

## PPM Update

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POLICY NUMBER/TITLE

Civilian Policy #31 Communication

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**Change Requested By:** Human Resources and City Attorney's Office

**Description of Change:** Removed old references and updated language

**Reason for Change:** Updating language to make the policy more clear to employees.

**Markup for Council:**

### ***Policy # 31*** **COMMUNICATION**

It is the policy of the City of Colorado Springs to encourage and promote open, two-way communications throughout all levels in the organization.

#### Management Responsibility

**Department Heads and Assistant/Deputy Directors or equivalent** ~~Department Directors/Division Managers or Council/Mayoral Appointees~~ are responsible for ensuring that open, two-way communication channels are established and maintained in their units. **Managers and supervisors** ~~Directors/Managers~~ should hold regular meetings with their employees and use their best efforts to keep employees informed of developments and changes in both the immediate work group and the City. **Managers and supervisors** ~~Directors/Managers~~ should be accessible to employees in order to address concerns and questions in a timely manner.

#### Employee Responsibility

Employees should communicate regularly with their supervisor and seek answers to concerns and questions as they arise. Issues in the immediate workplace should be brought to the supervisor's attention.

The City encourages employees to resolve problems with their immediate supervisor prior to seeking other avenues of recourse. If ~~the employee's concern/problem involves the application of policy or procedure and they cannot reach~~ a satisfactory conclusion with their supervisor **cannot be reached, or the employee is uncomfortable discussing the situation with their immediate supervisor, the employee may go to any member of their management team or Human Resources to discuss problems or concerns.** ~~then the employee may utilize the Complaint Resolution Procedure.~~

~~When the issue is outside the scope of the Complaint Resolution Procedure, or an employee is uncomfortable discussing the situation with their immediate supervisor, the employee may go to any member of their management team, Human Resources, or Equal Opportunity Programs to discuss~~

~~problems or concerns, or to seek clarification of an issue. Employees will be afforded this opportunity openly and without reprisal. Open door meetings must be scheduled at a time mutually acceptable to all parties.~~ **The employee may also use the Complaint Resolution Process outlined in Policy #32.**

### Alternative Communication Resource

The City of Colorado Springs contracts with a third-party Employee Assistance Program (EAP) to assist employees with work or personal problems. The EAP is staffed with counselors that are professionals qualified to help employees deal with everyday work-life challenges, as well as, more serious personal issues. The City's contract with the EAP provides an opportunity for each employee to have six paid sessions with a professional counselor per problem. The EAP offers services in the following areas:

- Parenting
- Childcare
- Relationship Issues
- Stress Management
- Financial Resources
- School Issues
- Elder Care
- Dependent Care
- Depression
- Substance Abuse

The service is also available for groups that need to resolve conflict, develop team goals and communication, or to deal with a traumatic event. The sessions, which are voluntarily scheduled, are confidential and employees who utilize the service will not be subject to reprisal.

Sessions, which are directed by management to be mandatory to attend, are not confidential and the results will be released to the City.

## PPM Update

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**POLICY NUMBER/TITLE**

**Civilian Policy 38 – Criminal Charges**

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**Change Requested By:** Human Resources and City Attorney's Office

**Description of Change:** Added pre-deprivation process for regular employees. Providing more detailed outline of employee work status.

**Reason for Change:** Policy was not clear on pre-deprivation process and process with pending or resolved criminal charges.

**Markup for Council:**

## ***Policy # 38*** **CRIMINAL CHARGES**

An employee must notify their immediate supervisor **or manager,**~~Division Manager or Council/Mayoral Appointee~~ of any criminal charge no later than 5 working days after such charge is filed. If an employee is hired with pending criminal charges, the employee must immediately report such violation to their supervisor, ~~or Division or Manager or Council/Mayoral Appointee.~~

### **Definition**

Criminal charges include felony, misdemeanor, public and petty offenses, **DUI/DWAI**, as defined in the statutes of the United States, the State of Colorado, other sovereign states, the City of Colorado Springs, and other city and county governments. Criminal charges shall not include traffic or other charges that have been decriminalized such as noise prohibited, littering etc., which are specifically differentiated and exempted from criminal offenses.

