



Department of Human Resources

MAYOR
Oscar Leaser

TO: Kirk Douglas, Recreation Leader
FROM: Mary Wiggins, Chief Human Resources Officer *MW*
DATE: November 7, 2024

CITY COUNCIL

District 1
Brian Kennedy

SUBJECT: Discussion and Action on the Hearing Officer's Report and Recommendation on the Suspension of Kirk Douglas with Parks and Recreation from Hearing Officer, Patricia Palafox

District 2
Dr. Josh Acevedo

District 3
Cassandra Hernandez

Your appeal has been placed on the Civil Service Commission Agenda as Item #8 for their meeting to be held on **Thursday evening, November 14 2024**. The meeting will be at **6:00 P.M.**, in the **Main Conference Room, 2nd Floor, City Hall (300 N. Campbell)**. Please attend the meeting to answer any questions the Commission may have regarding this matter. Failure to attend the meeting to address the Commission may result in your appeal being deemed withdrawn.

District 4
Joe Molinar

District 5
Isabel Salcido

Please call Claudia Cancellare, Employee Relations Officer, at (915) 212-1498 or Cecy Mungaray, Employee Relations Officer at (915) 212-1430 if you have any questions.

District 6
Art Fierro

District 7
Henry Rivera

If you have any questions, please call Symone Menchaca at (915) 212-1242.

District 8
Chris Canales

CITY MANAGER
Dionne Mack

*Item #8A
HOIS
exhibits
Kirk Douglas*

Mary Wiggins PHR, SHRM-CP – Chief Human Resources Officer
Department of Human Resources | 300 N. Campbell | El Paso, TX 79901
O: (915) 212-0045 | Email: WigginsML@elpasotexas.gov



**BEFORE THE CIVIL SERVICE COMMISSION
FOR THE CITY OF EL PASO, TEXAS**

IN THE MATTER OF

KIRK DOUGLAS, APPELLANT

AND

THE CITY OF EL PASO

§
§
§
§
§
§
§

DOCKET NO. 24-PR-01PP

CITY OF EL PASO'S EXHIBIT LIST

#	DESCRIPTION	DATE
	<i>City of El Paso Employee Investigation</i>	
C-1	Notice of Suspension Kirk Douglas – 10 Day	6/20/2024
C-2	Sexual Harassment Prevention Policy & Procedures	8/9/2021
C-3	Discipline Policy and Matrix	5/30/2015
C-4	Signed Policy Acknowledgement Form – Kirk Douglas	4/25/2023
C-5	Directive to Cease Communication	2/27/2024
C-6	E-mail from Monica Vargas to Rosalva Juarez	2/20/2024
C-7	E-mail from Sabrina Amor to Celeste Porras	2/17/2024
C-8	E-mail from Tracy Chavarria to Sabrina Amor	2/27/2024
C-9	Incident Report – Rebecca Freeman-Henricks	2/23/2024
C-10	1 st Responses to Questions – Kirk Douglas	3/13/2024
C-11	2 nd Responses to Questions – Kirk Douglas	4/3/2024
C-12	Responses to Questions – Celeste Dani Porras	3/27/2024
C-13	E-mail from Celeste Dani Porras to Alejandra Rivera	3/27/2024
C-14	Responses to Questions – Saory Spence	3/12/2024
C-15	Responses to Questions – Fernando Ramirez	3/13/2024

*City
with
draw*

*City
with
draw*



CITY OF EL PASO, TEXAS
NOTICE OF SUSPENSION

Name Kirk Douglas Last 4 #'s of SS # [REDACTED] Date June 20, 2024
Position Recreation Leader Employee ID # [REDACTED]

Address [REDACTED]

From Parks & Recreation
Subject Suspension Without Pay ●

THIS IS TO NOTIFY YOU THAT YOUR EMPLOYMENT WITH THE CITY OF EL PASO IS HEREBY **SUSPENDED FOR 10 WORKDAYS EFFECTIVE 6/21/2024 TO 7/04/2024.**

THE FOLLOWING ARE THE STATUTORY REASONS OR GROUNDS AND SPECIFICATIONS OF FACTS WHICH HAVE NECESSITATED THIS ACTION

CHARGES:

YOU HAVE VIOLATED THE FOLLOWING CITY OF EL PASO CIVIL SERVICE COMMISSION CHARTER PROVISIONS, ORDINANCES, RULES AND REGULATIONS:

CITY CHARTER ARTICLE VI Civil Service

SECTION 6.13-2 DISCIPLINARY ACTION: REDUCTION

A regular employee may be discharged, suspended or reduced in rank or position as provided in the Charter or further defined in the Rules.

SECTION 6.13-3, CAUSES OF SUSPENSION, REDUCTION OR DISCHARGE

The following, which may be further defined in the Rules, may constitute causes for discharge, suspension or reduction in grade of regular employees:

- E. Being wantonly offensive in conduct or language,
- P. For just cause

I HAVE RECEIVED A COPY OF THIS NOTICE

Kirk Douglas
Employee's Signature

Date 6/20/24

BY CERTIFIED MAIL NUMBER _____

[Signature]
DEPARTMENT HEAD

COPY RECEIVED AND FILED

HUMAN RESOURCES

BY _____
DIRECTOR

DISTRIBUTION: Original Human Resources [REDACTED] [REDACTED]

RECEIVED
JUL 11 2024
CIVIL SERVICE
COMMISSION

ALL-STATE LEGAL®
EXHIBIT
C.1



CITY OF EL PASO, TEXAS
NOTICE OF SUSPENSION

Name: Kirk Douglas
Position: Recreation Leader

Last 4 #'s of SS #: [REDACTED]
Employee ID #: [REDACTED]

Date: June 20, 2024

CIVIL SERVICE COMMISSION RULES AND REGULATIONS

RULE 8. SUSPENSION, REDUCTION, DISCHARGE

Section 1. Causes of Suspension, Reduction or Discharge

The following may constitute causes for discharge, suspension or reduction of regular employees: That an officer or employee in the Civil Service:

- e. Is wantonly offensive in his conduct or language towards the public, an elected or appointed official, the head of any department, or his fellow employees; is abusive, threatening, or uses coercive treatment to another employee or a member of the public, or provokes or instigates violence; or abusive to an animal in the care or control of the employee; or (Amended 8/25/09, 3/6/12, 9/17/13)
- p. For just cause. (Added 7/21/07)

Section 2. Disciplinary Notice

Disciplinary actions in the nature of a discharge, involuntary reduction, or suspension taken against a regular employee, other than at the end of a probationary period, will not become effective until the Department Head has first served upon such employee a written notice of discipline. The notice must contain one or more statutory reasons or grounds for discipline, together with such specifications of fact as will enable the employee to make an explanation and place him fairly upon his defense. The specifications of fact shall be of sufficient specificity so as to preclude the possibility of disciplinary action for the same act or omission in the future. Nothing contained herein shall prohibit the Department Head from using an employee's prior acts or omissions resulting in discipline in determining future disciplinary action against the employee. An employee may be disciplined for other acts or omissions not specified in the notice even if such acts arise from the same incident or event. A Department Head may not unilaterally reduce the discipline given once notice of discipline has been provided to the employee, without the employee's consent. A copy of such notice of discipline, together with the employee's explanation, if any, will be filed with the Human Resources Director. (Amended 06/24/03, 7/31/07, 8/25/09)

Section 3. Notice of Proposed Disciplinary Action, Procedure and Limitation of Action

- a. When disciplinary action in the nature of a five (5) day suspension or greater, a reduction, or discharge is being contemplated by the Department Head, the employee must be served with a notice of proposed disciplinary action which shall conform with the notice requirements set forth in Section 2 and Section 3 (b) of this Rule. In addition to the notice of proposed disciplinary action, the employee shall be furnished with the written materials and tangible things in the possession of the Department Head that form the factual and evidentiary basis for the proposed disciplinary action. No matter may be withheld from the employee that is inconsistent with the theory of discipline or that could tend to mitigate the contemplated sanction. (Amended 8/25/09)
- b. Within ten (10) days of receipt of the notice of proposed disciplinary action, the employee may request a conference with the Department Head. Within five (5) working days of receipt of the employee's response, the Department Head shall meet with the employee, provided further that this period may be extended with the mutual consent of the Department Head and the employee. No witnesses may be called to testify as part of the employee's explanation or response. During the conference, the employee, their representative, and the Department Head shall engage in discussions with a view toward reaching a consensus and agreement relative to the proposed disciplinary action. No part of the discussions that take place during the conference may be offered into evidence at any subsequent hearing, except for the limited purpose of determining compliance or non-compliance with the provisions of this Rule as provided in paragraph "f" and for impeachment purposes. In the event such a consensus is reached, the execution by the employee of documents finalizing the settlement agreement shall constitute a waiver of the employee's right to appeal to the Commission, and the employee shall be so advised in plain language. (Amended 09/09/03, 01/06/04, 8/25/09, 1/20/15)

EMPLOYEE'S INITIALS KD

RECEIVED
JUL 11 2024
CIVIL SERVICE
COMMISSION



CITY OF EL PASO, TEXAS
NOTICE OF SUSPENSION

Name: Kirk Douglas	Last 4 #'s of SS #: [REDACTED]	Date: June 20, 2024
Position: Recreation Leader	Employee ID #: [REDACTED]	

- c. Respecting discharge, those departments currently using a pre-termination hearing shall not be required to have a conference as contemplated hereinabove provided that the time between notification and hearing shall be at least five (5) days and further provided that there shall be no change to current practices regarding violations of applicable federal laws. (Amended 09/09/03, 01/06/04, 08/25/09)
- d. The employee is entitled to have a representative of their choice assist them in the preparation and presentation of their response, provided further that in the event the representative is an employee of the City, he shall use vacation leave or personal days for such time as may be required for the representative to attend the conference. If the employee does not have any accrued vacation or personal days, the employee will be placed on unpaid administrative leave for such time as may be required for the representative to attend the conference. The employee must provide his Department Head with two days notice of the request to take the above leave. The Department Head may disapprove the request if the leave significantly interferes with the operational needs of the department. (Amended 09/09/03, 01/06/04, 08/25/09)
- e. A proposed written notice of disciplinary action must be served on an employee within 120 calendar days from the date Human Resources is made aware of the occurrence of the incident giving rise to the discipline, provided however that this period of limitation shall be tolled if an investigation is being conducted by a law enforcement authority into criminal charges against the employee arising out of the same incident. Once a Department Head receives notice from the employee that charges have been preferred, through an indictment or information, or that the criminal investigation has been concluded without the preferral of charges, then the time period will resume running. (Amended 09/09/03, 01/06/04, 8/25/09, 09/19/17)
- f. Any issue of non-compliance with these provisions will be considered by the hearing officer and/ or Commission upon the appeal of the disciplinary action. (Amended 01/06/04)
- g. Excluding Section 3 (e), in computing any time periods set forth in this Rule, Saturdays, Sundays, and City Holidays shall not be included. (Amended 01/06/04, 09/19/17)
- h. Nothing in the Rule shall prevent suspension of the employee from service without pay in appropriate circumstances. (Amended 01/06/04)
- i. A copy of this rule shall be attached to each notice of proposed disciplinary action. (Passed 1/6/04)

Section 4. Resignation Before Appeal Decision

The acceptance by Department Head of the resignation of a person discharged before final action on the part of the Commission will be considered a withdrawal of the charges and the separation of the employee concerned will be recorded as a resignation and the preceding will be dismissed without judgment. (Amended 7/31/07)

Section 5. Disqualification for Reappointment

Any employee who is dismissed for cause or who resigns while not in good standing will be disqualified from taking a Civil Service examination for two years thereafter. His name will be removed from all eligible lists, unless, in the judgment of the Commission the cause of his dismissal or resignation under charges will not affect the possibility of his or her usefulness in some other position. (Amended 8/25/09)

Section 6. Non-Certification of Suspended Persons

The names of persons suspended will not be certified from eligible lists during the period of suspension.

Section 7. Election to Forfeit Annual Leave

Regular employees suspended for not more than ten (10) working days may elect to forfeit annual leave for a period equal to the suspension, or to the extent of the employee's annual leave balance, subject to approval of the Department Head. The election provided for herein, shall work a waiver of the employee's right to appeal the disciplinary action to the Commission,

EMPLOYEE'S INITIALS KD

RECEIVED
JUL 11 2024
CIVIL SERVICE COMMISSION



CITY OF EL PASO, TEXAS
NOTICE OF SUSPENSION

Name: Kirk Douglas	Last 4 #'s of SS #: [REDACTED]	Date: June 20, 2024
Position: Recreation Leader	Employee ID #: [REDACTED]	

and the employee shall be so advised in plain English on a suitable form upon which the election shall be made, as developed by the Human Resources Director and appended to the notice of suspension. The Department Head shall not unreasonably withhold approval of the employee's election (Added 05/11/04, Amended 7/31/07)

Section 8. Formal Counseling

Formal Counseling is not within the type of disciplinary action specified in Section 6.13-2 of the Charter which may be appealed to the Civil Service Commission. A formal counseling is issued by the Department Head and considered a written counseling to address employee workplace conduct. Employees receiving a formal counseling shall have the right to place responses to the formal counseling into their personnel files which shall remain in the file so long as the formal counseling to which the response relates remains in the file.

Included in, or in conjunction with, the formal counseling document, the Department Head must provide the employee with written notice of the reasons for the formal counseling, with sufficient explanation to place the employee fairly upon his defense.

Upon an employee's request, formal counselings shall be removed from an employee's personnel file after the expiration of twelve (12) months from the date of the last formal counseling, provided the employee has not received any disciplinary action during the twelve (12) month time period between the request and the last-received formal counseling. Formal counselings meeting the criteria above shall not be considered against the employee for purposes of determining progressive discipline or performance evaluations, regardless of whether or not the employee requested removal of the formal counselings. (Added 8/25/09) (Amended 11/2/10, 3/6/12, 1/20/15, 11/15/16)

RULE 11. DEPARTMENTAL RULES

Section 1. Any department head shall have the right to promulgate rules and regulations regarding the operation of his department, and the conduct of the employee therein, subject to the consent and approval of the City Manager, provided that such rules do not conflict with the Civil Service Charter or the Rules promulgated thereunder. (Amended 07/11/06)

Section 2. Large departments having various sub departments may, in their rules, have rules and regulations pertaining to said sub departments in addition to general rules and regulations regarding the department. (Amended 7/31/07)

Section 3. The Human Resources Director may promulgate, rules, regulations and policies and procedures, that apply to all or some city departments, as may be specified by the Director, regarding any requirements applicable to the employees of such departments, subject to the consent and approval of the City Manager, provided that such rules, regulations, or policies and procedures do not conflict with the Civil Service Charter or the Rules promulgated hereunder. (Added 3/6/12)

Section 4. Any Department Head may, as provided in the Charter, suspend, discharge or demote any employee for insubordination, for failure to comply with departmental rules and regulations, for failure to comply with the Rules of the Commission or for failure to obey any lawful order of a superior officer. (Amended 07/11/06)

Section 5. The Human Resources Director is authorized to maintain a comprehensive manual of safety procedures and driver safety standards of all employees. Each employee shall receive a link to a copy of the manual. (Added 3/6/12)

CITY OF EL PASO - SEXUAL HARASSMENT PREVENTION POLICY AND PROCEDURES (August 9, 2021)

I. PURPOSE

The City of El Paso is committed to fostering a work environment free from sexual harassment. This policy establishes procedures and responsibilities for reporting, investigating, and resolving suspected and alleged sexual harassment.

Sexual harassment is a form of discrimination that violates Title VII of the Civil Rights Act of 1964, (as amended), the Civil Rights Act of 1991 and related State of Texas statutes.

EMPLOYEE'S INITIALS KD

RECEIVED
JUL 11 2024
CIVIL SERVICE



CITY OF EL PASO, TEXAS
NOTICE OF SUSPENSION

Name: Kirk Douglas
Position: Recreation Leader

Last 4 #'s of SS #: [REDACTED]
Employee ID #: [REDACTED]

Date: June 20, 2024

IV. POLICY

Sexual Harassment is strictly forbidden. Any behavior that constitutes inappropriate workplace behavior is prohibited, regardless of intent or severity, even if it does not meet the definition of Sexual Harassment above. Retaliation against employees for opposing alleged or suspected sexual harassment or for filing a charge, testifying, assisting, or participating in any manner in a Sexual Harassment investigation, proceeding, or hearing is strictly prohibited.

The City will immediately investigate all allegations of Sexual Harassment, which includes any behavior defined above as Sexual Harassment. Any supervisor, coworker or other Agent, of the City who knew or should have known of the alleged Sexual Harassment and did not take immediate action to correct it may be personally liable, in accordance with Texas Labor Code, Chapter 21.

V. PROCEDURES

C. INVESTIGATION AND DISCIPLINE

If an investigation reveals that the complaint is substantiated, prompt disciplinary action and other appropriate measures designed to stop the Sexual Harassment immediately and to prevent its recurrence, will be taken.

