



# Town of Lexington

## Police Department

<b>Subject:</b> Discipline	
<b>Effective Date:</b> 09-01-2011	<b>Review Date:</b> Annually
<b>By Order of:</b> Mark J. Corr, Chief of Police	

### Policy & Procedure

# 26C

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## GENERAL CONSIDERATIONS AND GUIDELINES

Discipline is often thought of in a limited sense as meaning punishment or penalty, a negative connotation. However, the term means, more nearly, instructing, teaching and training. It is the policy of the Lexington Police Department to maintain an effective and responsive system of personnel accountability and discipline to facilitate coordination of effort, develop self-control and character of personnel, while fostering the orderly and efficient operation of the Department

A clearly defined disciplinary policy enables all officers and employees to know what is expected of them and to understand that appropriate disciplinary action will be administered when required.

## PROCEDURE

### A. Supervisory Responsibilities

Supervisors at all levels within the Department's chain of command are responsible for the administration of discipline.

1. First line supervisors have the continuing opportunity to observe employee conduct and appearance and must administer discipline where it will be most effective.

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2. All standards of conduct and duty performance will be enforced in a fair, impartial, and consistent manner.
3. Progressive discipline should be employed when appropriate.
4. The severity of disciplinary action taken shall be in relation to the seriousness of the particular offense committed and the history of the individual involved.

### B. Functions of Discipline

The three categories of discipline: positive, corrective, and punitive, are intended to be used as follows:

1. Positive discipline is designed to reward exemplary performance and to stimulate the morale of the employee(s).
2. Corrective discipline may include training, coaching and counseling and is appropriate in those cases involving minor duty infractions or omissions that can be corrected by these methods.
3. Punitive discipline, or disciplinary action, shall be progressive when applicable. Punitive discipline is appropriate only for serious or repetitive violations, or when other forms of discipline have failed.
4. Recognition of employee actions within a discipline system may come in many forms, i.e. coaching, counseling, letters of recognition, letters of commendation, meritorious awards, reprimands, letters of concern, letters of reprimand, suspension, reassignment, demotion in rank, or discharge.

### C. Positive Discipline

1. A program of recognizing and/or rewarding outstanding performance is an essential component of effective disciplinary process. It provides a mechanism by which deserving officers can receive official acknowledgement for their accomplishments.
2. Any meritorious act or action performed by a member of the Department, which is considered to be above and beyond the performance of routine duty, should be reported in writing to the Chief of Police by the supervisor involved.
3. Following review of the report, the Chief of Police may issue a Letter of Recognition, Letter of Commendation or any other award deemed appropriate to the employee, setting forth the circumstances and basis for the award.

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4. The Chief of Police may forward the Letter of Commendation to the Appointing Authority, who may issue a Certificate of Commendation for superlative and distinguished performance of police duty.
5. The criteria to be considered when recommending and awarding a commendation are:
  - a. The personal display of extraordinary courage and valor in the performance of police duty;
  - b. The exemplary performance of meritorious police service to the community;
  - c. The performance of outstanding and exceptional service to the police department.
6. The official commendation will be read at Roll Call, posted on the Chief's Bulletin Board in the first floor hallway and a copy placed in the commended employee's personnel file.

### D. Corrective Discipline

1. The nature and seriousness of an employee's actions, along with the supervisor's belief that these actions can be corrected through counseling and/or training, shall be the criteria for determining when corrective discipline is appropriate. Corrective discipline is appropriate only in those cases involving minor duty infractions.
2. When the supervisor decides that counseling is appropriate, he shall:
  - a. Document the conditions that prompted the counseling session.
  - b. Inform the employee of the corrective action expected and discuss and agree upon a set length of time when this corrective action shall take place
    - i. This period of time may be as short as a number of weeks or as long as deemed necessary to correct the action.
    - ii. The length of time decided must be relative to the action that is deemed in need of correction
  - c. Forward documentation to the Chief of Police or a designee.
  - d. Observe the employee for compliance with the corrective action plan.
3. When a supervisor determines that an employee's performance may be corrected through additional training, he shall:

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- a. Document the employee's shortcomings, deficiencies, or lack of experience.
- b. As appropriate:
  - i. Take immediate steps to retrain the employee in the deficient areas; and/or
  - ii. Forward a request to the Captain of Administration for additional and/or remedial training.
- c. Observe the employee for improved performance.