### **Employee Work Status**

**If an employee is indicted for a felony or charged with a felony by the filing of information, the City may place the employee on administrative leave without pay.**

**If the City is considering administrative leave without pay for a regular (not at-will) employee, the Assistant Director or Deputy Director or equivalent in the employee's department and Human Resources will conduct a pre-deprivation meeting to determine whether the employee should be placed on administrative leave without pay. The employee will be given advance notice of the meeting by phone and/or a letter mailed to the employee's address on file with the department and may choose to be present and/or participate in the meeting. The employee may have legal counsel, or another person present at the meeting; however, neither legal counsel nor the other person may participate in the meeting unless the employee is unable to participate due to the employee's incarceration or hospitalization. The Assistant/Deputy Director or equivalent will determine whether the employee will be placed on administrative leave without pay, subject to final approval by the Department Director. At-will employees are not entitled to the pre-deprivation process.**

**Factors the Assistant/Deputy Director or equivalent may consider in this decision include, but are not limited to:**

- **The nature and seriousness of the charge**

- Whether the conduct underlying the charge is directly related to the employee's position or occurred on duty
- The performance, discipline, and/or criminal history of the employee
- The impact on the public trust and the reputation of the City and the department if the employee remains at work or is placed on administrative leave with pay, and/or
- Other circumstances the Assistant/Deputy Director or equivalent deems appropriate for consideration

If the employee pleads guilty, pleads no contest, receives a deferred sentence, and/or is found guilty of any criminal offense, the City may continue the employee's administrative leave without pay until completion of the administrative investigation and any disciplinary action that results.

If criminal charges remain pending for over 90 days after the employee is placed on administrative leave without pay, the Assistant/Deputy Director or equivalent and Human Resources will review the matter to determine whether the employee should remain on administrative leave without pay, convert to administrative leave with pay, or return the employee to work. In determining whether the employee should return to work, the Assistant/Deputy Director or equivalent will consider the safety of other employees and the public.

If all felony charges pending against the employee are dismissed or if the employee is acquitted of all felony charges at trial, the Department Head in consultation with the Human Resources Department ~~in their sole discretion~~, may:

- Return the employee to duty, or
- Change the employee's status from administrative leave without pay to administrative leave with pay pending the resolution of the administrative investigation and/or disciplinary procedure.

If an employee is returned to duty, the Department Head, in consultation with Human Resources, may approve back-pay for the number of days the employee was on administrative leave without pay.

~~The Division Manager, in consultation with the Department Director or Council/Mayoral Appointee, will determine the appropriate action regarding the employee's status with the City, pending the disposition of the case. An employee against whom criminal charges have been filed may be placed on a leave of absence, pending the outcome of such charges. Such leaves of absence, including pay status, must be approved by the Department Director or Council/Mayoral Appointee and the Human Resources Manager. In the case of a leave of absence without pay, an employee may utilize accrued vacation during this period. The City may proceed with disciplinary action regardless of the status of the criminal case.~~

## Workplace Drug Convictions

If the employee is engaged in federally funded work covered by the Drug-Free Workplace Act of 1988, the grantee Department/Division shall notify the granting agency within 10 working days after receiving notice from the employee or otherwise receiving official notice of such convictions.

## Case Resolution

**Notification Requirement:** The employee is responsible for notifying the ~~Division Manager~~ **Assistant/Deputy Director or equivalent** of the outcome of the case no later than 5 working days after conclusion of the case. If the ~~Division Manager~~ **Assistant/Deputy Director or equivalent** is unavailable for any reason, the employee must notify the Department Head ~~Director or Council/Mayoral Appointee~~. Failure to notify the appropriate personnel may be grounds for termination.

**The City reserves the right to take disciplinary action up to and including termination, regardless of the outcome of the case. Retroactive salary and benefits will not be provided in cases resolved through a finding or plea of guilty, no contest, or deferred sentence.**

## Action Following Case Resolution

~~If one of the following results occur, the employee may be reinstated, including retroactive salary and benefits:~~

- ~~• Employee is found not guilty~~
- ~~• Employee receives a deferred prosecution~~
- ~~• The charges are dismissed/dropped~~

~~The City reserves the right to take disciplinary action up to and including termination, regardless of the outcome of the case. Retroactive salary and benefits will not be provided in cases resolved through a finding or plea of guilty, no contest, or deferred sentence.~~

## Action Following Conviction

The ~~Department Director/Division Manager or Council/Mayoral Appointee~~ **Department Head, in consultation with Human Resources**, will determine the appropriate action upon notification of a finding of guilty, a plea of guilty, no contest, or a deferred sentence.