VI. SCOPE

In addition to incidents that occur on a City campus or property, the City may investigate and take disciplinary action in response to incidents that take place during official functions of the City, or incidents that have a substantial connection to the interest of the City, regardless of the location in which the incident(s) occur.

CITY OF EL PASO'S MISSION, VISION AND VALUES

- Mission:** Deliver exceptional services to support a high quality of life and place for our community.
- Vision:** Develop a vibrant regional economy, safe and beautiful neighborhoods and exceptional recreational, cultural and educational opportunities powered by a high performing government.
- Values:**
 - Integrity - Trusted to do the right thing*
 - Respect - Recognize the value and dignity of all individuals.*
 - Excellence - Perfect effort*
 - Accountability - Passionate and determined.*
 - People - Our teams are problem-solvers and collaborate with our customers.*

CITY OF EL PASO - DISCIPLINARY POLICY AND MATRIX (May 30, 2018)

I. POLICY:

The City of El Paso is committed to a goal of high performance by all employees in order to fulfill its mission of outstanding customer service to the citizens of our community. The purpose of this policy and matrix is to provide City leaders and supervisors with a guideline and reference for corrective and disciplinary action. The City of El Paso Human Resources Department accepts and investigates all allegations of employee misconduct and imposes corrective and progressive disciplinary action in a timely and consistent manner, as appropriate. This policy outlines the procedure for investigating allegations of employee misconduct, issuing corrective action, and applying the Matrix to impose discipline.

II. PROCEDURES:

EMPLOYEE'S INITIALS KD

RECEIVED
JUL 11 2024
CIVIL SERVICE
COMMISSION



CITY OF EL PASO, TEXAS
NOTICE OF SUSPENSION

Name: Kirk Douglas
Position: Recreation Leader

Last 4 #'s of SS #: [REDACTED]
Employee ID #: [REDACTED]

Date: June 20, 2024

A. Basis for Discipline

1. Employees are subject to discipline for violations of the law, City Charter provisions that constitute cause for discipline, Civil Service Commission Rules and Regulations, City policies, Departmental policies and procedures and verbal or written directives from supervisory personnel.
2. Failure to report a violation of anything listed under II-(A) is considered a basis for discipline.
3. All disciplinary actions taken under this policy are subject to, and shall be consistent with, applicable federal and state law, local ordinances, administrative directives, El Paso City Charter, and Civil Service Commission Rules and Regulations.

B. Information Gathering and Processing

1. It is the duty of all supervisory employees to assist those who express the desire to report allegations of misconduct against any City employee. The informant need not be the aggrieved party, but may be anyone who witnessed or otherwise became aware of an incident of misconduct. Information regarding allegations of misconduct must be immediately reported to the Department Head and/or the Human Resources Director.
3. Employees are required to provide a statement or answer questions during administrative investigations. Employees who withhold information, thwart, impede or fail to cooperate with administrative investigations will be considered insubordinate and subject to disciplinary action up to and including termination. Upon conclusion of the administrative investigation, the DHRM or Human Resources Director, or designee, will advise the Department Head of any findings from the investigation and recommend disciplinary or corrective action as appropriate. However, it is the Department Head's responsibility to make the final determination and defend the discipline to be administered as a result of any review.

IV. DISCIPLINARY MATRIX

The attached disciplinary matrix provides supervisory personnel and Department Heads with the parameters of discipline that shall be imposed on an employee when an infraction occurs that violates the law, a Civil Service rule, policy, or regulation of the department. The purpose of the matrix is to provide notice to employees of the types of conduct that will result in disciplinary action and to serve as a deterrent of such conduct so as to promote efficiency of service by ensuring high standards of City service and maintaining public confidence in the City of El Paso.

The matrix is intended for use as a guide to selecting an appropriate level of discipline for the actionable misconduct. This matrix does not substitute for supervisory judgment and does not dictate discipline. Rather, this matrix provides a framework within which supervisors exercise judgment on a case-by-case basis within the parameters provided. The final determination for discipline at the minimum level or higher rests with the Department Head as defined in Civil Service Rule 8 and Rule 11, or as defined in the Civil Service Rules and Regulations.

The offenses listed under each level are not intended to be an exhaustive listing. No attempt has been made to list every possible cause for disciplinary or adverse action. The fact that specific misconduct is not listed as an offense does not mean discipline cannot be imposed. Supervisors should evaluate misconduct not listed to the offenses listed and use a form of discipline that most closely coincides with a comparable, listed offense.

The following are the categories of discipline:

- B. **Suspension:** A suspension without pay for a definite period of time must be completed on an appropriate Notice of Suspension form in accordance with Civil Service Commission Rules. The Notice of Suspension must:

1. Identify which State or Federal laws, rules, policies, and/or regulations were violated,

EMPLOYEE'S INITIALS KD

RECEIVED
JUL 11 2024
CIVIL SERVICE
COMMISSION



CITY OF EL PASO, TEXAS
NOTICE OF SUSPENSION

Name: Kirk Douglas	Last 4 #'s of SS #: [REDACTED]	Date: June 20, 2024
Position: Recreation Leader	Employee ID #: [REDACTED]	

2. Contain narrative specifications (charges) and
3. Include a record of previous discipline, if any. The Notice of Suspension shall be administered by the Department Head. The Department Head, along with supervisors, shall work with the Human Resources Director for specifications. The Notice of Suspension must always be reviewed by the City Attorney's Office before being administered to the employee.

V. APPLICATION OF THE DISCIPLINARY MATRIX

- A. The application of progressive discipline is designed to take into account any instance of corrective action or previous discipline. The Department Head shall choose the appropriate disciplinary action at the appropriate level for each offense.
1. A Department Head has a choice of severity of disciplinary action beginning from the floor for the specific type of offense, at the appropriate level. When significant mitigating or aggravating circumstances exist, the discipline range may be expanded upon in either direction. For example, if the matrix indicates a 10-day suspension, the Department Head may determine that a less severe consequence is more appropriate based on mitigating factors. Likewise, the discipline could be greater than a 10-day suspension if there are significant aggravating factors. Whenever prior violations are used to support a more severe discipline, those offenses shall be cited in the notice of Discipline. When a series of offenses have been committed and action could not have been taken on each before another was committed, a more severe discipline may be assessed for the combined offenses rather than what would be appropriate for any single offense.
 2. The Department Head in accordance with CSC Rule 11 retains the right to promulgate rules and regulations regarding the operation of his or her department. Similarly, situations may arise that are not written in a rule or policy; in such a circumstance, an appropriate level of discipline will be imposed. Nothing in this policy shall prohibit a Department Head from departing from utilizing a higher form of discipline, to include termination, if the circumstances warrant such action.
 3. These disciplinary guidelines are standard recommendations and not meant to be an all-inclusive list of possible infractions. The Human Resources Director retains the right to modify, or amend this policy and matrix as needed without advance notice.

City of El Paso Disciplinary Matrix (May 30, 2018)

Level 3 Violation Sexual Harassment incident of a sexual nature 1st Offense: 10-day Suspension

Date Received by Human Resources: February 20, 2024

120th Day Deadline, pursuant to CSC Rule 8 Section 3(e): June 19, 2024

SPECIFICATIONS:

A Fact-Finding Process/Investigation was initiated by Human Resources on February 20, 2024 after a member of the public, working as a Score Keeper, alleged being sexually harassed by you.

Based on the fact-finding process, there is evidence to support violations of the Sexual Harassment Prevention Policy and Procedures, as follows:

EMPLOYEE'S INITIALS KD

RECEIVED
JUL 11 2024
CIVIL SERVICE COMMISSION



CITY OF EL PASO, TEXAS NOTICE OF SUSPENSION

Name: Kirk Douglas
Position: Recreation Leader

Last 4 #'s of SS #: [REDACTED]
Employee ID #: [REDACTED]

Date: June 20, 2024

On February 16, 2024, in the course and scope of your employment, you engaged in a conversation with a non-City Score Keeper, while she was engaged in conducting business on City property. On February 17, 2024, the day immediately following your interaction, the score keeper reported the details of your interaction.

Specifically, she reported to Parks and Recreation staff that you began making conversation, and you began asking questions about her age and more personal aspects, such as her relationship status. She informed you that she was only 18 years old, and you asked whether she would date an older guy. She reported that she responded no, but you insisted on essentially trying to minimize your age difference and that you could work things out.

Further, she reported that during the interaction you repeatedly asked her for her social media (Instagram) information, and she told you no multiple times. Similarly, she reported that you repeatedly asked for her phone number, and she had to keep saying no. Overall, she directly reported that the situation made her feel uncomfortable, because of your persistence and not taking no for an answer.

In March and April of 2024, you were asked about this occurrence by investigators/analysts with Human Resources. You acknowledged that you spoke to the Score Keeper about her Instagram account. When the Score Keeper did not give you her Instagram information, you stated that you made a comment to her that Instagram is a public place and questioned her as to why she would not give you her Instagram information if she does not post any "explicit photos". Whether your words were "explicit photos" or "nudes", this insistent questioning on personal matters was still offensive and inappropriate for the workplace. Your repeated and persistent actions went beyond attempting to engage in conversation or getting to know the Score Keeper in a friendly manner.

Additionally, a witness confirmed that you repeatedly stood at the entrance of the gym where the Score Keeper was working and stared at her on more than five (5) occasions causing her to feel uncomfortable in the workplace.

Your actions are in violation of the Sexual Harassment Prevention Policy and Procedures. According to the policy, Sexual Harassment is strictly forbidden. Any behavior that constitutes inappropriate workplace behavior is prohibited, regardless of intent or severity. The policy is designed to stop this type of behavior and prevent its recurrence. Your actions and behavior are not in alignment with City's Mission, Vision or Values and will not be tolerated.

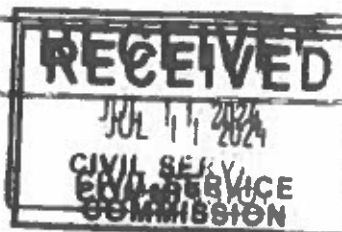
Your disciplinary history reflects the following:

On May 8, 2024, you received a three (3) day suspension for Disobeying a Direct Order.

Based on the above specifications, the City of El Paso Parks & Recreation Department has determined that your services are to be suspended for ten (10) workdays. Be advised that a recurrence of this or of a similar type incident will result in more severe disciplinary action, up to and including termination of your employment with the City of El Paso.

You have thirty (30) days from the date you receive this notice to appeal this action to the Civil Service Commission. The City reserves the right to amend these charges and/or specifications at a later date.

EMPLOYEE'S INITIALS KD





ADMINISTRATIVE POLICIES AND PROCEDURES

Policy ID: Human Resources
Subject: Sexual Harassment Prevention Policy and Procedures
Creation Date: April 11, 1991
Revision Date: August 9, 2021
Prepared By: Human Resources Department
Approved By: City Manager
Legal Review: Ramona Frazier

I. PURPOSE

The City of El Paso is committed to fostering a work environment free from sexual harassment. This policy establishes procedures and responsibilities for reporting, investigating, and resolving suspected and alleged sexual harassment.

Sexual harassment is a form of discrimination that violates Title VII of the Civil Rights Act of 1964, (as amended), the Civil Rights Act of 1991 and related State of Texas statutes.

II. POLICY APPLIES TO:

Full-Time Employees	Interns
Part-Time Employees	Volunteers
Contract Employees	Trainees
Temporary Employees	Uniformed Employees (CBA)
City Officials	Visitors
Others Conducting Business on City campuses or properties	

Everyone defined above is an "Agent" of the City, except for Visitors.

III. DEFINITIONS:

Condition of Employment	When submission to the conduct defined as Sexual Harassment is a term or condition of an individual's employment. It can be explicit, implied or implicit.
Hostile Work Environment	Sexual conduct or Sexual Harassment that unreasonably interferes with an employee's work performance or creates an intimidating, hostile or offensive working environment, even if

ALL-STATE LEGAL®

EXHIBIT

C2

	it leads to no tangible or economic job consequence. This exists where the conduct is so severe or pervasive that it creates an intimidating, offensive workplace.
Immediate	For the purposes of this Policy, within the shift that the Sexual Harassment is reported, or upon the recognition of a possible violation.
Quid Pro Quo	Submission to or rejection of sexual harassment is used as the basis for making employment decisions, such as but not limited to promotions, pay increase, hiring and firing by a person in power.
Retaliation	Any adverse change in an employee's employment status, or the terms and conditions of employment or employment environment due to the reporting of a Sexual Harassment allegation or participating in an associated investigation.
Sexual Harassment	Verbal or physical conduct that is sexual in nature used to threaten, intimidate or coerce; verbal taunting bullying that is sexual in nature that, in the employee's opinion, impairs their ability to perform their job. This includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature. This includes Quid Pro Quo, Hostile Work Environment, and Condition of Employment as defined herein.

IV. POLICY

Sexual Harassment is strictly forbidden. Any behavior that constitutes inappropriate workplace behavior is prohibited, regardless of intent or severity, even if it does not meet the definition of Sexual Harassment above. Retaliation against employees for opposing alleged or suspected sexual harassment or for filing a charge, testifying, assisting, or participating in any manner in a Sexual Harassment investigation, proceeding, or hearing is strictly prohibited.

The City will immediately investigate all allegations of Sexual Harassment, which includes any behavior defined above as Sexual Harassment. Any supervisor, coworker or other Agent, of the City who knew or should have known of the alleged Sexual Harassment and did not take immediate action to correct it may be personally liable, in accordance with Texas Labor Code, Chapter 21.

V. PROCEDURES:

A. EMPLOYEES.

1. These are the steps to be taken by any employee that believes that he/she or another employee is being sexually harassed:
 - a. If the employee believes he/she is safe doing so, the employee should request that the person cease the harassment immediately by identifying the offensive conduct. The employee who has been placed on notice is required

to immediately cease such conduct upon learning that the conduct is offensive or unwelcome.

- b. The employee who believes he or she has been Sexually Harassed shall report perceived Sexual Harassment to the Human Resources Department.
- c. The employee, orally or in writing, must describe the harassing or sexually harassing behavior with sufficient and specific detail.
- d. If an employee who believes themselves to be a victim of sexual harassment is unsure of whether the behavior constitutes sexual harassment, that employee should confer with the Human Resources Department.

2. An employee who witnesses a violation of this policy must:

- a. Report the behavior to the Human Resources Department. Failure to report any witnessed violation of this policy may result in disciplinary action, up to and including termination, and also may result in being held personally liable in litigation that is instigated by the sexual harassment.
- b. If an employee who witnesses what they believe to be Sexual Harassment and is unsure of whether the behavior witnessed constituted Sexual Harassment, that employee should confer with the Human Resources Department.

B. SUPERVISORS.

All supervisors must make sure that their employees are adequately informed about the City's Sexual Harassment Prevention Policy.

1. The following are steps to be taken by a supervisor when a claim is made by their employees:
 - a. When a supervisor receives a complaint of sexual harassment, the supervisor must report it immediately to the Human Resources Department.
 - b. Supervisor must maintain confidentiality of the information received, and failure to maintain confidentiality may result in disciplinary action.
2. Failure of the supervisor to report claims of sexual harassment to the Human Resources Department may result in disciplinary action and may also result in the supervisor being held personally liable in litigation instigated as a result of the sexual harassment.

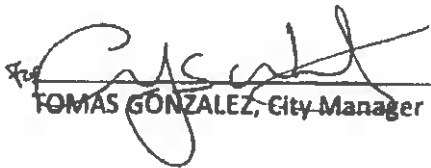
C. INVESTIGATION AND DISCIPLINE.

If an investigation reveals that the complaint is substantiated, prompt disciplinary action and other appropriate measures designed to stop the Sexual Harassment immediately and to prevent its recurrence, will be taken.

VI. SCOPE

In addition to incidents that occur on a City campus or property, the City may investigate and take disciplinary action in response to incidents that take place during official functions of the City, or incidents that have a substantial connection to the interest of the City, regardless of the location in which the incident(s) occur.

APPROVED BY:


TOMAS GONZALEZ, City Manager

DATE: 8/10/2021

APPROVED AS TO FORM:


Ramona Frazier
Assistant City Attorney

DATE: 08/09/2021



ADMINISTRATIVE POLICIES AND PROCEDURES

Policy: City of El Paso Discipline Policy and Matrix

Creation Date: April 6, 2011

Revision Date: May 2, 2013; May 30, 2015

Prepared By: HR Department

Approved By: City Manager

Legal Review: Elizabeth Ruhmann

POLICY: CITY OF EL PASO DISCIPLINE POLICY AND MATRIX

I. POLICY:

The City of El Paso is committed to a goal of high performance by all employees in order to fulfill its mission of outstanding customer service to the citizens of our community. The purpose of this policy and matrix is to provide City leaders and supervisors with a guideline and reference for corrective and disciplinary action. The City of El Paso Human Resources Department accepts and investigates all allegations of employee misconduct and imposes corrective and progressive disciplinary action in a timely and consistent manner, as appropriate. This policy outlines the procedure for investigating allegations of employee misconduct, issuing corrective action, and applying the Matrix to impose discipline.