### E. Punitive Discipline

1. Under the provisions of Massachusetts General Laws Chapter 31, officers and employees may be disciplined for just cause. This would include any misconduct or unsatisfactory behavior, which impairs personnel or departmental efficiency or effectiveness.
2. Disciplinary actions, which may be imposed after statutory procedural requirements are observed, are as follows:
  - a. Punishment duty (M.G.L. c.31, s.62);
  - b. Suspension not exceeding five days (M.G.L. c.31, s. 41);
  - c. Suspension exceeding five days (M.G.L. c.31, s. 41);
  - d. Lowering in rank and compensation (M.G.L. c.31, s. 41);
  - e. Transfer without consent (M. G.L. c.31, s. 41)(Does not include transfers or assignment changes within the department);
  - f. Discharge (M.G.L. c.31, s. 41).
3. Collective bargaining agreements may outline additional procedures and protocols. **It is important to note, these labor contracts may supersede the procedures outlined in this policy.**

### F. Disciplinary Action and Appeal Procedures – Civil Service Officers

1. Discipline and appeal procedures for all civil service employees are found in Massachusetts General Laws Chapter 31.
2. Whenever disciplinary action is taken against an employee of the Department whose job is guided by the Civil Service Commission, it should be known that there are rules and procedures in place to protect that employee's rights against unfair discipline. The following procedures shall be followed:
  - a. A tenured employee shall not be discharged, removed, suspended for a period of more than five days, laid off, transferred from his position without his written consent if he has served as a tenured

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employee since prior to October 14<sup>th</sup>, 1968, lowered in rank or compensation without his written consent, nor his position be abolished.

- b. **Before such action is taken**, such employee shall be given a written notice by the appointing authority, which shall include:
  - i. The action contemplated;
  - ii. The specific reason or reasons for such action;
  - iii. A copy of Chapter 31 sections 41 through 45; and
  - iv. Shall be given a full hearing concerning such reason or reasons before the appointing authority or a hearing officer designated by the appointing authority.
- c. The appointing authority shall provide such employee a written notice of the time and place of such hearing at least three days prior to the holding thereof, except that if the action contemplated is the separation of such employee from employment because of lack of work, lack of money, or abolition of position the appointing authority shall provide such employee with such notice at least seven days prior to the holding of the hearing and shall also include with such notice a copy of sections thirty-nine and forty.
- d. If such hearing is conducted by a hearing officer, his findings shall be reported forthwith to the appointing authority for action. Within seven days after the filing of the report of the hearing officer, or within two days after the completion of the hearing if the appointing authority presided, the appointing authority shall give to such employee a written notice of his/her decision, which shall state fully and specifically the reasons therefore.
- e. Any employee suspended pursuant to this paragraph shall automatically be reinstated at the end of the first period for which he/she was suspended. In the case of a second or subsequent suspension of such employee for a period of more than five days, reinstatement shall be subject to the approval of the administrator, and the notice of contemplated action given to such employee shall so state. If such approval is withheld or denied, such employee may appeal to the commission as provided in paragraph (b) of section two.
- f. A civil service employee may be suspended for just cause for a period of five days or less without a hearing prior to such suspension. Such suspension may be imposed only by the appointing authority or by the Chief of Police to whom the appointing authority has delegated authority to impose such suspensions, or by a subordinate to whom the chief has delegated such authority.

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- g. Within twenty-four hours after imposing a suspension under paragraph f, the person authorized to impose the suspension shall provide the person suspended with a copy of sections forty-one through forty-five and with a written notice stating the specific reason or reasons for the suspension and informing them that they may, within forty-eight hours after the receipt of such notice, file a written request for a hearing before the appointing authority on the question of whether there was just cause for the suspension.
- h. If such request is filed, a hearing shall occur before the appointing authority or a hearing officer designated by the appointing authority within five days after receipt by the appointing authority of such request.
- i. Whenever such hearing is given, the appointing authority shall give the person suspended a written notice of the decision within seven days after the hearing.
- j. A person whose suspension under this paragraph is decided, after hearing, to have been without just cause shall be deemed not to have been suspended, and he/she shall be entitled to compensation for the period for which he/she was suspended.
- k. A person suspended under this paragraph shall automatically be reinstated at the end of such suspension. An appointing authority shall not be barred from taking action pursuant to the first paragraph of this section for the same specific reason or reasons for which a suspension was made under this paragraph.
- l. If it is the decision of the appointing authority, after hearing, that there was just cause for an action taken against a person pursuant to the first or second paragraphs of this section, such person may appeal within 10 days to the civil service commission as provided in section forty-three.
- m. The decision of the commission made pursuant to this section shall be subject to judicial review as provided in section forty-four.

### G. Non Civil Service Employees

Disciplinary procedures for an employee who is not a police officer is outlined in the Town of Lexington's personnel procedures manual and/or is outlined in a collective bargaining agreement.