavior.
 - D. A timeframe allowed for improvement.
 - E. Notice that the employee is subject to future corrective action should his performance or behavior not improve to a satisfactory level.
- 6.7 Suspensions, Demotions and Dismissals
 - A. The Town Manager and the Assistant Town Manager are the only positions authorized to approve the suspension, demotion or dismissal of an employee. Typically the Assistant Town Manager will only approve the suspension, demotion and dismissal of employees that he directly supervises. Department Directors may recommend the suspension, demotion and dismissal of any employee employed in their respective departments.
 - 6.8. Appeals of Corrective Action
 - A. Oral Warnings
 - Oral warnings are corrective actions that should be resolved by the supervisor and cannot be appealed.

- B. Written Warnings

Written warnings may be appealed in accordance with the following steps:

1. The appealing employee must discuss the appeal with his immediate supervisor, in person, within ten (10) consecutive calendar days from the date of the written warning. The immediate supervisor must reply in writing to the employee within ten (10) consecutive calendar days of this discussion.
2. If the issue is not settled in step one (1), the employee may, within ten (10) consecutive calendar days of receipt of the immediate supervisor's reply, submit his appeal, in writing, to the next higher supervisor. The supervisor must reply in writing to the employee within ten (10) consecutive calendar days of receipt of the written appeal.
3. If the appeal is not settled in step two (2), the employee may, within ten (10) consecutive calendar days of the higher level supervisor's written reply, submit the appeal, in writing, to the next higher supervisor. The supervisor must reply in writing to the employee within ten (10) consecutive calendar days of receipt of the written appeal. If the appeal is still not settled, then the same process is continued until the appeal reaches the Department Director.

4. If the appeal is not settled in step three (3), the employee must submit his appeal, in writing, to the Department Director within ten (10) consecutive calendar days. The Department Director should hold the appeal hearing within ten (10) consecutive calendar days of receipt of the appeal. The employee is allowed to call witnesses and has the opportunity to question witnesses against him, present an oral argument, and have legal representation present. Any witness that is called must have first-hand personal knowledge of the relevant issues. The appeal hearing may be recorded by the Town. The Town Attorney's Office and/or the Human Resource Director will advise the Department Director on the methodology of conducting the appeal hearing (Appendix 8.6, Appeal Hearing Procedures). If the immediate supervisor is the Department Director, then steps one (1) through three (3) outlined above are combined into a single step.

5. The Department Director should notify the employee, in writing, of his decision within ten (10) calendar days after the date of the appeal hearing.

6. Written warnings may not be appealed beyond the Department Director.

7. Any Department Head receiving a written warning may appeal to their immediate supervisor. The immediate supervisor should hold the appeal hearing within ten (10) consecutive calendar days of receipt of the appeal. The employee is allowed to call witnesses and has the opportunity to question witnesses against him, present an oral argument, and have legal representation present. Any witness that is called must have first-hand personal knowledge of the relevant issues. The appeal hearing may be recorded by the Town. The Town Attorney and/or the Human Resource Director will advise the immediate supervisor on the methodology of conducting the appeal hearing (Appendix 8.6, Appeal Hearing Procedures).

C. Suspensions, Demotions and Dismissals

Employees may appeal suspensions, demotions and dismissals pursuant to the following procedures:

1. The appealing employee must request an appeal hearing, in writing, within ten (10) consecutive calendar days from the date that the authorized manager's decision was delivered to the employee.

2. The authorized manager should conduct the appeal hearing within ten (10) consecutive calendar days of receipt of the employee's written appeal. The employee is allowed to call witnesses and has the opportunity to question witnesses against him, present an oral argument, and have legal representation present. Any witness that is called must have first-hand personal knowledge of the relevant issues. The appeal hearing may be recorded by the Town. The Town Attorney and/or the Human Resource Director will advise the authorized manager on the methodology of conducting the appeal hearing.

3. The authorized manager should notify the employee, in writing, of his decision within ten (10) calendar days after the date of the appeal hearing.

4. Appeal to the Town Manager's Office:

Dismissals that are not settled in step three (3) may be appealed by the employee to the Town Manager within ten (10) consecutive calendar days of the authorized manager's response. The Town Manager shall review the

written record (required). In addition, the Town Manager may choose to interview the employee, department supervisory officials, or other individuals with relevant information. The Town Manager must respond in writing to the employee within twenty (20) consecutive calendar days of the receipt of the written appeal. If an investigation will take longer to resolve than the specified twenty (20) days, the Town Manager will notify the employee within the 20 days and will give him an estimated time for completion of the investigation. The Town Manager has final authority on all dismissals.

7.0 APPENDIX, APPENDICES

- List of Expected and Unacceptable Employee Behavior and Performance
- Guidance for Conducting Personnel Investigations
- Guidance on Suspension of Exempt Employees
- Corrective Action Plan