II. PROCEDURES:

A. Basis for Discipline

1. Employees are subject to discipline for violations of the law, City Charter provisions that constitute cause for discipline, Civil Service Commission Rules and Regulations, City policies, Departmental policies and procedures and verbal or written directives from supervisory personnel.
2. Failure to report a violation of anything listed under II-(A) is considered a basis for discipline.



3. All disciplinary actions taken under this policy are subject to, and shall be consistent with, applicable federal and state law, local ordinances, administrative directives, El Paso City Charter, and Civil Service Commission Rules and Regulations.

B. Information Gathering and Processing

1. It is the duty of all supervisory employees to assist those who express the desire to report allegations of misconduct against any City employee. The informant need not be the aggrieved party, but may be anyone who witnessed or otherwise became aware of an incident of misconduct. Information regarding allegations of misconduct must be immediately reported to the Department Head and/or the Human Resources Director.
2. Supervisory personnel shall assist their Departmental Human Resources Manager (hereinafter "DHRM") and/or Human Resources Director or designee with administrative investigations to determine what violation of rule or policy has been committed. This may involve preliminary data gathering of evidence, preparing questions to ask witnesses or employees, and interviewing and collecting affidavits (notarized statements) from employees, witnesses and citizens, and determining an employee's work status. The central contact during an administrative investigation and disciplinary matters is the DHRM, where they exist, or the Human Resources Director or designee. For those departments that do not have a DHRM, the Human Resources Director shall assign a Human Resources professional to conduct the administrative investigation.
3. Employees are required to provide a statement or answer questions during administrative investigations. Employees who withhold information, thwart, impede or fail to cooperate with administrative investigations will be considered insubordinate and subject to disciplinary action up to and including termination. Upon conclusion of the administrative investigation, the DHRM or Human Resources Director, or designee, will advise the Department Head of any findings from the investigation and recommend disciplinary or corrective action as appropriate. However, it is the Department Head's responsibility to make the final determination and defend the discipline to be administered as a result of any review.

4. Employees interviewed during administrative investigations are prohibited from communicating the nature or details of the Investigation, either directly or indirectly, with anyone besides an Attorney for the City, the DHRM, the Human Resources Director or designee, or the employee's supervisor or Department Head. Nothing in this policy would prevent an employee from discussing the investigation with their attorney or representative if they have such representation.

III. CORRECTIVE ACTION

The following types of corrective action may be issued to an employee prior to utilizing the disciplinary matrix.

- A. Counseling: A verbal counseling may be provided by supervisory personnel to the employee informing the employee of the infraction or problem, corrective measures or what is expected of the employee, and consequences of continued infractions. The verbal counseling is an opportunity to discuss work-related problems in private with the employee. The supervisor should administer the verbal counseling. If a supervisor requests assistance with issuing a verbal counseling, the Human Resources Director or designee, or the DHRM, will provide further assistance or guidance.

IV. DISCIPLINARY MATRIX

The attached disciplinary matrix provides supervisory personnel and Department Heads with the parameters of discipline that shall be imposed on an employee when an infraction occurs that violates the law, a Civil Service rule, policy, or regulation of the department. The purpose of the matrix is to provide notice to employees of the types of conduct that will result in disciplinary action and to serve as a deterrent of such conduct so as to promote efficiency of service by ensuring high standards of City service and maintaining public confidence in the City of El Paso.

The matrix is intended for use as a guide to selecting an appropriate level of discipline for actionable misconduct. **This matrix does not substitute for supervisory judgment and does not dictate discipline.** Rather, this matrix provides a framework within which supervisors exercise judgment on a case-by-case basis within the parameters provided. The final determination for discipline at the minimum level or higher rests with the Department Head as defined in Civil Service Rule 8 and Rule 11, or as defined in the Civil Service Rules and Regulations.

The offenses listed under each level are not intended to be an exhaustive listing. No attempt has been made to list every possible cause for disciplinary or adverse action. The fact that specific misconduct is not listed as an offense does not mean discipline cannot be imposed. Supervisors should evaluate misconduct not listed to the offenses listed and use a form of discipline that most closely coincides with a comparable, listed offense.

The following are the categories of discipline:

- A. Formal Counseling: A Formal Counseling must contain specific language that informs the employee of the infraction or problem, what is expected of the employee to correct the issue, and consequences of continued infractions. The Formal Counseling shall be issued by the Department Head to the employee on official City letterhead. The Department Head, along with supervisors, shall work with the DHRM or the Human Resources Director or designee when drafting the Formal Counseling. The Formal Counseling will be placed in the employee's personnel file by submitting the written document to the Human Resources Director or designee no later than 120 days following the issue of the Formal Counseling.
- B. Suspension: A suspension without pay for a definite period of time must be completed on an appropriate Notice of Suspension form in accordance with Civil Service Commission Rules. The Notice of Suspension must:
 1. identify which State or Federal laws, rules, policies, and/or regulations were violated,
 2. contain narrative specifications (charges), and
 3. include a record of previous discipline, if any. The Notice of Suspension shall be administered by the Department Head. The Department Head, along with supervisors, shall work with the Human Resources Director for specifications. The Notice of Suspension must always be reviewed by the City Attorney's Office before being administered to the employee.
- C. Demotion: A demotion as a result of disciplinary action is a reduction into a lower graded position that may result in a loss of pay to the employee. It must be completed on an appropriate Notice of Demotion form in accordance with Civil Service Commission Rules. The Notice of Demotion must:

1. identify which State or Federal laws, rules, policies, and/or regulations were violated,
2. contain narrative specifications (charges), and
3. include a record of previous discipline, if any. The Notice of Demotion shall be issued by the Department Head and must always be reviewed by the City Attorney's Office before being administered to the employee.

D. Termination: A termination is separation of employment and must be completed on an appropriate Notice of Separation form with effective date for dismissal in accordance with Civil Service Commission Rules. The Notice of Separation must:

1. identify which State or Federal laws, rules, policies, and/or regulations were violated,
2. contain narrative specifications (charges), and
3. include a record of previous discipline, if any. The Notice of Separation must always be reviewed by the City Attorney's Office before being issued to the employee by the Department Head.

V. APPLICATION OF THE DISCIPLINARY MATRIX

- A. The application of progressive discipline is designed to take into account any instance of corrective action or previous discipline. The Department Head shall choose the appropriate disciplinary action at the appropriate level for each offense.
 1. A Department Head has a choice of severity of disciplinary action beginning from the floor for the specific type of offense, at the appropriate level. When significant mitigating or aggravating circumstances exist, the discipline range may be expanded upon in either direction. For example, if the matrix indicates a 10-day suspension, the Department Head may determine that a less severe consequence is more appropriate based on mitigating factors. Likewise, the discipline could be greater than a 10-day suspension if there are significant aggravating factors. Whenever

prior violations are used to support a more severe discipline, those offenses shall be cited in the notice of Discipline. When a series of offenses have been committed and action could not have been taken on each before another was committed, a more severe discipline may be assessed for the combined offenses rather than what would be appropriate for any single offense.

2. The Department Head in accordance with CSC Rule 11 retains the right to promulgate rules and regulations regarding the operation of his or her department. Similarly, situations may arise that are not written in a rule or policy; in such a circumstance, an appropriate level of discipline will be imposed. Nothing in this policy shall prohibit a Department Head from departing from utilizing a higher form of discipline, to include termination if the circumstances warrant such action.
3. These disciplinary guidelines are standard recommendations and not meant to be an all-inclusive list of possible infractions. The Human Resources Director retains the right to modify, or amend this policy and matrix as needed without advance notice.

APPROVED BY:



TOMAS GONZALEZ, City Manager

DATE: 9/17/15

CITY OF EL PASO DISCIPLINARY MATRIX

05-30-18

**OFFENSE
(CAUSE OF ACTION)**

**1ST OFFENSE
PENALTY**

**2ND OFFENSE
PENALTY**

**3RD OFFENSE
PENALTY**

**4TH OFFENSE
PENALTY**

LEVEL 1 VIOLATIONS	1 ST OFFENSE PENALTY	2 ND OFFENSE PENALTY	3 RD OFFENSE PENALTY	4 TH OFFENSE PENALTY
AWOL/Failure to report for mandatory overtime/callback	FORMAL COUNSELING	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/ TERMINATION
Being offensive in conduct or language	FORMAL COUNSELING	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/ TERMINATION
Creating Employee Dissension	FORMAL COUNSELING	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/ TERMINATION
Dress Code/Uniform Policy violation ***	FORMAL COUNSELING	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/ TERMINATION
Driving on behalf of the City without current Defensive Driving Certification (DDC)	FORMAL COUNSELING	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/ TERMINATION
Failure to attend scheduled training	FORMAL COUNSELING	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/ TERMINATION
Failure to report driver license revocation/suspension	FORMAL COUNSELING	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/ TERMINATION
Failure to enforce City/Department Rules	FORMAL COUNSELING	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/ TERMINATION
Failure to report a violation of policy	FORMAL COUNSELING	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/ TERMINATION
Failure to follow City/Department Rules or Policies	FORMAL COUNSELING	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/ TERMINATION
Misuse of City resources	FORMAL COUNSELING	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/ TERMINATION
At fault motor vehicle/equipment accident/incident resulting in minor property damage/injury	FORMAL COUNSELING	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/ TERMINATION
Inappropriate use of the City's e-mail or Internet	FORMAL COUNSELING	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/ TERMINATION
Time and Attendance Violations/Unauthorized Overtime	FORMAL COUNSELING	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/ TERMINATION

CITY OF EL PASO DISCIPLINARY MATRIX

05-30-18

OFFENSE (CAUSE OF ACTION)	1 ST OFFENSE PENALTY	2 ND OFFENSE PENALTY	3 RD OFFENSE PENALTY	4 TH OFFENSE PENALTY
Minor Loss/Misplacement/Damage to City Property	FORMAL COUNSELING	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/TERMINATION
Violation of the Outside Employment Policy	FORMAL COUNSELING	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/TERMINATION
Poor Customer Service/Unprofessional Conduct	FORMAL COUNSELING	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/TERMINATION
Prohibited Political Activity	FORMAL COUNSELING	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/TERMINATION
Negligent operation of a motor vehicle (non-accident or injury)	FORMAL COUNSELING	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/TERMINATION
Safety Violation (non-injury or property damage)	FORMAL COUNSELING	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/TERMINATION
Solicitation Policy violation	FORMAL COUNSELING	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/TERMINATION
Safety Violation resulting in minor injury or minor property damage	FORMAL COUNSELING	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/TERMINATION
Displaying/Possession/Distribution of inappropriate images not deemed to be pornographic **	FORMAL COUNSELING	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/TERMINATION

Note: Discipline crossing departmental lines may be issued by the City Manager or designee

* Violations not involving Rules or Policies will be addressed with a Formal Counseling and subsequent repeat violations would be a violation of a Direct Order

** The Human Resources Director will make determination

*** Employees will be sent home to change into appropriate attire on their own time for each incident

**** Provided said policy has been approved by City Legal and City Human Resources

CITY OF EL PASO DISCIPLINARY MATRIX

05-30-18

OFFENSE
(CAUSE OF ACTION)

1ST OFFENSE
PENALTY

2ND OFFENSE
PENALTY

3RD OFFENSE
PENALTY

4TH OFFENSE
PENALTY

LEVEL 2 VIOLATIONS	1 ST OFFENSE PENALTY	2 ND OFFENSE PENALTY	3 RD OFFENSE PENALTY	4 TH OFFENSE PENALTY
Dishonesty	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/ TERMINATION	
Disobeying a Direct Order (Insubordination)	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/ TERMINATION	
Not available when on-call	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/ TERMINATION	
Retaliation	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/ TERMINATION	
Moderate at fault motor vehicle/equipment accident/incident resulting in moderate property damage/injury	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/ TERMINATION	
Inefficient performance	3 DAY SUSPENSION	10 DAY SUSPENSION	DEMOTION/ TERMINATION	

CITY OF EL PASO DISCIPLINARY MATRIX

05-30-18

**OFFENSE
(CAUSE OF ACTION)**

**1ST OFFENSE
PENALTY**

**2ND OFFENSE
PENALTY**

**3RD OFFENSE
PENALTY**

**4TH OFFENSE
PENALTY**

LEVEL 3 VIOLATIONS	1 ST OFFENSE PENALTY	2 ND OFFENSE PENALTY	3 RD OFFENSE PENALTY	4 TH OFFENSE PENALTY
Conviction of a DUI affecting job related driving duties	10 DAY SUSPENSION	15 DAY SUSPENSION	DEMOTION/ TERMINATION	
Inducing or assisting another to commit an unlawful act or to act in violation of any lawful departmental or official regulation or order	10 DAY SUSPENSION	15 DAY SUSPENSION	DEMOTION/ TERMINATION	
At fault motor vehicle/equipment accident/incident resulting in substantial property damage.	10 DAY SUSPENSION	15 DAY SUSPENSION	DEMOTION/ TERMINATION	
Has been convicted of a felony or misdemeanor involving moral Turpitude or entered a period of deferred adjudication	10 DAY SUSPENSION	15 DAY SUSPENSION	DEMOTION/ TERMINATION	
Deliberate falsification of reports or official documents	10 DAY SUSPENSION	15 DAY SUSPENSION	DEMOTION/ TERMINATION	
Major loss/Misplacement/Damage to City property	10 DAY SUSPENSION	15 DAY SUSPENSION	DEMOTION/ TERMINATION	
Intentional release of confidential information	10 DAY SUSPENSION	15 DAY SUSPENSION	DEMOTION/ TERMINATION	
Sexual Harassment - incident of a sexual nature	10 DAY SUSPENSION	15 DAY SUSPENSION	DEMOTION/ TERMINATION	
Violent and/or threatening behavior/Possession of unauthorized weapon	10 DAY SUSPENSION	15 DAY SUSPENSION	DEMOTION/ TERMINATION	
Safety violation resulting in substantial property damage/serious injury	10 DAY SUSPENSION	15 DAY SUSPENSION	DEMOTION/ TERMINATION	
Possession or retention of pornography electronically or physically that is not personally obtained **	10 DAY SUSPENSION	15 DAY SUSPENSION	DEMOTION/ TERMINATION	
Refusal to obey a direct order during an Administrative Investigation	10 DAY SUSPENSION	15 DAY SUSPENSION	DEMOTION/ TERMINATION	
Misappropriation	10 DAY SUSPENSION	15 DAY SUSPENSION	DEMOTION/ TERMINATION	

CITY OF EL PASO DISCIPLINARY MATRIX

05-30-18

**OFFENSE
(CAUSE OF ACTION)**

**1ST OFFENSE
PENALTY**

**2ND OFFENSE
PENALTY**

**3RD OFFENSE
PENALTY**

**4TH OFFENSE
PENALTY**

LEVEL 4 VIOLATIONS	1ST OFFENSE PENALTY	2ND OFFENSE PENALTY	3RD OFFENSE PENALTY	4TH OFFENSE PENALTY
At fault motor vehicle/equipment accident/incident resulting in serious injury or death.	TERMINATION			
AWOL (3consecutive days)	TERMINATION			
Felony Conviction affecting job related duties	TERMINATION			
Violation of a departmental policy that mandates termination ****	TERMINATION			
Loss of required License/Certificate where required in Job Description	TERMINATION			
Sexual Harassment- Assault	TERMINATION			
On Duty use/consumption/distribution of alcohol or illegal substances	TERMINATION			
Positive test for alcohol or illegal substances/Refusal to submit to testing	TERMINATION			
Accessing/distributing/displaying pornography **	TERMINATION			
PIP – Unsuccessful completion of a Performance Improvement Plan – Incompetency or negligence of performance of duties – Recurrent inefficient performance	TERMINATION			



COEP Acknowledgement Form 2022

Full Name

Kirk Douglas

I am aware that the City of El Paso Safety Policy is located online at the City's website. I am also aware that if I do not have access to a computer, my department can provide a copy for me.

Signature of Acknowledgement of Safety Manual

Kirk Douglas

Americans with Disabilities Act

Drug-free Workplace

Disciplinary Policy and Matrix

Professional Appearance Policy

Sexual Harassment Prevention

Social Media Policy

Military Leave Policy

Code of Conduct

Please sign once you have read the above policies

Kirk Douglas

I hereby acknowledge that I have read the City of El Paso's Off-The-Clock and Remote access Device Policy for Non-Exempt Employees that I have read the Policy and understand it, and that I understand that any questions that I may have about the Policy in future should be directed to the Human Resources Department.

Off the Clock and Remote Access Device Policy

Full Name

Kirk Douglas Jr.