Factors to be considered in determining the appropriate disciplinary action include, but are not limited to, the following:

- Nature and type of the crime
- Employee's position
- Employee's prior job performance
- Employee's length of service
- Employee's fitness to perform

## Disciplinary Rights

The City reserves the right to take disciplinary or corrective action against an employee, up to and including termination, for violation of any local, state, or federal criminal laws which, in its sole judgment, may render the employee unfit to perform their job, may bring disrepute upon, and/or may compromise the integrity of the City.

*Last revised: 4/17*

## PPM Update

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POLICY NUMBER/TITLE

Civilian Policy 44 - Discipline

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**Change Requested By:** Human Resources and City Attorney's Office

**Description of Change:** Added pre-deprivation process for regular employees and updated policy to reflect City practice. Updating appeal processes.

**Reason for Change:** Pre-deprivation process was not included in policy, but is required by law. Several pieces of the policy did not match current processes.

**Markup for Council:**

### ***Policy # 44 DISCIPLINE***

It is the policy of the City of Colorado Springs to provide a system of discipline **for regular (not at-will) employees** which affords an opportunity for the resolution of unsatisfactory employee performance or conduct. The system includes an appeal procedure.

#### Coverage

The City of Colorado Springs **does not follow a progressive discipline process and** reserves the right to determine the seriousness of an offense and the appropriate level of discipline.

#### Types of Offenses or Grounds for Discipline

- Inappropriate conduct (see Policy and Procedure # 35, Standards of Conduct; # 36, Workplace Harassment; # 37, Drugs or Alcohol in the Workplace; # 38, Criminal Charges; # 39, Business

Code of Ethics; # 40, Gratuities, Honorariums and Gifts; # 41, Smoking and Sale of Tobacco Products; and # 42, Political Activity).

- Violations of **verbal or written City or Department** policies and procedures.
- Failure to take corrective action in response to prior discipline or a performance improvement plan.
- Unsatisfactory job performance (~~two consecutive performance reviews, no less than 30 days apart, with "Needs Improvement" ratings~~).

## Role of Supervisors/Management

The appropriate level of supervisor and/or manager, as indicated **in the chart** below, is responsible for the following actions:

- ~~• Conduct inquiry into allegations and determine level of investigation.~~
- **Informing their HR Business Partner of violations of verbal or written City or Department policies or procedures.**
- Determine whether employee actions warrant discipline **in consultation with Human Resources.**
- Determine the appropriate level of discipline **in consultation with Human Resources.**
- Notify employees in writing of disciplinary action, **including documented verbal reprimands.** ~~excluding verbal reprimands.~~
- Prepare, in conjunction with the employee, the performance improvement plan, as appropriate.
- Coordinate and conduct disciplinary appeal ~~hearings~~ **meetings.**
- Conduct the **pre-deprivation and** pre-termination meetings (**Department Heads or Assistant/Deputy Directors or equivalents**) ~~Division Managers, Department Directors, or Council/Mayoral Appointees~~ in accordance with Policy and Procedure # 46, **Pre-deprivation and** Pre-Termination Meetings.

## Role of Human Resources

Human Resources shall provide the following support:

Advise supervisors and managers concerning appropriate investigative methodology and disciplinary alternatives.

- **Consulting on items listed above.**
- Maintain the record of disciplinary action in the employee's official personnel file.
- **Conduct inquiry into allegations and determine level of investigation, as appropriate.**
- Coordinate and facilitate the **disciplinary process and meetings.** ~~peer review process.~~

~~Coordinate the recording of all disciplinary appeals.~~

## At-Will Employees

**At-will employees are not entitled to pre-deprivation, pre-termination, or appeals. At-will employees are subject to termination at any time without notice or cause.**

**DISCIPLINARY ACTIONS**

Authority: The City reserves the exclusive right to determine the type and level of disciplinary action.