Last 4 of SSN

Signature

Kirk Douglas

Date

04/25/2023





Acknowledgment of Receipt of the Employee Handbook

I understand that I am to read, become familiar and comply with the City of El Paso's Employee Handbook ("Employee Handbook"), which contains a synopsis of the City's policies, procedures and guidelines related to my employment. I can find a copy of the Employee Handbook on the City's Intranet at MyElPasoTexas.gov under "QuickLinks" or on the City's Human Resources webpage located at www.elpasotexas.gov/assets/Documents/CoEP/Human-Resources/Resources/Employee-Handbook.pdf. If I have a question regarding the interpretation of these policies, procedures and guidelines, I will contact my immediate supervisor or the Human Resources Department for clarification.

I understand that this handbook is not an express or implied contract of employment and that it does not create any rights in the nature of an employment contract. Rather, this handbook is an overview of policies related to my employment with the City of El Paso. I or the City can terminate my employment at any time, with or without cause and with or without notice.

I also understand that the City of El Paso reserves the right to modify, revoke, suspend or terminate any of the procedures or guidelines described in this handbook, at any time, with reasonable notice. By accepting or continuing my employment with the City, I agree to comply with any such changes as the City may implement and no further consent from me shall be necessary.

Signature

Kirk Douglas

Full Name

Kirk Douglas jr.

Date

04/25/2023

Last 4 of SSN

[REDACTED]



Parks and Recreation Department

MAYOR
Oscar Leeser

TO: Kirk Douglas (Kronos# [REDACTED])

FROM: Pablo Caballero, Interim Parks and Recreation Director 

DATE: February 27, 2024

CITY COUNCIL

SUBJECT: Directive to Cease Communications

District 1
Brian Kennedy

This is to notify you that the Human Resources Department has initiated a fact-finding process regarding a complaint of sexual harassment against you. To properly conduct the fact-finding, you are ordered to immediately cease and desist from engaging in any activity or behavior that can be perceived or construed as any form of sexual harassment or retaliation towards any coworkers, outside contractors, or members of the public. You are further ordered not to have any contact with Sabrina Amor to include during or outside working hours, through the course of this investigation. Failure to fully comply with these directives will be grounds for termination of your employment.

District 2
Dr. Josh Acevedo

District 3
Cassandra Hernandez

District 4
Joe Molinar

District 5
Isabel Salcido

You are not to obstruct, impede, or attempt to thwart this fact-finding in any manner or form. Any act on your part that violates these orders is strictly prohibited and will result in disciplinary action, including termination of your employment. Additionally, you are not to discuss the nature or details of this fact-finding with anyone other than your attorney/representative.

District 6
Art Fierro


District 7
Henry Rivera

You are reminded that any act that could be considered or perceived as retaliation against any employee, outside contractor, or member of the public who has filed a complaint against you, may be a violation of Federal, State, and City law and will be dealt with appropriately. Such retaliatory behavior is strictly prohibited and will result in disciplinary action.

District 8
Chris Canales

I received a copy of this memo. I understand that my signature does not indicate agreement.

**INTERIM CITY
MANAGER**
Cary Westin

Acknowledgment of Receipt: 
Kirk Douglas

Date: 2/27/24

Witness: 

cc:
Human Resources-Investigation file (Original)
Employee (Copy)



Pablo Caballero – Interim Director, Parks & Recreation Department
801 Texas Ave, 2nd Floor | El Paso, TX 79901
O: (915) 212-0092 | Email: parksandrecreation@elpasotexas.gov



Rivera, Alejandra

From: Chavarria, Tracy
Sent: Tuesday, March 12, 2024 3:07 PM
To: Rivera, Alejandra
Subject: FW: Kirk Douglas-Requesting a formal
Attachments: KD reports.pdf; Kirk D.zip; Fwd_scorekeeper.pdf

From: Juárez, Rosalva A. <C1725@elpasotexas.gov>
Sent: Tuesday, February 20, 2024 4:25 PM
To: Chavarria, Tracy <ChavarriaTX@elpasotexas.gov>
Cc: Vargas, Monica <VargasM@elpasotexas.gov>; Salamanca, Erica <SalamancaE@elpasotexas.gov>
Subject: FW: Kirk Douglas-Requesting a formal

Hi Tracy,

Please see attached and below email.

Thank you,

Rosalva (Rosie) Juarez

Senior Human Resources Analyst
City of El Paso | Human Resources
Office: 915-212-1269
C1725@elpasotexas.gov

From: Vargas, Monica <VargasM@elpasotexas.gov>
Sent: Tuesday, February 20, 2024 4:20 PM
To: Juárez, Rosalva A. <C1725@elpasotexas.gov>
Cc: Salamanca, Erica <SalamancaE@elpasotexas.gov>
Subject: Kirk Douglas-Requesting a formal

Good afternoon Rosalva,

Please see the attached documentations and verbal's issued. Let me know if you have issues opening the zip folder.

Can we please set up a meeting to discuss Mr. Douglas's work performance?

We have had instances where he does not want to assist the staff with setting up fields or tearing down. If another staff asks Kirk to help out in the fields Kirk does not assist unless it is a supervisor that tells him to.

Another instance Kirk was heard cussing at a scorekeeper and that they were lazy.

Kirk Also did not notify immediate supervisor of players that were ejected in which warrant a suspension from our leagues.



We have also placed Kirk in another Recreation to assist and he started to ask customers for their social media and made them feel uncomfortable. We also had an incident when Kirk was asking a scorekeeper her relationship status and Instagram account.

We would like to proceed with a Formal for Kirk based on performance.

Thank you,

Monica Vargas

Recreations Programs Manager

911 S. Ochoa St. 79901

Office: 915-212-1719

Cell: 915-873-9935



PARKS & RECREATION
CITY OF EL PASO



From: Gonzales, Mike
To: Vargas, Monica
Subject: Fwd:
Date: Sunday, February 18, 2024 2:07:19 PM
Attachments: image001.png
image002.png

Get [Outlook for iOS](#)

From: Porras, Celeste D. <PorrasCD1@elpasotexas.gov>
Sent: Sunday, February 18, 2024 2:01:27 PM
To: Gonzales, Mike <GonzalesM@elpasotexas.gov>
Subject: FW:

FYI - From the scorekeeper Sabrina

Best,

Dani Porras

Recreation Specialist
Volleyball/Basketball
Call/Text: 915-478-1563



PARKS & RECREATION
CITY OF EL PASO

From: Sabrina Amor <smamor2005@gmail.com>
Sent: Sunday, February 18, 2024 1:59 PM
To: Porras, Celeste D. <PorrasCD1@elpasotexas.gov>
Subject: Fwd:

You don't often get email from smamor2005@gmail.com. [Learn why this is important](#)

CAUTION: This email originated from outside of the City of El Paso. Do not click links or open attachments unless you recognize the sender and know the content is safe. If suspicious, use Phish Alert or forward to SpamReport@elpasotexas.gov.

Sent from my iPhone

Begin forwarded message:



From: Sabrina Amor <smamor2005@gmail.com>

Date: February 17, 2024 at 3:35:23 PM MST

To: porrescd1@elpasotexas.gov

Good afternoon Ms.Porras

my name is Sabrina and yesterday I was one of the girls doing book and clock in the TP gym and I just wanted to report an incident that occurred with one of your employees I believe his name is Kirk Douglas. He was helping me with the clock but he was making conversation asking me personal questions like if my age and my relationship status I had processed to tell him I was 18 years old and he replied back saying he was 30 years old and he asked me if I would date an older guy and I had told him no but he kept on insisting saying that we could work things out. Then he repeatedly asked me for my Instagram after I told him no multiple times. He also told me when me and the other scorekeeper first got there he was staring and that he was keeping an eye on me. After he realized that he wasn't gonna get my Instagram he repeatedly asked for my number and I kept saying no. He asked me for my number one last time before I left but the other scorekeeper that was my friend had came and he had asked me not to say anything. Also the official "Che " had told me that I wasn't in charge of checking ids and Che kept telling Kirk that he was supposed to do them but never did and proceeded to have me do them when I wasn't supposed to. Overall this situation made me uncomfortable because he kept flirting with me and wouldn't take no for an answer.

Sincerely,

Sabrina Amor

Sent from my iPhone

Rivera, Alejandra

From: Chavarria, Tracy
Sent: Tuesday, February 27, 2024 10:46 AM
To: smamor2005@gmail.com
Subject: Complaint

Good morning Sabrina,

I attempted to call you this morning, but I was unable to reach you. I just wanted to thank you for bringing forward the concern with Kirk Douglas and to let you know that we would be looking into it. We will be issuing Mr. Douglas with a Cease and Desist Order which states he is to have no contact with you. The Sports division of Parks and Recreation has agreed to keep you both in separate gyms; however, if he approaches you or speaks to you, please immediately let the Parks Staff (Dani Porras or Monica Vargas) know and then please also let me know. You may email me at any time. My number is listed below, but I do not always work in the office, so if you call, please leave a message and I will be notified.

Please confirm you received this and if you have any questions, please feel free to respond or give me a call.

Thank you,

Tracy F. Chavarria
HR Business Partner
Human Resources-City of El Paso
(915)272-1256





PARKS & RECREATION DEPARTMENT

Date: 3/13/2024

I, Kirk Douglas, certify that the following is a true and correct statement, to the best of my knowledge and recollection.

1. What is your title and how long have you been in that position?

RESPONSE:

Recreation leader / start date: 5/01/23

2. Who is your immediate supervisor?

RESPONSE:

Dani porras

3. How would you describe your work relationship with your coworkers?

RESPONSE:

My relationship with my coworkers is best described as a serious, professional work environment. We are altogether when it comes to making sure the city of El Paso's standards are met.

Date

3/13/24



Signature

Kirk Douglas



PARKS & RECREATION DEPARTMENT

Date: 3/13/2024

4. On or about February 16, 2024, you were working at the Yvan Rechy Gym but kept going to the Tony Ponce Gym, what was your reason for going to the Tony Ponce Gym?

RESPONSE:

I actually worked in Tony Ponce's gym on that day from what I recall. Regardless of the gym I work in I always check on the other gym periodically to make sure things are going smooth. I also do this because I am the senior recreation leader currently and I know how to handle difficult situations because of my experience.

5. Why did you kept on starring at scorekeeper, Sabrina, when you kept going to the gym where she was working at?

RESPONSE:

This is a false statement, I worked right beside Sabrina on that day from what I can recall.

Date

3/13/24

Signature

[Handwritten Signature]



PARKS & RECREATION DEPARTMENT

Date: 3/13/2024

6. It is alleged that on or about February 16, 2024, as you were helping scorekeeper Sabrina with the clock you asked her personal questions such as her age and relationship status. What was your intention in asking such questions?

RESPONSE:

I asked Sabrina how did she get into scorekeeping and she mentioned she used to play basketball. we had a full in-depth conversation which led to her disclosing personal information to me.

7. What was your intention in asking Sabrina if she would date an older guy?

RESPONSE:

I don't recall asking her would she date an older guy.

Date

3/13/24

Signature

[Handwritten Signature]



PARKS & RECREATION DEPARTMENT

Date: 3/13/2024

8. Why did you insist Sabrina after she told you she wouldn't date an older guy?

RESPONSE:

I did not insist Sabrina, I would not date someone that is that much older than me.

9. Why did you tell Sabrina you were keeping an eye on her?

RESPONSE:

Not a true statement, I insisted on leaving the gym a couple of times to check on the other gym but she insisted I stay and continue to help her

3/13/24

Date

Kim Duda

Signature



PARKS & RECREATION DEPARTMENT

Date: 3/13/2024

10. Has Sabrina ever mentioned to you that you make her feel uncomfortable?

RESPONSE:

NO she never mentioned that I made her feel uncomfortable in the one time that we met. I actually thought she was quite comfortable considering she took breath mints that were laying on the table which belonged to me without my consent.

11. Do you have any other relevant information to provide? Please explain further.

RESPONSE:

I never made in sexual advances or remarks about, towards Sabrina.

*****END OF STATEMENT*****

Date 3/13/24

Signature [Handwritten Signature]

Employee Notice of Fact-Finding Process

This is to notify you that the City of El Paso has initiated a fact-finding process regarding a work-related incident(s) and that you have been identified as an individual that is either directly or indirectly involved in or may have knowledge of relevant information related to the matter under review. If you refuse to truthfully answer questions regarding the incident(s), you will be subject to disciplinary action.

During this administrative fact-finding process, employees of the affected department(s) shall not discuss or release any information related in-part or in-whole to this administrative review with anyone other than authorized personnel from the Human Resources Department, your department, or as directed by the assigned reviewer, except as authorized by law. This includes all official departmental or City documents, information, or any other work products – written, verbal, or in any other medium.

You are directed to not discuss the nature or details of this fact-finding process with anyone other than those mentioned above. This directive also means that you are not to contact other employees, potential witnesses or complainants and/or obstruct, impede or attempt to thwart this review process in any manner or form. During an administrative interview, you are not permitted to use any electronic communication devices, such as a cellular phone or tablet, except in the event of an emergency; in the event of an emergency, you are required to notify the person with whom you are meeting. Furthermore, be advised that engaging in any activity or behavior that could be perceived or construed as any form of harassment or retaliation against any other employees, potential witnesses or complainants or that creates an intimidating or hostile work environment is strictly prohibited.

You may consult with your attorney or your representative regarding this matter; however, your attorney or representative may not be party to the administrative fact-finding processes, to include fact finding meetings and/or obtainment of statements.

Employees with questions regarding this directive should address their questions through their Department Human Resources Manager, if applicable, or the Human Resources Assistant Director.

Acknowledgement of Receipt:

Keith Douglas
Employee's printed name

Keith Douglas
Employee's signature

3/13/24
Date

3/13/24
Date

[Signature]
HR Representative's Signature

All efforts will be made to bring this complaint to closure within 120 days from the date that Human Resources was made aware of the matter in accordance with Civil Service Rule 8, Section 3e. Exceptions to the 120 days will be made in accordance with Rule 8. As such, the date of notice to Human Resources was 2/20/2024, and the closure of the matter may occur on or before 6/19/2024.



PARKS & RECREATION DEPARTMENT

Date: 4/03/2024

I, Kirk Douglas, certify that the following is a true and correct statement, to the best of my knowledge and recollection.

1. When Sabrina did not want to provide you with her Instagram username, why did you ask her if she had any nudes?

RESPONSE:

I did not ask her if she had any nudes, I stated to her that Instagram is a public place and I asked her why if she does not post any explicit photos.

2. Have you had any previous incidents of similar nature with other females in the past?

RESPONSE:

No, every female or male coworker that I come in contact with during a scheduled shift I have a professional relationship with.

Date 4/3/24



Kirk Douglas
Signature



PARKS & RECREATION DEPARTMENT

Date: 4/03/2024

3. Please elaborate on the reason you were moved from recreation center Gary Del Palacio.

RESPONSE: I was never moved from Gary Del Palacio,

In fact I was never scheduled there permanently, I was told that sports, in particular basketball is never operated out of that location. I've only been scheduled to work at Gary Del Palacio if or when help was needed

4. Why do you keep on asking female employees for their social media accounts after they say no?

RESPONSE: I never ask females that I work with for their social media accounts unless we're friends outside of work.

5. Is there any additional information you would like to provide?

RESPONSE: I would like to be not scheduled in the same place as my accuser. I was told to cease all communication and keep away and that's what I would like the scorekeeper assigner to honor.

*****END OF STATEMENT*****

4/3/24
Date

Kins Dearth
Signature



PARKS & RECREATION DEPARTMENT

Date: 3/27/2024

I, C. DANI PORRAS, certify that the following is a true and correct statement, to the best of my knowledge and recollection.

1. What is your title and how long have you been in that position?

RESPONSE: approximately 2 wks after juneteenth 2023 as a recreation specialist

2. Who is your immediate supervisor?

RESPONSE: Mike Gonzalez

3. Please describe your work relationship with Recreation Leader, Kirk Douglas.

RESPONSE: typical employee to employee associate a little more on the formal side as the interim supervisor

4. How would you describe the work relationship with Recreation Leader, Kirk Douglas and other staff members?

RESPONSE: mainly rocky with the females but seems to get along with most of the males well doesn't like Saary Spence much due to feeling overlooked and ^{NOT} chosen.

Date

3/27/24



Signature



PARKS & RECREATION DEPARTMENT

Date: 3/27/2024

5. What is the process to assign recreation leaders to work at the gyms in the recreation center? Is there a log you are able to provide?

RESPONSE: rec leaders are not assigned to a specific gym—they need to be overseeing. They are given choice the day of their shift as to which gym they would like to oversee with the exception of Monday nights - Kirk is in charge of the Texastech league and works the VR gym those days as that's the gym T.T. uses for their scheduled games.