Discipline	Type of Offense	Terms	Subject to Appeal
Verbal Reprimand	<ul style="list-style-type: none"> <li>Minor incidents of misconduct, <b>poor performance</b>, or policy violations</li> </ul>	<ul style="list-style-type: none"> <li>Imposed by all levels of supervision and management</li> <li>Informal written record maintained by the immediate supervisor</li> </ul>	No
Written Reprimand	<ul style="list-style-type: none"> <li>Failure to take corrective action</li> <li>Serious <b>instances of misconduct, poor performance, or</b> policy violations <del>or incidents of misconduct</del></li> </ul>	<ul style="list-style-type: none"> <li>Imposed by all levels of supervision and management</li> <li>Written record maintained in the employee's official personnel file</li> </ul>	No. Response to reprimand may be prepared by employee and placed in personnel file within 10 days of issuance. <del>Employee may request removal of reprimand by the Department Head</del> Director two (2) years from date imposed, as long as no additional discipline has occurred.
Suspension Without Pay	<ul style="list-style-type: none"> <li>Failure to take corrective action</li> <li>Serious <b>instances of misconduct, poor performance, or</b> policy violations <del>or incidents of misconduct</del></li> </ul>	<ul style="list-style-type: none"> <li><del>Imposed by the following levels of management, for time periods indicated: Division Managers, Deputy Chiefs, Battalion Chiefs and Commanders up to 60 working days/Department Heads Directors up to 90 working days/ Mayor/Council/Mayoral Appointee up to 120 working days.</del></li> <li><del>Personnel Action Form (PAF) required.</del></li> <li>Requires Pre-deprivation meeting.</li> </ul>	Yes-To the Department <b>Head Director/ Council/Mayoral Appointee.</b> <del>Suspensions without pay greater than 30 hours may also be appealed to Peer Review. Suspensions without pay will not be removed from an employee's file for record keeping purposes.</del>
Suspension With Pay	<ul style="list-style-type: none"> <li><del>Inability or unwillingness to perform important job functions</del></li> </ul>	<ul style="list-style-type: none"> <li><del>Imposed by all levels of supervision and management</del></li> <li><del>One day written and signed Performance Improvement Plan executed by the employee and supervisor required for continued employment.</del></li> <li><del>Failure to agree may result in additional disciplinary action.</del></li> <li><del>Requires prior review by next higher level of management</del></li> </ul>	No
Reduction in Pay	<ul style="list-style-type: none"> <li><del>Serious violations of policy or incidents of misconduct</del></li> </ul>	<ul style="list-style-type: none"> <li><del>Imposed by Division Manager, Department Director, Council/Mayoral Appointee or Mayor.</del></li> <li><del>Reductions in salary up to 30 days pay, prorated over an appropriate period of time.</del></li> <li><del>Personnel Action Form (PAF) required.</del></li> <li><del>Requires Pre deprivation meeting.</del></li> </ul>	Yes To the Department Director/ Council/Mayoral Appointee or Peer Review
Involuntary Demotion	<ul style="list-style-type: none"> <li>Unsatisfactory job performance</li> <li><del>Disciplinary reasons relating to a serious violation or incident</del></li> <li><del>Failure to take corrective action regarding previous discipline</del></li> <li>Failure to take corrective action</li> <li>Serious <b>instances of misconduct, poor performance,</b></li> </ul>	<ul style="list-style-type: none"> <li><del>Imposed by Division Manager, Department Head</del></li> <li>Director, Council/Mayoral Appointee or Mayor</li> <li>Salary reduced to new classification <b>in coordination with</b> Coordinated with the Human Resources Manager</li> <li>Pre-deprivation meeting required                             <ul style="list-style-type: none"> <li>Other review with the next higher level of management</li> </ul> </li> </ul>	Yes-Supervisors/Managers who are not at-will may appeal to the Department Director/ Council/Mayoral Appointee. Any employee not in a supervisory or managerial capacity may appeal to Management or Peer Review. <b>To the Deputy Chief of Staff, Chief of Staff,</b>