6. Please describe in detail what scorekeeper Sabrina Amor reported to you in regards to Kirk Douglas.

RESPONSE: Sabrina did not report anything to me directly. She wrote an incident report and email that was sent to me/given to me. From reading her incident report I know she said Kirk was persistently asking her inappropriate questions and did not take "no" for an answer. When she declined giving her Instagram to Kirk he asked if she was hiding nudes. When he asked her age and she replied with 18, he asked if he would date older men like him and that "they could make it work"

3/27/24

Date

Signature



PARKS & RECREATION DEPARTMENT

Date: 3/27/2024

7. Are there any other witnesses who may provide additional information?

RESPONSE:

Fernando Ramirez
Rebecca Freeman-Hendricks
Elisa Gonzalez
Saony Spence
"One" Velasquez (Marcelino, think)

8. Do you have any other relevant information to provide? Please explain further.

RESPONSE:

Feel like its a pattern of behavior
as he made the girls @ GDP very
uncomfortable & was constantly asking
for their social media despite them
saying no repeatedly.
Dec 2023 / Jan 2024

*****END OF STATEMENT*****

3/27/24
Date

[Signature]
Signature

Rivera, Alejandra

From: Porras, Celeste D.
Sent: Wednesday, March 27, 2024 2:13 PM
To: Rivera, Alejandra
Subject: Email re: Mr KD
Attachments: Image.jpeg

Hello,

Please see the attached screenshot of the email I was sent by Mike Gonzales. There are dates included in the email regarding when behaviors took place.

While the email says last years behaviors with the girls - the current young ladies working there expressed relief when Kirk was no longer scheduled there as they said the same thing - he was constantly asking for their social media, even after they told him no.

Please excuse any typing mistakes, I am on mobile, thank you

Best,

Dani Porras

Recreation Specialist
Volleyball/Basketball
Call/Text: 915-478-1563



I wanted to speak to you regarding the possibility of considering different options to GDP instead of Mr. Kirk Douglas or whatever options are more convenient for you. We had some situations with him.

The first incident with him and the girls at GDP last year, not sure if you remember the situation. Mr. Douglas was a little persistent with the girls about adding them into his social media, a situation that made the girls uncomfortable by how persistent he was.

The second situation was Thursday 1/4/23. We started noticing a strong smell to weed. We weren't so sure where it came from at the beginning. Today, staff working Thursday and the previous days confirmed it came from Mr. Kirk. The smell became stronger when he would go inside the staff office and spend his shift there.

I understand it might be a little complicated to move things around, but if you can please consider the movement. If you want to give me a call to discuss further more please feel free. I am sorry for the inconvenient.



PARKS & RECREATION DEPARTMENT

Date: 3/13/2024

I, Fernando Ramirez, certify that the following is a true and correct statement, to the best of my knowledge and recollection.

1. What is your title and how long have you been in that position?

RESPONSE: Recreation leader Sept. 25 of last year to present

2. Who is your immediate supervisor?

RESPONSE: Mike Gonzales

3. Please describe your work relationship with Recreation Leader, Kirk Douglas.

RESPONSE:

We pretty much get along AND do what is asked of us

4. How would you describe the work relationship with Recreation Leader, Kirk Douglas and other staff members?

RESPONSE:

He's pretty stays to himself, kind of quiet
AND stays to himself

3-13-2024
Date



Fernando Ramirez
Signature



PARKS & RECREATION DEPARTMENT

Date: 3/13/2024

5. Has Kirk discussed with you his intentions with scorekeeper Sabrina?

RESPONSE:

NO

6. Have you discussed any issues about Kirk's behavior with Sabrina or any other staff member?

RESPONSE:

NO

Sabrina's friend told me that Kirk made her feel uncomfortable AND I informed her that she had to discuss the matter with my Supervisor or her Supervisor

3-13-2024

Date

Zelma B. Remy

Signature



PARKS & RECREATION DEPARTMENT

Date: 3/13/2024

7. Are there any other witnesses who may provide additional information?

RESPONSE:

Not that I know of
to the best of my knowledge

8. Do you have any other relevant information to provide? Please explain further.

RESPONSE:

NO

*****END OF STATEMENT*****

3-13-2024

Date

Demario G. Ramirez

Signature

Item #8B
Appellant's
Exhibits
Kirk Douglas

EXHIBITS FROM KIRK DOUGLAS: A-1 AND A-2



City of El Paso
Parks and Recreation Department
Injury/Incident Report
(NON-EMPLOYEE)



Complete this report immediately following any injury/incident and notify the immediate supervisor.
Reports are due to the Parks and Recreation Administrative Office within 2 business days.

Incident Date:	2/23/2024	Incident Time:	6:30-10:00	AM	<input checked="" type="checkbox"/>	PM	<input type="checkbox"/>
Incident Location:	Challo Acosta Sports Center						
Person(s) Involved:	Sabrina, scorekeeper and Kirk Douglas						
Parent's Name (if minor):							
Street Address:	4321 Delta Dr.						
City:	ELP	State:	TX	Zip Code:	79903	Phone:	915-212-2040

Type of Injury/Incident (Continue on Page 2, if more space needed)

Inappropriate staff behavior

Describe What Happened (Continue on Page 2, if more space needed)

I was located in the Tony Ponce gym and Kirk Douglas was located in the Yvan Rechy gym. Several times in between his games and the half times, he came into the Tony Ponce gym. I believe that he was there to try and talk to Sabrina and felt quite confident that he was overtly staring at her and not there to talk to anyone or watch the games. Sabrina was quite uncomfortable each time he walked in and I had to reassure her a couple times that she will not be left alone and we will escort her to her car. That seemed to help her relax and she thanked me.

Action Taken (Continue on Page 2, if more space needed)

I remained with Sabrina throughout the night and if I needed to use the restroom, Saory or Malachi would sit with her.

EMS Called? Yes No Transported to _____

Police Called? Yes No PD Case No _____

Witnesses	Check One		Title (if applicable)
	Staff	Other	
Rebecca Freeman-Hendricks	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Sports Site Specialist
Saory Spence	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Recreation Leader
Sabrina, scorekeeper	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Scorekeeper

Employee Completing Injury/Incident Report

Employee Name (print)	Title	Signature	Date
Rebecca Freeman-Hendricks	Sports Site Specialist	<i>[Signature]</i>	2/23/2024
Reviewed			
Reviewer	Employee Name (print)	Signature	Date
Site Supervisor / Coordinator	<i>M. L. Gomez</i>	<i>[Signature]</i>	2/26/24
Division Manager	<i>[Signature]</i>	<i>[Signature]</i>	2/24/24
Assistant Director			
Interim Director	Pablo Caballero		



Exhibit:



Incident Report



PARKS & RECREATION DEPARTMENT

3/12/24 Date:

I, Sawny Spence, certify that the following is a true and correct statement, to the best of my knowledge and recollection.

1. What is your title and how long have you been in that position?

RESPONSE: + 6 months
+ Recreational leader

2. Who is your immediate supervisor?

RESPONSE: + Ruben Martinez

3. Please describe your work relationship with Recreation Leader, Kirk Douglas.

RESPONSE:

We have a coworker relationship other than that we dont have a relationship. He is hard to work with since he is lazy and doesnt follow directives.

4. How would you describe the work relationship with Recreation Leader, Kirk Douglas and other staff members?

RESPONSE:

They all have a coworker relationship. I have seen other coworkers bump heads with him because he doesnt follow directives.

3/12/24
Date



Sawny Spence
Signature

EXHIBIT A-2



PARKS & RECREATION DEPARTMENT

Date:

5. On February 23, 2024, it is alleged that Recreation Leader, Kirk Douglas, was trying to talk to Sabrina and was making her feel uncomfortable. Please describe in detail your observations regarding Kirk's behavior during the alleged incident.

RESPONSE:

~~On February 23, 2024, I was working at Arosta~~

Feb 23, 2024 I was working at Arosta

but I did not witness the incident happen.

During that ^{day} I wasn't aware of the situation ~~that~~ that occurred. I was later told by other scorekeepers

Also I was informed that Kirk cannot work at Tony Ponce gym or be near Sabrina.

6. Why do you think Kirk was at the Tony Ponce gym to talk to Sabrina?

RESPONSE:

I'm not sure of his intentions.

3/12/24
Date

Suzany Spence
Signature



PARKS & RECREATION DEPARTMENT

Date:

7. Have you noticed Kirk have the same type of behavior with other employees?

RESPONSE:

Not that I knew of.
But I have notice he is a flirt with
scorekeepers.

8. What did Sabrina tell you that made her feel uncomfortable?

RESPONSE:

Sabrina didnt tell me anything
regardin the situation.

3/12/24
Date

Sorely Spence
Signature



PARKS & RECREATION DEPARTMENT

Date:

9. What was Kirk's reaction after you remained with Sabrina for the rest the night?

RESPONSE:

I did not interact with Sabrina
Feb 23, 2024.

10. Are there any other witnesses who may provide additional information?

RESPONSE:

Rebecca Hendricks
Malachi Wetch

11. Do you have any other relevant information to provide? Please explain further.

RESPONSE:

~~END~~
I'm not sure the exact date but I was
told by Kirk when we were working Basketball
together that he wanted to work with the
new scorekeeper. I'm not sure if this is
relevant. But it shows his intentions aren't good

*****END OF STATEMENT*****

3/12/24
Date

Saerly Spence
Signature

BEFORE THE CIVIL SERVICE COMMISSION
FOR THE CITY OF EL PASO, TEXAS

IN RE: KIRK DOUGLAS)

)
)
)
)
)

DOCKET NUMBER
24-PR-01PP

Hem#8C
HO'S
Recommendation
Kirk Douglas

RECOMMENDATION OF HEARING OFFICER

A. Case Procedural Summary

DATE OF DISCIPLINE: 6-21-24 TO 7-4-24 (10 day suspension)
DATE OF ASSIGNMENT:
TO HEARING OFFICER: 7-15-24
DATE OF PREHEARING: 7-19-24
DATE OF HEARING: 8-14-24
PLACE OF HEARING: City Attorney Conference Room
ATTORNEY FOR CITY: Matthew Marquez
REPRESENTATIVE FOR THE CITY: Pablo Caballero, Dept. Director
REPRESENTATIVE FOR THE EMPLOYEE: None. Represented himself.

WITNESSES FOR THE CITY:

Pablo Caballero-Department Head, Parks and Recreation
Celeste Dani Porras- Recreation Specialist & Acting Program Manager
Monica Vargas-Recreations Program Manager
Mike Gonzales-Recreation and Sports Coordinator
Claudia Cancellare-Employee Relations Officer
Alejandra Rivera-Senior Human Resources Analyst
Tracy Chavarria-Human Resources Business Partner

WITNESSES FOR THE EMPLOYEE:

Kirk Douglas-Sports Recreation Leader
Fernando Ramirez-Sports Recreation Leader
Keith Edmond-Sport Site Employee (part time position)

EXHIBITS ENTERED AS EVIDENCE:*

**Note: City Exhibits are C- and Appellant Exhibits are A-. The City withdrew Exhibits C-9 and C-14 but the Appellant entered them as A-1 and A-2.*

City Exhibits C-1 to C-8, C-10 to C-13, C-15
Appellant's Exhibits: A-1, A-2

B. Summary of Case

Kirk Douglas received a ten day suspension based on his conduct on February 16, 2024. Mr. Douglas's job as a Sports Recreation Leader requires that he be present at City League games on Parks and Recreation property to assure that contracted score keepers and referees do their jobs, that participants conduct themselves appropriately, and that the games, whether basketball or volley ball, or other games played on El Paso Parks and Recreation property, run smoothly. A non-City employee score keeper for a basketball game, Sabrina Amor, filed a complaint with the City by e mail alleging that Douglas conducted an inappropriate conversation with her on February 16, 2024 during a basketball game where she was working as a scorekeeper.

The Notice of Suspension contends in the "Specifications" section, Exhibit C-1, p. 8), that the score keeper reported that Douglas began making conversation and began asking questions about her age and personal aspects, such as her relationship status. "She informed you that she was only 18 years old and you asked whether she would date an older guy. She reported that she responded no, but you insisted on essentially trying to minimize your age difference and that you could work things out." The Notice states that she reported that during the interaction Douglas repeatedly asked her for her social media (Instagram) information, and she told him no multiple times. Similarly, she reported that Douglas repeatedly asked for her phone number, and she had to keep saying no. She reported that overall, the situation made her feel uncomfortable because of Douglas's persistence and not taking no for an answer.

The Notice states further that during an investigation by Human Resources, Douglas acknowledged that he did have the conversation and that when the scorekeeper did not give him her Instagram information, "you stated that you made a comment to her that Instagram is a public place and questioned her as to why she would not give you her Instagram information if she does not post any 'explicit photos.' Whether your words were 'explicit photos' or 'nudes', this insistent questioning on personal matters was still offensive and inappropriate for the workplace. Your repeated and persistent actions went beyond attempting to engage in conversation or getting to know the Score Keeper in a friendly manner."

A last allegation in the Notice is that "a witness confirmed that you repeatedly stood at the

entrance of the gym where the Score Keeper was working and stared at her on more than five (5) occasions causing her to feel uncomfortable in the workplace.”

The Notice contends that Douglas violated the Sexual Harassment Prevention Policy and Procedures. “Sexual Harassment is strictly forbidden. Any behavior that constitutes inappropriate workplace behavior is prohibited, regardless of intent or severity. This policy is designed to stop this type of behavior and prevent its reoccurrence. Your actions and behavior are not in alignment with the City’s Mission, Vision or Values and will not be tolerated.” (Exhibit C-1, p. 8)).

Mr. Douglas’s disciplinary history is listed as a three day suspension beginning May 8, 2024 for Disobeying a Direct Order. (Exhibit C-1, p. 8).

C. Timeliness of Discipline Notice to Employee

The Notice of Suspension is dated June 20, 2024, and was given to Mr. Douglas on June 20, 2024 as indicated by his signature acknowledging receipt.(Exhibit C-1).

Civil Service Rule 8, Section 3(e) provides as follows:

“A proposed written notice of disciplinary action must be served on an employee within 120 calendar days from the date Human Resources is made aware of the occurrence of the incident giving rise to the discipline, provided however that this period of limitation shall be tolled if an investigation is being conducted by a law enforcement authority into criminal charges against the employee arising out of the same incident.” (Exhibit C-1, p. 3).

On page 7 of the Notice of Suspension, Exhibit C-1, the City lists, in bold, as follows:

**“Date Received by Human Resources: February 20, 2024
120th Day Deadline, pursuant to CSC Rule 8 Section 3(e): June 19, 2024”**

Civil Service Rule 8 further states in Section 3(f) as follows:

“Any issue of non-compliance with these provisions will be considered by the hearing officer and/or Commission upon the appeal of the disciplinary action.” (Exhibit C-1, p. 3).

The Notice of Suspension should have been given to Mr. Douglas on June 19, 2024 to comply with the 120 day rule. It was given to him one day too late, on June 20, 2024. Therefore, although neither the City nor the Employee Appellant brought up this issue with this Hearing Officer at any point in these proceedings, this Hearing Officer will consider the issue pursuant to Rule 8 Section 3 (f). In most courts at law, unless the timeliness of the lawsuit is brought up by

one of the parties at the beginning of the lawsuit, the issue is “waived” and will not be considered by the court. However, rules followed by the courts in a civil lawsuit do not govern the Civil Service Commission. The Civil Service Commission is governed by the powers granted to it by the El Paso City Charter. The City Charter grants the Civil Service Commission the power to “establish its own procedures within the framework of this Charter” to carry out its functions. (City Charter, Section 6.1 Civil Service Commission). Accordingly, in Rule 8, the Civil Service Commission has promulgated rules for disciplinary actions, including certain time limits. Rule 8 states that the hearing officer and/or Commission “will” consider non-compliance with the provisions of Rule 8. The rule does not say “if a party brings it up.”

The Notice of Suspension was not served on Mr. Douglas within the 120 calendar day time guidelines of Civil Service Rule 8, Section 3(e). There was no evidence of any ongoing criminal investigation by a law enforcement agency that would have extended the time deadline. There was no evidence that a Notice of Proposed Suspension was given to Mr. Douglas at some earlier date. Therefore, this disciplinary action violates the time deadlines of Civil Service Commission Rule 8 Section 3(e). The 10 day suspension should not be sustained.

RECOMMENDATION ON TIMELINESS OF DISCIPLINE

Based on the evidence provided by the City and the employee appellant for this hearing, I find that the Notice of Suspension was served on Kirk Douglas one day too late and **the discipline should not be sustained**. However, if the Commission decides to allow the disciplinary appeal to proceed regardless of the time deadline missed, what follows is my analysis of the facts and evidence upon which the discipline was based.

C. Discipline Facts and Evidence

Sabrina Amor, the complainant, is a scorekeeper. Scorekeepers and referees are provided to the City’s games through a contract the City has with Marcelino Velasquez, who is nicknamed “Che.” Velasquez provides these individuals and then submits billing to the City, which pays Mr. Velasquez who then pays the scorekeepers and referees. Scorekeepers are often students working at games to make extra money. At a game on February 16, 2024, a friend of Sabrina Amor approached Fernando Ramirez, another Recreation Leader who works with Kirk Douglas, and told him her friend wanted to make a report on a co-worker that made her uncomfortable. Ramirez told her to speak to his supervisor, who was Dani Porras, or to her supervisor, “Che” Marcelino

Velasquez.

On February 17, 2024, Sabrina Amor sent an e mail to Danni Porras, but it was the wrong e mail. Ms. Amor then forwarded it to Dani Porras the next day, Sunday February 18, 2024. (Exhibit C-7). In the e mail, Sabrina Amor outlined an incident she had on February 16, 2024 when she was performing her duties as a scorekeeper in the TP gym. Ms. Amor stated that Douglas asked her personal questions such as her age and relationship status. He asked her if she would date an older guy as he was 30 years old, and although she told him no, he “kept insisting saying that we could work things out. Then he repeatedly asked me for my Instagram after I told him no multiple times.” (Exhibit C-7, p, 2). Ms. Amor stated: “Overall this situation made me uncomfortable because he kept flirting with me and wouldn’t take no for an answer.” Ms. Porras immediately forwarded the e mail to her supervisor Mike Gonzales, who then forwarded it to his supervisor Monica Vargas. Pursuant to the City’s Sexual Harassment Prevention policy, Human Resources was notified so that they could conduct an investigation. Sexual harassment allegations received by a supervisor must be forwarded to Human Resources who will conduct an investigation immediately. (Exhibit C-2).

Dani Porras, Douglas’s immediate supervisor who initially received Amor’s e mail complaint, testified at this Hearing that she did speak to Sabrina Amor after the first game at which Sabrina Amor kept score after the e mail, and Sabrina confirmed what she had said in the e mail. However, Amor also added that when she refused to give Douglas her Instagram information, he had asked her why not share? Were there nudes on her Instagram?

Alexandra Rivera, Senior HR Analyst, investigated Sabrina Amor’s complaint. She talked to Sabrina Amor to confirm the details in her complaint. Because Amor was not a city employee, she could not force her to come into her office, so she spoke to her by phone as she would any other citizen complainant. Rivera conducted interviews, including of Mr. Douglas, who provided two question and answer written statements. (Exhibits C-10, C-11). In his written answers, and in his testimony at this Hearing, Mr. Douglas denied all the allegations made by Sabrina Amor. He did not deny that they had a conversation, but he denied that he was persistent in asking for Instagram information or telephone numbers or was inappropriate in any way. In a written statement on March 13, 2024, in response to a question as to whether he asked Sabrina personal questions such as her age and relationship status, Mr. Douglas answered: “I asked Sabrina how

did she get into scorekeeping and she mentioned she used to play basketball. We had a full in-depth conversation which led to her disclosing personal information to me.” In response to whether he asked Sabrina if she would date an older guy, he responded: “I don’t recall asking her would she date an older guy.”(Exhibit C-10).

In a statement on April 3, 2024, a question asked : “When Sabrina did not want to provide you with her Instagram username, why did you ask her if she had any nudes?” Mr. Douglas’s handwritten answer was as follows: “I did not ask her if she had any nudes, I stated to her that Instagram is a public place and I asked her why if she does not post any explicit photos.(Exhibit C-11).

Mr. Douglas does not deny that he received the City’s Sexual Harassment policy and the Disciplinary Matrix on April 25, 2023 when he was hired. (Exhibit C-4)

D. Defenses of Kirk Douglas

Mr. Douglas contends that the ten day suspension should not be sustained for the following reasons:

1. The evidence against him is not concrete enough. There were no witnesses to the conversation for which he is being suspended except for him and Sabrina Amor. It is a question of “he said, she said.”

2. His questions to her were misconstrued. For example, he never asked if she posted “nudes” but rather asked if she posted “explicit photos.”

3. Why wasn’t her supervisor Marcelino (“Che”) Velasquez called by the City to testify? His coworker Fernando Ramirez testified at the hearing to the fact that Sabrina Amor was not a good worker, was often late, was young, distracted, etc. Douglas had told her supervisor Che Velasquez about her work performance issues. Mr. Ramirez testified that he had never seen Kirk Douglas act inappropriately with Sabrina Amor or others in the eight months he had worked with Douglas. Both had the same job duties as Recreation Leader.

4. Sabrina Amor did in fact give him her Instagram user name that day in question and he sent her a video of him playing basketball.

5. Sabrina Amor never told him he was making her uncomfortable. He was not persistent with her and she did not tell him “no” repeatedly. He did not repeatedly ask for her Instagram and personal information.

6. Sabrina Amor asked him to stay by her side that night because she did not know what she was doing. Why would she do that if she were uncomfortable with him? Why did she take his mints from the table and eat one if she were so uncomfortable?

7. The Employee Handbook does not say you cannot follow someone on Instagram. Rules do not prevent outside relationships with co-workers. He received no training that he could not ask for social media accounts.

8. Allegations about prior conduct at Gary del Palacio Center is not supported by any concrete evidence, no names of the complainants, no "pattern of behavior." Relying on some rumor of past pattern of behavior "is not right."

E. Discussion of Evidence

As happens in many cases of alleged sexual harassment, the only witnesses to the incident on February 16, 2024 were the two participants, employee Kirk Douglas and the complainant Sabrina Amor. If this were a "he said, she said," case, and they were both equally believable and there was no other circumstantial or other evidence, then the City might not be able to prove its case by a "preponderance of the evidence," or more than 50 %. Sabrina Amor was not called as a witness by either the City or Mr. Douglas. While she is not a City employee who could be ordered to attend the hearing, she could have been subpoenaed by either side through the procedures available during this hearing. However, a party is not required to call all witnesses, but is only required to bring enough evidence to prove their case by a preponderance of the evidence.

Therefore, the evidence from Sabrina Amor is what she wrote in her e mailed complaint (Exhibit C-7, p. 2) and what two witnesses testified Sabrina told them when they talked to her. Alejandra Rivera, the H.R. investigator, and Dani Porras, who received the e mail complaint, both testified that they had spoken to Sabrina Amor who confirmed her written complaint and added the allegations about the nudes/explicit photos question by Mr. Douglas.

Mr. Douglas called a witness, Keith Edmond, who had seen Douglas and Amor sitting at the scorekeeper's table. Edmond testified that he only observed them for two minutes as he was busy playing in the basketball game Ms. Amor was scoring. He said Ms. Amor was laughing. He did not hear any of their conversation.

While witnesses did testify in answer to questioning about both Mr. Douglas's work performance, and Ms. Amor's work performance, neither's work performance, whether good or

bad, is relevant to the case at hand.

Dani Porras, in her written statement, made an allegation that in December 2023 and Jan 2024, some women at the Gary Del Palacio Center where volleyball is played were uncomfortable with Mr. Douglas's requests for social media information. However, the Department Director and Human Resources witnesses at this hearing clearly stated that since nothing had been reported by anyone in a timely manner, nor had it been investigated, the allegations about women in the Gary Del Palacio Center were not considered in the present case. In fact, under the Sexual Harassment policy, Ms. Porras had a duty to immediately report any knowledge of sexual harassment if it came to her attention, which she clearly did not do. Ms. Porras also forwarded to the investigator in this case an e mail she received allegedly sent by manager Mike Gonzales describing actions happening "last year." (Exhibit C-13). The screenshot of the e mail does not say who sent it, to whom it was sent, or when, so it is not credible and was not included by management in the ten day discipline. The present case, according to the Human Relations Officer Claudia Cancellare and the Department Head Pablo Caballero, was based solely on the isolated incident of February 16, 2024.

The question then is whether to believe the written complaint of Sabrina Amor, or Keith Douglas's written statement and his testimony at the hearing. Mr. Douglas denies that he was inappropriate or persistent with Ms. Amor. However, his written responses to questions in Exhibits C-10 and C-11 do support Mr. Amor's contentions. His first statement on March 13, 2024 does state that "we had a full in depth conversation which led to her disclosing personal information to me." Ms. Amor contends that it was Mr. Douglas's persistent questioning of her with personal questions that made her uncomfortable. In his second statement when he was asked if he had asked her if she had any nudes on her Instagram account and that was why she did not want to provide him with her username, Mr. Douglas responded as follows: "I did not ask her if she had any nudes. I stated to her that Instagram is a public place and I asked her why if she does not post any explicit photos." Thus, Mr. Douglas is admitting that Ms. Amor had refused to give him her user name but that he persisted with the comment about explicit photos. The Merriam Webster Dictionary defines the word explicit" as "open in the depiction of nudity or sexuality." Therefore, by Mr. Douglas's own words, he confirms that he was persistent in not accepting a "no," and inquiring why she was refusing to give him access to her Instagram if she did not have explicit

(or nude)photos on it.

F. The City's Sexual Harassment Policy

The Department Head contends that the City's Sexual Harassment Prevention Policy and Procedures was violated by Mr. Douglas's actions on Feb. 16, 2024. Sexual Harassment is defined in the policy as "verbal or physical conduct that is sexual in nature, used to threaten, intimidate or coerce; verbal taunting bullying that is sexual in nature that, in the employee's opinion, impairs their ability to perform their job. This includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature." (Exhibit C-2, page 2).

The Policy states further as follows: "Sexual Harassment is strictly forbidden. Any behavior that constitutes inappropriate workplace behavior is prohibited, regardless of intent or severity, even if it does not meet the definition of Sexual Harassment above." In the case at hand, there is no direct testimony that Douglas's conversation affected Sabrina Amor's work performance as a scorekeeper. However, in her written complaint, Amor states that after the offensive conversation with Douglas in which she denied him personal information, Douglas made her check people for Identification even though her contract supervisor Che Velasquez had told her it was not her job and Che had told Douglas that Douglas should check for ID's. "Overall this situation made me uncomfortable because he kept flirting with me and wouldn't take no for an answer." (Exhibit C-7, p 2).

It is important to consider that Mr. Douglas was the onsite supervisor for Ms. Amor. Mike Gonzales, the Recreation and Sports Coordinator, who is several steps above Douglas in the supervision chain of command, testified that the Recreation Leaders, such as Kirk Douglas, are the "face" of the program. They interact with the players, customers, and score keepers. They are the onsite employees charged with making certain that the games run smoothly, both on the court and in the stands. Although Sabrina Amor was hired by Marcelino ("Che") Velasquez who contracted with the City to provide referees and score keepers, Mr. Velasquez was not on site to handle issues. The recreation leaders, such as Mr. Douglas, had to make sure the scorekeepers and referees were doing their job, so that they were in fact "supervising" the contracted workers such as scorekeepers. Put in this light, Douglas was a superior who was flirting and insistent with a subordinate about obtaining her personal information and Instagram account user name.

Therefore, the evidence does prove by a preponderance of the evidence that the Sexual Harassment Policy, as written, was violated by Douglas on February 16, 2024.

An allegation in the Notice of Suspension that was not proven was that that “a witness confirmed that you repeatedly stood at the entrance of the gym where the Score Keeper was working and stared at her on more than five occasions causing her to feel uncomfortable in the workplace.” No witness or document presented at this Hearing confirmed this allegation by a preponderance of the evidence. Therefore, these allegations of staring are not proven.

F. The Disciplinary Matrix

The City’s Discipline Policy and Matrix is a policy intended to impose corrective and progressive disciplinary action in a timely and consistent manner.(Exhibit C-3). However, the Matrix “does not substitute for supervisory judgment and does not dictate discipline.” (Exhibit C-3, p. 3). The final determination for discipline rests with the Department Head who has a right to depart from the guidelines and impose different discipline than the Matrix.

The color coded Matrix chart shows that the lesser violations start at Level 1. Level 1 violations begin with a formal counseling for the first offense and progress to termination or demotion for the 4th offense. Level 2 starts at suspension for the first violation. Level 3 starts at 10 day suspension for the first violation. Level 4 starts at termination for the first violation. Sexual Harassment is a Level 3 Violation which starts with a 10 day suspension for the first violation, 15 day suspension for the second violation, and then termination for the 3rd offense. (Exhibit 3, pp. 7-11). This was Kirk Douglas’s first offense of a violation of the Sexual Harassment Policy.

Department Head, Pablo Caballero, testified at this Hearing that he was strict and there was zero tolerance for physical, or verbal harassment. He followed the Sexual Harassment 10 day suspension guideline as he believed the incident with Kirk Douglas on Feb. 16 was serious and was a violation of the Sexual Harassment policy. Claudia Cancellare, the Human Resources Officer who oversees discipline for 7000 City employees, testified at this Hearing. She testified that flirting and asking for a date one time is one thing, and would not be considered sexual harassment without more. However, asking about explicit photos on social media and being persistent about getting a date is sexual harassment, even if just one isolated incident. Both Mr. Caballero and Ms. Cancellare testified that Mr. Douglas was disciplined for the isolated incident on February 16, 2024.

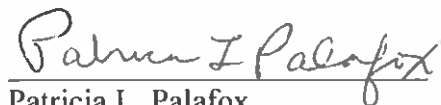
G. Conclusions of Hearing Officer regarding Discipline

1. Section 6.13 of the City Charter imposes on a department head the burden of proof to prove by a preponderance of the evidence that the employee committed conduct alleged in the specifications and that such conduct violated the rules and regulations of the City. In civil law, preponderance of the evidence means the greater weight of the credible evidence. If the evidence is 50/50, then the employee wins, since the City must prove its case by at least 51 percent.
2. The Notice of Suspension for Douglas stated that his conduct violated the City Charter Section 6.13-3 and Civil Service Rule 8 in that he was “wantonly offensive in conduct or language” with a fellow employee or member of the public” and “for just cause.” The Notice of Suspension stated that Douglas had violated the City’s Sexual Harassment Policy.
3. The Department Head has met his burden of proof and has proven by a preponderance of the evidence that the employee committed the conduct alleged in the specifications of the Notice of Suspension, except for the allegation of staring more than five times at the complainant, and that the conduct violated City and/or Department policies.
4. The Department Head has met his burden of proof and proven by a preponderance of the evidence that the employee’s conduct warrants a ten day suspension.

H. RECOMMENDATIONS OF HEARING OFFICER

1. **Regarding the untimely disciplinary Notice of Suspension, I recommend that the ten day suspension of Kirk Douglas not be sustained.**
2. **However, if the Civil Service Commission decides that the Notice of Suspension was not late, then I recommend that the ten day suspension of Kirk Douglas for sexual harassment be sustained.**

Respectfully submitted:


Patricia L. Palafox
Hearing Officer


Date

Menchaca, Symone

From: Marquez, Matthew G.
Sent: Monday, September 23, 2024 12:25 PM
To: kirkdouglas1122@gmail.com; Douglas, Kirk E.
Cc: Patricia Palafox; Menchaca, Symone
Subject: FW: Brief Statement

Item #8D
Appellant's
Brief Statement
in Response to
Recommendation

Hi Mr. Douglas, I received this e-mail from you. Not sure if you are just sending it to me as a copy – or whether you already sent it to anyone else.
Just in case, I am forwarding to Judge Palafox and Ms. Symone Menchaca (assisting the Civil Service Commission). See below.



Matt Marquez
Assistant City Attorney
El Paso City Attorney's Office
300 N. Campbell St., El Paso, TX 79901
Phone: 915-212-1235
Email: MarquezMG@elpasotexas.gov

CONFIDENTIALITY NOTICE: The information contained in this ELECTRONIC MAIL transmission is confidential. It also may be protected by and subject to the attorney-client privilege or be privileged work product or proprietary information. This ELECTRONIC MAIL transmission and the information contained in or attached as a file to it are intended for the exclusive use of the addressee(s). If you are not the addressee (or one of the addressees), you are not an intended recipient; if you are not an intended recipient

Appellant's
Brief Statement

From: cozy1 <kirkdouglas1122@gmail.com>
Sent: Monday, September 23, 2024 10:45 AM
To: Marquez, Matthew G. <Marquezmg@elpasotexas.gov>
Subject: Brief Statement

You don't often get email from kirkdouglas1122@gmail.com. [Learn why this is important](#)

CAUTION: This email originated from outside of the City of El Paso. Do not click links or open attachments unless you recognize the sender and know the content is safe. If suspicious, use **Phish Alert** or forward to SpamReport@elpasotexas.gov.

Kirk Douglas Brief Statement

I never said anything sexually offensive to the scorekeeper Sabrina Amor, we had normal conversations that pertained to her interest in the game of basketball.

She promised me her phone number after her bathroom break, it was never me pressing the issue.

I even tried to leave and go to check on the other gymnasium's games to make sure everything was going smoothly and she demanded that I stay by her side.

All of the evidence for her claim is he/she say. Her witnesses are my coworkers who don't like me because I voiced how I felt about being overlooked for a position to HR.

I read all of the witnesses incident reports and it's three women that claim I went to the other gym a week after our first time working together and directly stared at Sabrina making her feel uncomfortable. Those three statements didn't have any sufficient evidence.

Then when you look at Che Velasquez side of the story or Malachi Welch's story it says that they never noticed anything unusual when me and Sabrina worked together. Malachi recalls me going to the other gym to talk to and greet players that I know from Playing in other Men's Leagues together.