	<ul style="list-style-type: none"> <li>or policy violations or incidents of misconduct</li> <li>• <b>Failure to successfully complete a performance improvement plan</b></li> </ul>	<ul style="list-style-type: none"> <li>• <del>Personnel Action Form (PAF) required.</del></li> <li>• <del>Requires Pre deprivation meeting</del></li> </ul>	<p><b>or Police Chief or Fire Chief depending on department</b></p>
Termination	<ul style="list-style-type: none"> <li>• <del>Failure to correct unsatisfactory performance identified in a performance improvement plan</del></li> <li>• <del>Disciplinary reasons relating to a serious violation or incident</del></li> <li>• <del>Failure to take corrective action regarding previous discipline</del></li> <li>• Failure to take corrective action</li> <li>• Serious <b>instances of misconduct, poor performance, or policy violations or incidents of misconduct</b> <ul style="list-style-type: none"> <li>• Failure to <b>successfully complete</b> <del>correct problem behavior identified in a performance improvement plan</del></li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Imposed by <del>Division Manager, Department</del> <b>Head Director, Council/Mayoral Appointee or Mayor</b></li> <li>• Pre-termination meeting required</li> <li>• <del>Severance pay option may be an alternative and can only be granted by the Mayor, upon approval of the City Council</del></li> <li>• <del>Personnel Action Form (PAF) required.</del></li> </ul>	<p>Yes- <b>To the Deputy Chief of Staff, Chief of Staff, or Police Chief or Fire Chief depending on department</b> Director/ Council/Mayoral Appointee</p>

## PPM Update

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POLICY NUMBER/TITLE

Civilian Policy #45 Appeal Procedure

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**Change Requested By:** Human Resources and City Attorney’s Office

**Description of Change:** Updating policy to reflect current practices, remove internal process items, and remove peer review process as it is not applicable.

**Reason for Change:** The policy is currently outdated and we would like to update and make it more clear for employees.

**Markup for Council:**

### **Policy # 45 APPEAL PROCEDURE**

The appeal procedure is available to all regular City and Council/Mayoral Appointee employees who have been disciplined in accordance with Policy and Procedure # 44, Discipline, and are dissatisfied with

the disciplinary action. Since some disciplinary actions may not be appealed, Policy and Procedure # 44, Discipline, should be reviewed prior to initiating any appeal.

## Time Limits for Appeal

An employee who wants to exercise their appeal rights must complete the City of Colorado Springs Appeal Form and submit it to the appropriate party within 10 working days from the date the employee was informed in writing of the disciplinary action. ~~The appeal hearing will be scheduled within 20 working days.~~

~~Appeal procedure time limits may be extended for good cause by the Department Director/ Council/Mayoral Appointee or the Peer Review Panel. Requests for extension and the response to such requests shall be in writing. The employee and the City of Colorado Springs shall each be allowed one reasonable postponement in the proceedings. A reasonable postponement shall not exceed 45 calendar days.~~

## Appeal Options

**Appeal options are available in the chart under Policy #44, Discipline.**

~~Employees may appeal to a higher level of management in their department or under certain circumstances to Peer Review. Policy #44, Discipline, should be reviewed to determine which disciplinary actions may be heard by a Peer Review panel. If the Division Manager issued the discipline, then the employee appeal to management would be heard by the Department Director. If the Department Director issued the discipline, the appeal would be to the Mayor, or Mayor designee. If the Mayor imposed the discipline, then the employee may appeal to Peer Review or a Council/Mayoral Appointee.~~

~~If a Council/Mayoral Appointee employee is disciplined by a supervisor, the management appeal is to the Council/Mayoral Appointee. If the Council/Mayoral Appointee imposed the discipline, the appeal is to an alternate Council/Mayoral Appointee or to Peer Review.~~

## The Appeal Form and Filing

~~The Appeal Form can be obtained from Human Resources or on the Intranet under Human Resources.~~

~~If the employee is appealing to management, the completed appeal form should be given to the Department Director or Council/Mayoral Appointee and a copy to the manager/supervisor who imposed the discipline. If a City employee selects the Peer Review appeal option, the completed appeal form should be given to a Human Resources Manager and a copy to the manager/supervisor who imposed the discipline. If a Council/Mayoral Appointee employee is appealing, the form should be given to the Appointee for appeal to an alternate Council/Mayoral Appointee and to Human Resources for an appeal to Peer Review.~~

## Attendance

- The employee may be accompanied by another regular employee.

- Employees may be requested to appear as witnesses. If so requested, employees must attend the hearing.
- An employee attending the hearing shall receive their normal pay.
- The City of Colorado Springs will not tolerate reprisal against any employee involved in a hearing.
- ~~Employees and managers shall prioritize all hearings and adjust schedules to accommodate attendance.~~

## Management Appeal Hearing Procedure

The hearing is administrative in nature and the Colorado Rules of Evidence are inapplicable.