Considering Sabrina never directly told me I made her feel uncomfortable and the fact I never acted out sexually towards her, I feel as if the punishment was severe. None of those women were there that day and none of them can determine my intentions for checking on the other gym without considering the fact that I been doing these things before Sabrina came along as a scorekeeper. My witness Fernando Ramirez even mentioned in the hearing dating back on August 14th that our duties as recreation leaders includes supervising both gyms and that I had been executing the duties assigned to me by checking on the other gym the day I was accused of staring at Sabrina according to her witness's accounts.

In addition , I also want to mention how since the investigation has concluded and the punishment has been served; Sabrina is all of sudden comfortable being in my presence.

There has been instances where I'd be working in the opposite gym and she'd come over there to scorekeep and I would immediately leave because I don't want to be around someone who accused me of sexual harassment. I've been instructed to do so by Human Resources and I was following orders.

This whole process has put me in a financial crisis, almost losing my apartment, not being able to pay bills on time because of an accusation with no concrete evidence that I was punished for. A 10 day suspension with no pay impacted the whole month of June financially for me as both of my paychecks were affected that month. I have been through so much the last 5 to 6 months it has impacted my mental.

Insufficient Evidence

The investigation only included: gathering information from other employees who don't like me already because I'm African American which there is not many African American employees for the city, I'm treated differently and it's more difficult for me to succeed because of this unfair treatment.

It was easy for them to pick a side because it's already a divide in the City of El Paso's work community.

I have no criminal history, a full background of working with children yet I was still treated as someone who was guilty before I could prove that I was innocent.

In conclusion, I feel as since I'm black which isn't a dominant race out here in El Paso she tried to single me out because of my race.

Sent from my iPhone



Office of the City Attorney

Item #8E
City's Brief
Statement in
Response to
Recommendation

MAYOR
Oscar Leaser

Via E-Mail: menchacaS@elpasotexas.gov

September 25, 2024

CITY COUNCIL

District 1
Brian Kennedy

District 2
Dr. Josh Acevedo

District 3
Cassandra Hernandez

District 4
Joe Molinar

District 5
Isabel Salcido

District 6
Art Fierro

District 7
Henry Rivera

District 8
Chris Canales

CITY MANAGER
Dionne Mack

Re: **City's Written Brief and Response to Recommendation - Douglas, Kirk; DOI: 02/16/2024 - 10 Day Suspension 24-PR-01PP**

Dear Civil Service Commission:

Over the course of a full day, on August 14, 2024, Hearing Officer Palafox heard the discipline appeal of Mr. Douglas. After hearing the testimony of all ten (10) witnesses, asking many questions, and reviewing the substantial documentary evidence, Hearing Officer Palafox issued a detailed 11-page recommendation.

The *Recommendation of Hearing Officer* (the "Recommendation"), explains in detail that the City, pursuant to §6.13-6-7 of the City Charter, established by a preponderance of the evidence that it has just grounds for the suspension of Mr. Douglas. As such, based on the merits – the evidence presented and facts established in the hearing, Hearing Officer Palafox recommends that the suspension be sustained. The City respectfully asks the Commission to uphold and accept this appropriate finding under the City Charter §6.13-8, based on the hearing officer's careful consideration of all the arguments and evidence.

However, as a preliminary procedural matter, the Recommendation contains a short section on pages 3 & 4, titled *C. Timeliness of Discipline Notice to Employee*. The Recommendation goes on to state: "I find that the **Notice of Suspension** was served on Kirk Douglas one day too late and the discipline should not be sustained." See pg. 4 (emphasis added). The Recommendation also refers to this an "untimely disciplinary **Notice of Suspension**." See pg. 11 (emphasis added). The Hearing Officer explains that this timeliness issue was not brought up by anyone is the hearing, and that she considered the issue based on Civil Service Commission Rule 8, Section 3 (titled: *Notice of Proposed Disciplinary Action, Procedure, and Limitation on Action*) – and specifically subsection (f) "any issue of non-compliance with these provisions will be considered by the hearing officer and/or Commission upon the appeal of the disciplinary action."

The City provides this brief to clarify a misunderstanding in the Recommendation and pursuant to the Commission's policy on written briefs and in

Karla M. Nieman – City Attorney

P.O. Box 1890/ El Paso, Texas 79950-1890 /915-212-0033 /Facsimile: 915-212-0034/ www.elpasotexas.gov
Appeal of Kirk Douglas



DELIVERING EXCEPTIONAL SERVICES



Office of the City Attorney

MAYOR
Oscar Leaser

CITY COUNCIL

District 1
Brian Kennedy

District 2
Dr. Josh Acevedo

District 3
Cassandra Hernandez

District 4
Joe Molinar

District 5
Isabel Salcido

District 6
Art Fierro

District 7
Henry Rivera

District 8
Chris Canales

CITY MANAGER
Dionne Mack

response to the Hearing Officer raising this claimed non-compliance timing issue. This is a discussion of an issue (timing) and evidence attached to this brief that was not previously considered by the Hearing Officer, because the issue was not raised until the Recommendation was issued. The City provides testimony evidence in the form of an affidavit from Sr. Human Resources Analyst Alejandra Rivera, who also testified at the hearing and Mr. Douglas had an opportunity to question Ms. Rivera.

In short, the City's disciplinary action was proper and was timely under the specific Commission's Rule 8, Section 3 – **Notice of Proposed Disciplinary Action**. In this case, and any disciplinary action taken by the City, there is an important distinction and difference between a "Proposed Notice of Suspension" and a final "Notice of Suspension."

The Hearing Officer correctly states that the **Notice of Suspension** was given to Mr. Douglas on June 20, 2024 – but that fact is not important here, and not subject to the 120-day deadline (June 19, 2024). The 120-day deadline only applies to the **Proposed Notice of Suspension**.

Commission Rule 8 makes this distinction:

Rule 8, Section 2 pertains to the "**Disciplinary Notice**" (in other words, the final Notice).

Rule 8, Section 3 follows and pertains to the "**Notice of Proposed Disciplinary Action... and Limitation of Action.**"

On June 3, 2024, the department head Pablo Caballero and Alejandra Rivera met with and provided Mr. Douglas with the Proposed Notice of Suspension. At that meeting, Mr. Douglas was provided the proposed notice and additional documents, which he acknowledged by signing the memorandum. A snapshot is included here and attached as an exhibit.

Karla M. Nieman – City Attorney

P.O. Box 1890/ El Paso, Texas 79950-1890 /915-212-0033 /Facsimile: 915-212-0034/ www.elpasotexas.gov
Appeal of Kirk Douglas



DELIVERING EXCEPTIONAL SERVICES



Office of the City Attorney

MAYOR
Oscar Leeser

Parks and Recreation Department

CITY COUNCIL

District 1
Brian Kennedy

District 2
Dr. Josh Acevedo

District 3
Cassandra Hernandez

District 4
Joe Molinar

District 5
Isabel Salcido

District 6
Art Fierro

District 7
Henry Rivera

District 8
Chris Canales

CITY MANAGER
Dionne Mack

TO: Kirk Douglas, Recreation Leader (031205, 5695)
FROM: Pablo Caballero, Director
DATE: June 3, 2024
SUBJECT: Acknowledgement

This memorandum is to acknowledge you receipt of the following documents regarding the Proposed Notice of Suspension provided to you on June 3, 2024.

- Proposed Notice of Suspension (7 pages)
- Supporting Documents (62 pages)
- Acknowledgements (2 pages)
- Discipline History (9 pages)
- Disciplinary Policy and Matrix (11 pages)

I am acknowledging receipt of the above documents


Signature

6/3/24
Date

Karla M. Nieman – City Attorney

P.O. Box 1890/ El Paso, Texas 79950-1890 /915-212-0033 /Facsimile: 915-212-0034/ www.elpasotexas.gov

Appeal of Kirk Douglas



DELIVERING EXCEPTIONAL SERVICES



Office of the City Attorney

MAYOR
Oscar Leeser

CITY COUNCIL

District 1
Brian Kennedy

District 2
Dr. Josh Acevedo

District 3
Cassandra Hernandez

District 4
Joe Molinar

District 5
Isabel Salcido

District 6
Art Fierro

District 7
Henry Rivera

District 8
Chris Canales

CITY MANAGER
Dionne Mack

CITY OF EL PASO, TEXAS PROPOSED NOTICE OF SUSPENSION		
Name: Kirk Douglas Position: Recreation Leader	Local 4 # of SS #: 5096 Employee ID #: 031205	Date: June 3, 2024
Address: 3900 Desert Daze Pl El Paso TX 79938		
From: Parks & Recreation Subject: Suspension Without Pay		
THIS IS TO NOTIFY YOU THAT YOUR EMPLOYMENT WITH THE CITY OF EL PASO IS HEREBY SUSPENDED FOR <u>10</u> WORKDAYS EFFECTIVE: _____ TO _____		
THE FOLLOWING ARE THE STATUTORY REASONS OR GROUNDS AND SPECIFICATIONS OF FACTS WHICH HAVE NECESSITATED THIS ACTION.		
CHARGES: YOU HAVE VIOLATED THE FOLLOWING CITY OF EL PASO CIVIL SERVICE COMMISSION CHARTER PROVISIONS, ORDINANCES, RULES AND REGULATIONS:		
CITY CHARTER - ARTICLE VI - Civil Service		
SECTION 6.13-2. DISCIPLINARY ACTION, REDUCTION A regular employee may be discharged, suspended or reduced in rank or position as provided in the Charter or further defined in the Rules		
SECTION 6.13-3. CAUSES OF SUSPENSION, REDUCTION OR DISCHARGE The following, which may be further defined in the Rules, may constitute causes for discharge, suspension or reduction in grade of regular employees		
E. Being wantonly offensive in conduct or language. F. For just cause.		
I HAVE RECEIVED A COPY OF THIS NOTICE Date: <u>6/17/24</u> BY CERTIFIED MAIL NUMBER _____		 DEPARTMENT HEAD COPY RECEIVED AND FILED HUMAN RESOURCES BY _____ DIRECTOR

Importantly, Rule 8, Section 3 (e) only requires the City to provide an employee with the proposed disciplinary action being contemplated by the department head. On June 3, 2024, the City complied, because Mr. Douglas was provided the proposed notice over 2 weeks before the June 19, 2024, 120-day deadline.

A proposed written notice of disciplinary action must be served on an employee within 120 calendar days from the date Human Resources is made aware of the occurrence of the incident giving rise to the discipline, provided however that this period of limitation shall be tolled if an investigation is being

This distinction is important because the purpose of the proposed notice is simply to let an employee like Mr. Douglas know that the department head is

Karla M. Nieman – City Attorney

P.O. Box 1890/ El Paso, Texas 79950-1890 /915-212-0033 /Facsimile: 915-212-0034/ www.elpasotexas.gov
Appeal of Kirk Douglas



DELIVERING EXCEPTIONAL SERVICES



Office of the City Attorney

MAYOR
Oscar Leeser

CITY COUNCIL

District 1
Brian Kennedy

District 2
Dr. Josh Acevedo

District 3
Cassandra Hernandez

District 4
Joe Molinar

District 5
Isabel Salcido

District 6
Art Fierro

District 7
Henry Rivera

District 8
Chris Canales

CITY MANAGER
Dionne Mack

contemplating taking the proposed action and to give the employee an opportunity to review the documents that form the basis for the proposed disciplinary action. As Rule 8, Section 3 provides, this initial meeting simply triggers a process by which the employee and department head may engage in a discussion with a view toward reaching an agreement.

In this case, on June 20, 2024, Mr. Douglas met with the department head and Ms. Rivera again, but no agreement was reached. So, Mr. Douglas was provided with the final Notice of Suspension under Rule 8, Section 2. Rule 8, Section 2 does not impose a time limit for the City to serve the employee with the final Notice of Suspension. It is simply a final version. The City attempted to meet with Mr. Douglas prior to June 20, but he was unavailable due to being on vacation and leave for several days, and there was a City holiday during that time.

Section 2. Disciplinary Notice

Disciplinary actions in the nature of a discharge, involuntary reduction, or suspension taken against a regular employee, other than at the end of a probationary period, will not become effective until the Department Head has first served upon such employee a written notice of discipline. The notice must contain one or more statutory reasons or grounds for discipline, together with such specifications of fact as will enable the employee to make an explanation and place him fairly upon his defense. The specifications of fact shall be of sufficient specificity so as to preclude the possibility of disciplinary action for the same act or omission in the future. Nothing contained herein shall prohibit the Department Head from using an employee's prior acts or omissions resulting in discipline in determining future disciplinary action against the employee. An employee may be disciplined for other acts or omissions not specified in the notice even if such acts arise from the same incident or event. A Department Head may not unilaterally reduce the discipline given once notice of discipline has been provided to the employee, without the employee's consent. A copy of such notice of discipline, together with the employee's explanation, if any, will be filed with the Human Resources Director. (Amended 06 24 03, 7/31 07, 8 25 09)

Mr. Douglas was given full opportunity to present his full defense, call witnesses, and cross-examine the City's witnesses. In fact, in addition to testifying himself, Mr. Douglas called two other witnesses over the course of the hearing. However, Hearing Officer Palafox, nonetheless determined that evidence showed that the evidence supported the City's suspension, and the Parks & Recreation Director had the authority to suspend Mr. Douglas based on the facts established the evidence presented.

Karla M. Nieman – City Attorney

P.O. Box 1890/ El Paso, Texas 79950-1890 /915-212-0033 /Facsimile: 915-212-0034/ www.elpasotexas.gov
Appeal of Kirk Douglas



DELIVERING EXCEPTIONAL SERVICES



Office of the City Attorney

MAYOR
Oscar Leeser

Sincerely,

A handwritten signature in black ink, appearing to read "Matt Marquez".

Matt Marquez
Assistant City Attorney

CITY COUNCIL

District 1
Brian Kennedy

cc: Ms. Patricia Palafox (Via-Email: Palafoxpatricia@sbcglobal.net)
Mr. Kirk Douglas (Via-Email: douglasKE@elpasotexas.gov)

District 2
Dr. Josh Acevedo

District 3
Cassandra Hernandez

District 4
Joe Molinar

District 5
Isabel Salcido

District 6
Art Fierro

District 7
Henry Rivera

District 8
Chris Canales

CITY MANAGER
Dionne Mack

Karla M. Nieman – City Attorney

P.O. Box 1890/ El Paso, Texas 79950-1890 /915-212-0033 /Facsimile: 915-212-0034/ www.elpasotexas.gov
Appeal of Kirk Douglas



DELIVERING EXCEPTIONAL SERVICES

**BEFORE THE CIVIL SERVICE COMMISSION
FOR THE CITY OF EL PASO, TEXAS**

IN THE MATTER OF

KIRK DOUGLAS, APPELLANT

AND

THE CITY OF EL PASO

§
§
§
§
§
§
§

DOCKET NO. 24-PR-01PP

**CITY OF EL PASO'S EXHIBIT LIST TO
WRITTEN BRIEF & RESPONSE TO RECOMMENDATION**

#	DESCRIPTION	DATE
	<i>City of El Paso Employee Investigation</i>	
C-16	Employee Acknowledgment Memo & Proposed Notice of Suspension Kirk Douglas – 10 Day	6/3/2024
C-17	Affidavit – Alejandra Rivera – Sr. Human Resources Analyst	9/26/2024
C-18	Civil Service Commission Rule 8, Sections 2 & 3	
C-19	Employee Calendar Dates	6/3/2024 to 6/20/2024



Parks and Recreation Department

MAYOR
Oscar Leeser

TO: Kirk Douglas, Recreation Leader (031205, 5695)

FROM: Pablo Caballero, Director

DATE: June 3, 2024

CITY COUNCIL

SUBJECT: Acknowledgement

District 1
Brian Kennedy

This memorandum is to acknowledge you receipt of the following documents regarding the Proposed Notice of Suspension provided to you on June 3, 2024.

District 2
Dr. Josh Acevedo

- Proposed Notice of Suspension (8 pages)
- Supporting Documents (62 pages)
- Acknowledgements (2 pages)
- Discipline History (9 pages)
- Disciplinary Policy and Matrix (11 pages)

District 3
Cassandra Hernandez

District 4
Joe Molinar

District 5
Isabel Salcido

District 6
Art Fierro

I am acknowledging receipt of the above documents.

District 7
Herry Rivera

District 8
Chris Canales


Signature

6/3/24
Date

**INTERIM CITY
MANAGER**
Cory Westin

Pablo Caballero – Director, Parks & Recreation Department
801 Texas Ave, 2nd Floor | El Paso, TX 79901
O: (915) 212-0092 | Email: parksandrecreation@elpasotexas.gov





CITY OF EL PASO, TEXAS
PROPOSED NOTICE OF SUSPENSION

Name: Kirk Douglas	Last 4 #'s of SS #: 5695	Date: June 3, 2024
Position: Recreation Leader	Employee ID #: 031205	
Address: 3900 Desert Daze Pl El Paso, TX 79938		
From: Parks & Recreation		
Subject: Suspension Without Pay		

THIS IS TO NOTIFY YOU THAT YOUR EMPLOYMENT WITH THE CITY OF EL PASO IS HEREBY **SUSPENDED FOR 10 WORKDAYS** EFFECTIVE: _____ TO _____.