- The **decision maker of the discipline** ~~Manager~~ should be prepared to present the facts relating to the ~~termination~~ decision.
- The employee shall have the opportunity to present evidence and the reasons the disciplinary or termination decision should be changed.
- The employee may be represented by an attorney.
- Either party may call witnesses who can provide relevant information.
- Names of employee witnesses should be provided to the **Human Resources Department Hearing Officer or Facilitator** in sufficient time to arrange attendance at the hearing.
- **Both parties may** ~~Supervisor and employee shall~~ present their positions utilizing witnesses, cross-examination, arguments, rebuttal, documents, or other evidence.
- All hearings will be recorded and kept in Human Resources.
- The employee shall be notified in writing within the prescribed time limits of the result of the hearing.

## Hearing Record

All appeal hearings will be recorded and kept in Human Resources. **The recording will be available to the employee upon request.** ~~Transcripts are available upon request, and the cost must be paid by the requesting employee.~~

## Decisions

The decision-making authority hearing the appeal may affirm, deny, or modify (increase or decrease) the previously imposed disciplinary action. All decisions are final and binding and will be rendered in writing within **14** ~~10~~ working days of the proceeding.

## Records

If the appealed disciplinary action is reduced or overturned, the related documentation in the employee's personnel records will be adjusted accordingly.

## Peer Review

~~The Peer Review Panel will operate under procedures detailed in Policy and Procedure # 48, Peer Review Operating Guidelines.~~

The Peer Review Panel may only hear appeals on suspensions without pay.

The Peer Review Panel has the authority to affirm, modify (increase or decrease), or overturn the disciplinary action. The panel's decision is final and binding.

The Peer Review Panel may not hear appeals involving employee allegations of unlawful discrimination, harassment, or retaliation. If an employee believes the basis of the disciplinary action is illegal discrimination, harassment, or retaliation, then the employee should follow the appeal procedure set forth in Policy #45, Appeal Procedure.

If the Peer Review Panel is selected, the employee must sign a Waiver of Due Process Rights. A final and binding decision will be given in writing the day of the panel hearing, except in unusual circumstances.

Each Peer Review Panel consists of five voting members (three peers and two non-peer employees). All eligible employees and managers (excluding managers at the executive level) will have the option of volunteering to be panelists. Employees who have been the subject of disciplinary action or who have been on a Performance Improvement Plan or Last Chance Agreement in the preceding 12 months are not eligible to serve as panelists.

At the Peer Review Meeting the panel will interview the employee filing the appeal, the supervisor, and any other witnesses with relevant information about the case. If both the employee and the supervisor agree, both parties may be present during witness testimony for the entire peer review hearing. The supervisor and the employee may not call witnesses; may not cross-examine, argue or rebut witness testimony or evidence; may not direct statements or questions to the panel; and may not be present during panel deliberations. However, both the supervisor and the employee will have the opportunity to give closing statements prior to deliberations. If employees are requested to appear as witnesses by the panel, they are required to appear. All witnesses providing testimony will take an oath before testifying. In all cases, employees shall receive their normal pay and not be subject to reprisal. The employee/supervisor has the right to bring any pertinent information to the hearing. The Panel may request explanation of legal matters from the City Attorney's Office. After all evidence has been reviewed, the panel will vote by secret ballot to affirm, modify, or deny the employee's proposed remedy. Votes are counted until three like votes are found, then all votes are destroyed. Each panelist agrees in advance to sign the final decision form, regardless of his/her personal feelings about the case, and to treat all information as confidential.

All appeal hearings before Peer Review Panels will be recorded and kept in Human Resources. The recording will be available to the employee upon request.

*Last revised: 4/17*

## PPM Update

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POLICY NUMBER/TITLE

Civilian Policy #46 – Pre-Termination Meetings

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**Change Requested By:** Human Resources and City Attorney’s Office – Employment Division

**Description of Change:** The policy currently includes only the pre-termination process. We have added the pre-deprivation process throughout to notify employees of their pre-deprivation options and to help them further understand the policy and process.

**Reason for Change:** Updating and clarity

**Markup for Council:**

### *Policy # 46*

## ***PRE-DEPRIVATION AND PRE-TERMINATION MEETINGS***

No regular City or other Council/Mayoral Appointee employee shall be terminated, **involuntarily demoted or suspended without pay** without being afforded a **pre-deprivation or** pre-termination meeting.

### Management Responsibility

The **Department Head, Assistant/Deputy Director or equivalent** ~~Department Director/Division Manager or Council/Mayoral Appointee~~ shall schedule and conduct the **pre-deprivation or** pre-termination meeting. In cases where the **Department Head, Assistant/Deputy Director or equivalent** ~~Department Director/Division Manager~~ is unavailable or unusual circumstances create a conflict of interest, the employee will meet with the next highest level **or another Department Head**. ~~If a Council/Mayoral Appointee is unavailable or circumstances create a conflict of interest, another Council/Mayoral Appointee shall be designated to serve in this capacity.~~

### Notice Requirements

The employee shall be provided advance written notice of the meeting that shall include the following:

- Purpose of the meeting.
- General statement of allegations.
- Proposed action to be taken.
- Assurance that the employee will have the opportunity to respond to the allegation and the evidence.

## Procedure

The meeting is an internal matter to be determined by the City.

- The **employee's manager** ~~Director/Manager~~ should be prepared to state the facts relating to the possible **deprivation or** termination.
- The employee shall have the opportunity to respond to the allegations and present evidence and the reasons the **recommendation decision to terminate** should not be finalized.
- Either party may submit a list of individuals who have relevant information.
- All **pre-deprivation or** pre-termination meetings will be recorded.

## Attendance

- The employee may be accompanied by another regular employee.
- An employee attending the **meeting hearing** shall receive their normal pay.
- The employee may have an attorney present, but the attorney may not participate in the proceeding.

## Meeting Record

All **pre-deprivation or** pre-termination meetings will be recorded. **The recording will be available to the employee upon request.** ~~Transcripts are available upon request from Human Resources; however, the cost must be paid by the employee making the request.~~ The City of Colorado Springs will not tolerate reprisal against any employee involved in a **pre-deprivation or** pre-termination meeting.

## Decision

Following the **pre-deprivation or** pre-termination meeting, the **Department Head, Assistant/Deputy Director equivalent** ~~Department Director/Division Manager or Council/Mayoral Appointee~~ may conduct further investigation and request additional information from any or all of the parties. After consideration of the evidence, the decision-maker will make one of the following decisions:

- ~~To terminate~~
- ~~To impose the discipline~~
- ~~To eliminate the discipline~~
- **Uphold or decline to uphold the recommendation**
- **To change or reduce the recommendation**
- To accept resignation

The decision shall be communicated in writing to the employee with a copy to Human Resources for inclusion in the employee's personnel file.

*Last revised: 4/17*

## PPM Update

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POLICY NUMBER/TITLE

Civilian Policy # 47 Disciplinary Appeal and Post-Termination Hearings

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**Change Requested By:** Human Resources and City Attorney's Office – Employment Division

**Description of Change:** Removing policy from manual

**Reason for Change:** This policy is mainly a duplicate of Policy #45 – Appeal Procedure. There is no need for two policies on this.

**Markup for Council:**

### ***Policy # 47*** **~~DISCIPLINARY APPEAL AND POST-TERMINATION HEARINGS~~**

~~Regular full-time and part-time City and Council/Mayoral Appointee employees in Bands 3 through 6 are entitled to a due process hearing following disciplinary action subject to appeal as specified in Policy and Procedure # 44, Discipline, and involuntary demotions as defined in Policy and Procedure # 3, Employment Changes.~~

#### **Attendance**

- ~~• The employee may be accompanied by another regular employee.~~
- ~~• Employees may be requested to appear as witnesses. If so requested, employees must attend the hearing.~~
- ~~• An employee attending the hearing shall receive their normal pay.~~
- ~~• The City of Colorado Springs will not tolerate reprisal against any employee involved in a hearing.~~
- ~~• Employees and managers shall prioritize all hearings and adjust schedules to accommodate attendance.~~

#### **Procedure**

~~The hearing is administrative in nature and the Colorado Rules of Evidence are inapplicable.~~

- ~~• The Manager should be prepared to present the facts relating to the termination decision.~~
- ~~• The employee shall have the opportunity to present evidence and the reasons the disciplinary or termination decision should be changed.~~
- ~~• The employee may be represented by an attorney.~~
- ~~• Either party may call witnesses.~~

- ~~Names of employee witnesses should be provided to the Hearing Officer or Facilitator in sufficient time to arrange attendance at the hearing.~~
- ~~Supervisor and employee shall present their positions utilizing witnesses, cross-examination, arguments, rebuttal, documents, or other evidence.~~
- ~~All hearings will be recorded and kept in Human Resources.~~
- ~~The employee shall be notified in writing within the prescribed time limits of the result of the hearing.~~

Last revised: 4/17

## PPM Update

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POLICY NUMBER/TITLE

Civilian Policy #48 Peer Review Operating Guidelines

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**Change Requested By:** Human Resources and City Attorney's Office

**Description of Change:** Removing Policy

**Reason for Change:** The Peer Review process is outdated and unused by the Civilian employee population. Employees have other avenues available to appeal disciplinary action. These are described in Policy #44 - Discipline

**Markup for Council:**

### ***Policy #48*** ***PEER REVIEW OPERATING GUIDELINES***

~~It is the objective of the City of Colorado Springs to provide timely resolution of disputes involving disciplinary actions. The Peer Review Process is provided as an alternative to the traditional management review of employee appeals of discipline.~~

#### Scope of Authority

~~The Peer Review Panel has the authority to affirm, modify (increase or decrease), or overturn the disciplinary action. The panel's decision is final and binding.~~

Questions the Panel may have regarding the correct interpretation of the City of Colorado Springs Policies and Procedures Manual, shall be directed to the Human Resources Manager or designee.

The Peer Review Panel ~~may not~~ hear appeals involving employee allegations of unlawful discrimination, harassment, or retaliation. If an employee believes the basis of the disciplinary action is illegal discrimination, harassment, or retaliation, then the employee should follow the appeal procedure set forth in Policy #45, Appeal Procedure.

The Peer Review Panel shall not hear any appeals of termination, appeals of suspension without pay for 30 hours or less, or appeals of involuntary demotions for employees in a supervisory or managerial capacity. For appeals related to these actions, the employee must comply with Policy #45, Appeal Procedure, and Policy #47, Disciplinary Appeal and Post Termination Meetings.

### Eligibility

This policy will be for all regular, full time, and part time City and Council/Mayoral Appointee employees, with the exception of at-will employees.

### Procedure

If the Peer Review Panel is selected, the employee must sign a Waiver of Due Process Rights. The initial panel meeting will be held within 20 working days following receipt of the appeal. A final and binding decision will be given in writing the day of the panel hearing, except in unusual circumstances.

- ~~**Time Limits:** Managers and employees are encouraged to work together to resolve disputes as quickly as possible. Time limits may be extended for good cause by the Department~~
- ~~**Director, Council/Mayoral Appointee, Peer Review Panel, or Panel of Appointees.** Requests for extension and the response to such requests shall be in writing. The employee and the City of Colorado Springs shall each be allowed one reasonable postponement in the proceedings. A reasonable postponement shall not exceed 45 calendar days.~~
- ~~**Statute of Limitations:** An employee who chooses the Peer Review Option must initiate a request for a Peer Review Panel hearing no later than 10 working days after the employee was notified of the disciplinary action.~~

### The Peer Review Facilitator

The primary facilitator (or an alternate facilitator if the primary facilitator is unavailable) will coordinate each Peer Review hearing. The role of the facilitator includes keeping the meeting focused on the issue before the panel, administering the oath to witnesses providing testimony, and guiding the panel on issues of evidence admissibility, relevance and cumulative witness testimony. The facilitator ~~does not~~ give opinions on the matter before the panel or vote on its outcome. The individual selected will process paperwork, summon witnesses, handle meeting logistics, and perform related tasks so that the panelists

can concentrate on reaching a timely, fair decision. If the Facilitator has a conflict of interest with the case, he/she cannot serve with that panel. The Facilitator has **24 hours** to notify the panelists that they've been selected as a panelist.

### **The Peer Review Panel**

Each Peer Review Panel consists of five voting members (three peers and two non-peer employees). All eligible employees and managers (excluding managers at the executive level) will have the option of volunteering to be panelists. Employees who have been the subject of disciplinary action or who have been on a Performance Improvement Plan or Last Chance Agreement in the preceding 12 months are not eligible to serve as panelists.