THE FOLLOWING ARE THE STATUTORY REASONS OR GROUNDS AND SPECIFICATIONS OF FACTS WHICH HAVE NECESSITATED THIS ACTION:

CHARGES:

YOU HAVE VIOLATED THE FOLLOWING CITY OF EL PASO CIVIL SERVICE COMMISSION CHARTER PROVISIONS, ORDINANCES, RULES AND REGULATIONS:

CITY CHARTER – ARTICLE VI – Civil Service

SECTION 6.13-2, DISCIPLINARY ACTION: REDUCTION

A regular employee may be discharged, suspended or reduced in rank or position as provided in the Charter or further defined in the Rules.

SECTION 6.13-3, CAUSES OF SUSPENSION, REDUCTION OR DISCHARGE

The following, which may be further defined in the Rules, may constitute causes for discharge, suspension or reduction in grade of regular employees:

- E. Being wantonly offensive in conduct or language;
- P. For just cause.

<p>I HAVE RECEIVED A COPY OF THIS NOTICE</p> <p><u>Kirk Douglas</u> Employee's Signature</p> <p>Date: <u>6/3/24</u></p> <p>BY CERTIFIED MAIL NUMBER: _____</p>	<p><u>[Signature]</u> DEPARTMENT HEAD</p> <p>COPY RECEIVED AND FILED</p> <p>HUMAN RESOURCES</p> <p>BY: _____ DIRECTOR</p>
--	--

DISTRIBUTION: Original – Human Resources Department; Copy – Department



CITY OF EL PASO, TEXAS
PROPOSED NOTICE OF SUSPENSION

Name: Kirk Douglas	Last 4 #'s of SS #: 5695	Date: June 3, 2024
Position: Recreation Leader	Employee ID #: 031205	

CIVIL SERVICE COMMISSION RULES AND REGULATIONS

RULE 8. SUSPENSION, REDUCTION, DISCHARGE

Section 1. Causes of Suspension, Reduction or Discharge

The following may constitute causes for discharge, suspension or reduction of regular employees: That an officer or employee in the Civil Service:

- e. Is wantonly offensive in his conduct or language towards the public, an elected or appointed official, the head of any department, or his fellow employees; is abusive, threatening, or uses coercive treatment to another employee or a member of the public, or provokes or instigates violence; or abusive to an animal in the care or control of the employee; or (Amended 8/25/09, 3/6/12, 9/17/13)
- p. For just cause. (Added 7/21/07)

Section 2. Disciplinary Notice

Disciplinary actions in the nature of a discharge, involuntary reduction, or suspension taken against a regular employee, other than at the end of a probationary period, will not become effective until the Department Head has first served upon such employee a written notice of discipline. The notice must contain one or more statutory reasons or grounds for discipline, together with such specifications of fact as will enable the employee to make an explanation and place him fairly upon his defense. The specifications of fact shall be of sufficient specificity so as to preclude the possibility of disciplinary action for the same act or omission in the future. Nothing contained herein shall prohibit the Department Head from using an employee's prior acts or omissions resulting in discipline in determining future disciplinary action against the employee. An employee may be disciplined for other acts or omissions not specified in the notice even if such acts arise from the same incident or event. A Department Head may not unilaterally reduce the discipline given once notice of discipline has been provided to the employee, without the employee's consent. A copy of such notice of discipline, together with the employee's explanation, if any, will be filed with the Human Resources Director. (Amended 06/24/03, 7/31/07, 8/25/09)

Section 3. Notice of Proposed Disciplinary Action, Procedure and Limitation of Action

- a. When disciplinary action in the nature of a five (5) day suspension or greater, a reduction, or discharge is being contemplated by the Department Head, the employee must be served with a notice of proposed disciplinary action which shall conform with the notice requirements set forth in Section 2 and Section 3 (b) of this Rule. In addition to the notice of proposed disciplinary action, the employee shall be furnished with the written materials and tangible things in the possession of the Department Head that form the factual and evidentiary basis for the proposed disciplinary action. No matter may be withheld from the employee that is inconsistent with the theory of discipline or that could tend to mitigate the contemplated sanction. (Amended 8/25/09)
- b. Within ten (10) days of receipt of the notice of proposed disciplinary action, the employee may request a conference with the Department Head. Within five (5) working days of receipt of the employee's response, the Department Head shall meet with the employee, provided further that this period may be extended with the mutual consent of the Department Head and the employee. No witnesses may be called to testify as part of the employee's explanation or response. During the conference, the employee, their representative, and the Department Head shall engage in discussions with a view toward reaching a consensus and agreement relative to the proposed disciplinary action. No part of the discussions that take place during the conference may be offered into evidence at any subsequent hearing, except for the limited purpose of determining compliance or non-compliance with the provisions of this Rule as provided in paragraph "f" and for impeachment purposes. In the event such a consensus is reached, the execution by the employee of documents finalizing the settlement agreement shall constitute a waiver of the employee's right to appeal to the Commission, and the employee shall be so advised in plain language. (Amended 09/09/03, 01/06/04, 8/25/09; 1/20/15)

EMPLOYEE'S INITIALS KD



CITY OF EL PASO, TEXAS
PROPOSED NOTICE OF SUSPENSION

Name: Kirk Douglas	Last 4 #'s of SS #: 5695	Date: June 3, 2024
Position: Recreation Leader	Employee ID #: 031205	

- c. Respecting discharge, those departments currently using a pre-termination hearing shall not be required to have a conference as contemplated hereinabove provided that the time between notification and hearing shall be at least five (5) days and further provided that there shall be no change to current practices regarding violations of applicable federal laws. (Amended 09/09/03, 01/06/04, 08/25/09)
- d. The employee is entitled to have a representative of their choice assist them in the preparation and presentation of their response, provided further that in the event the representative is an employee of the City, he shall use vacation leave or personal days for such time as may be required for the representative to attend the conference. If the employee does not have any accrued vacation or personal days, the employee will be placed on unpaid administrative leave for such time as may be required for the representative to attend the conference. The employee must provide his Department Head with two days notice of the request to take the above leave. The Department Head may disapprove the request if the leave significantly interferes with the operational needs of the department. (Amended 09/09/03, 01/06/04, 08/25/09)
- e. A proposed written notice of disciplinary action must be served on an employee within 120 calendar days from the date Human Resources is made aware of the occurrence of the incident giving rise to the discipline, provided however that this period of limitation shall be tolled if an investigation is being conducted by a law enforcement authority into criminal charges against the employee arising out of the same incident. Once a Department Head receives notice from the employee that charges have been preferred, through an indictment or information, or that the criminal investigation has been concluded without the preferal of charges, then the time period will resume running. (Amended 09/09/03, 01/06/04, 8/25/09, 09/19/17)
- f. Any issue of non-compliance with these provisions will be considered by the hearing officer and/ or Commission upon the appeal of the disciplinary action. (Amended 01/06/04)
- g. Excluding Section 3 (e), in computing any time periods set forth in this Rule, Saturdays, Sundays, and City Holidays shall not be included. (Amended 01/06/04, 09/19/17)
- h. Nothing in the Rule shall prevent suspension of the employee from service without pay in appropriate circumstances. (Amended 01/06/04)
- i. A copy of this rule shall be attached to each notice of proposed disciplinary action. (Passed 1/6/04)

Section 4. Resignation Before Appeal Decision

The acceptance by Department Head of the resignation of a person discharged before final action on the part of the Commission will be considered a withdrawal of the charges and the separation of the employee concerned will be recorded as a resignation and the preceding will be dismissed without judgment. (Amended 7/31/07)

Section 5. Disqualification for Reappointment

Any employee who is dismissed for cause or who resigns while not in good standing will be disqualified from taking a Civil Service examination for two years thereafter. His name will be removed from all eligible lists, unless, in the judgment of the Commission the cause of his dismissal or resignation under charges will not affect the possibility of his or her usefulness in some other position. (Amended 8/25/09)

Section 6. Non-Certification of Suspended Persons

The names of persons suspended will not be certified from eligible lists during the period of suspension.

Section 7. Election to Forfeit Annual Leave

Regular employees suspended for not more than ten (10) working days may elect to forfeit annual leave for a period equal to the suspension, or to the extent of the employee's annual leave balance, subject to approval of the Department Head. The election provided for herein, shall work a waiver of the employee's right to appeal the disciplinary action to the Commission,

EMPLOYEE'S INITIALS KD



CITY OF EL PASO, TEXAS
PROPOSED NOTICE OF SUSPENSION

Name: Kirk Douglas	Last 4 #'s of SS #: 5695	Date: June 3, 2024
Position: Recreation Leader	Employee ID #: 031205	

and the employee shall be so advised in plain English on a suitable form upon which the election shall be made, as developed by the Human Resources Director and appended to the notice of suspension. The Department Head shall not unreasonably withhold approval of the employee's election. (Added 05/11/04, Amended 7/31/07)

Section 8. Formal Counseling

Formal Counseling is not within the type of disciplinary action specified in Section 6.13-2 of the Charter which may be appealed to the Civil Service Commission. A formal counseling is issued by the Department Head and considered a written counseling to address employee workplace conduct. Employees receiving a formal counseling shall have the right to place responses to the formal counseling into their personnel files which shall remain in the file so long as the formal counseling to which the response relates remains in the file.

Included in, or in conjunction with, the formal counseling document, the Department Head must provide the employee with written notice of the reasons for the formal counseling, with sufficient explanation to place the employee fairly upon his defense.

Upon an employee's request, formal counselings shall be removed from an employee's personnel file after the expiration of twelve (12) months from the date of the last formal counseling, provided the employee has not received any disciplinary action during the twelve (12) month time period between the request and the last-received formal counseling. Formal counselings meeting the criteria above shall not be considered against the employee for purposes of determining progressive discipline or performance evaluations, regardless of whether or not the employee requested removal of the formal counselings. (Added 8/25/09) (Amended 11/2/10, 3/6/12, 1/20/15, 11/15/16)

RULE 11. DEPARTMENTAL RULES

Section 1. Any department head shall have the right to promulgate rules and regulations regarding the operation of his department, and the conduct of the employee therein, subject to the consent and approval of the City Manager, provided that such rules do not conflict with the Civil Service Charter or the Rules promulgated thereunder. (Amended 07/11/06)

Section 2. Large departments having various sub departments may, in their rules, have rules and regulations pertaining to said sub departments in addition to general rules and regulations regarding the department. (Amended 7/31/07)

Section 3. The Human Resources Director may promulgate, rules, regulations and policies and procedures, that apply to all or some city departments, as may be specified by the Director, regarding any requirements applicable to the employees of such departments, subject to the consent and approval of the City Manager, provided that such rules, regulations, or policies and procedures do not conflict with the Civil Service Charter or the Rules promulgated hereunder. (Added 3/6/12)

Section 4. Any Department Head may, as provided in the Charter, suspend, discharge or demote any employee for insubordination, for failure to comply with departmental rules and regulations, for failure to comply with the Rules of the Commission or for failure to obey any lawful order of a superior officer. (Amended 07/11/06)

Section 5. The Human Resources Director is authorized to maintain a comprehensive manual of safety procedures and driver safety standards of all employees. Each employee shall receive a link to a copy of the manual. (Added 3/6/12)

CITY OF EL PASO – SEXUAL HARASSMENT PREVENTION POLICY AND PROCEDURES (August 9, 2021)

I. PURPOSE

The City of El Paso is committed to fostering a work environment free from sexual harassment. This policy establishes procedures and responsibilities for reporting, investigating, and resolving suspected and alleged sexual harassment.

Sexual harassment is a form of discrimination that violates Title VII of the Civil Rights Act of 1964, (as amended), the Civil Rights Act of 1991 and related State of Texas statutes.

EMPLOYEE'S INITIALS KD



CITY OF EL PASO, TEXAS
PROPOSED NOTICE OF SUSPENSION

Name: Kirk Douglas	Last 4 #'s of SS #: 5695	Date: June 3, 2024
Position: Recreation Leader	Employee ID #: 031205	

IV. POLICY

Sexual Harassment is strictly forbidden. Any behavior that constitutes inappropriate workplace behavior is prohibited, regardless of intent or severity, even if it does not meet the definition of Sexual Harassment above. Retaliation against employees for opposing alleged or suspected sexual harassment or for filing a charge, testifying, assisting, or participating in any manner in a Sexual Harassment investigation, proceeding, or hearing is strictly prohibited.

The City will immediately investigate all allegations of Sexual Harassment, which includes any behavior defined above as Sexual Harassment. Any supervisor, coworker or other Agent, of the City who knew or should have known of the alleged Sexual Harassment and did not take immediate action to correct it may be personally liable, in accordance with Texas Labor Code, Chapter 21.

V. PROCEDURES

C. INVESTIGATION AND DISCIPLINE

If an investigation reveals that the complaint is substantiated, prompt disciplinary action and other appropriate measures designed to stop the Sexual Harassment immediately and to prevent its recurrence, will be taken.

VI. SCOPE

In addition to incidents that occur on a City campus or property, the City may investigate and take disciplinary action in response to incidents that take place during official functions of the City, or incidents that have a substantial connection to the interest of the City, regardless of the location in which the incident(s) occur.

CITY OF EL PASO'S MISSION, VISION AND VALUES

- Mission:** Deliver exceptional services to support a high quality of life and place for our community.
- Vision:** Develop a vibrant regional economy, safe and beautiful neighborhoods and exceptional recreational, cultural and educational opportunities powered by a high performing government.
- Values:**
 - Integrity – Trusted to do the right thing.*
 - Respect – Recognize the value and dignity of all individuals.*
 - Excellence – Perfect effort.*
 - Accountability – Passionate and determined.*
 - People – Our teams are problem-solvers and collaborate with our customers.*

CITY OF EL PASO – DISCIPLINARY POLICY AND MATRIX (May 30, 2018)

I. POLICY:

The City of El Paso is committed to a goal of high performance by all employees in order to fulfill its mission of outstanding customer service to the citizens of our community. The purpose of this policy and matrix is to provide City leaders and supervisors with a guideline and reference for corrective and disciplinary action. The City of El Paso Human Resources Department accepts and investigates all allegations of employee misconduct and imposes corrective and progressive disciplinary action in a timely and consistent manner, as appropriate. This policy outlines the procedure for investigating allegations of employee misconduct, issuing corrective action, and applying the Matrix to impose discipline.

II. PROCEDURES:

EMPLOYEE'S INITIALS KD



CITY OF EL PASO, TEXAS
PROPOSED NOTICE OF SUSPENSION

Name: Kirk Douglas	Last 4 #'s of SS #: 5695	Date: June 3, 2024
Position: Recreation Leader	Employee ID #: 031205	

A. Basis for Discipline

1. Employees are subject to discipline for violations of the law, City Charter provisions that constitute cause for discipline, Civil Service Commission Rules and Regulations, City policies, Departmental policies and procedures and verbal or written directives from supervisory personnel.
2. Failure to report a violation of anything listed under II-(A) is considered a basis for discipline.
3. All disciplinary actions taken under this policy are subject to, and shall be consistent with, applicable federal and state law, local ordinances, administrative directives, El Paso City Charter, and Civil Service Commission Rules and Regulations.

B. Information Gathering and Processing

1. It is the duty of all supervisory employees to assist those who express the desire to report allegations of misconduct against any City employee. The informant need not be the aggrieved party, but may be anyone who witnessed or otherwise became aware of an incident of misconduct. Information regarding allegations of misconduct must be immediately reported to the Department Head and/or the Human Resources Director.
3. Employees are required to provide a statement or answer questions during administrative investigations. Employees who withhold information, thwart, impede or fail to cooperate with administrative investigations will be considered insubordinate and subject to disciplinary action up to and including termination. Upon conclusion of the administrative investigation, the DHRM or Human Resources Director, or designee, will advise the Department Head of any findings from the investigation and recommend disciplinary or corrective action as appropriate. However, it is the Department Head's responsibility to make the final determination and defend the discipline to be administered as a result of any review.

IV. DISCIPLINARY MATRIX

The attached disciplinary matrix provides supervisory personnel and Department Heads with the parameters of discipline that shall be imposed on an employee when an infraction occurs that violates the law, a Civil Service rule, policy, or regulation of the department. The purpose of the matrix is to provide notice to employees of the types of conduct that will result in disciplinary action and to serve as a deterrent of such conduct so as to promote efficiency of service by ensuring high standards of City service and maintaining public confidence in the City of El Paso.

The matrix is intended for use as a guide to selecting an appropriate level of discipline for the actionable misconduct. **This matrix does not substitute for supervisory judgment and does not dictate discipline.** Rather, this matrix provides a framework within which supervisors exercise judgment on a case-by-case basis within the parameters provided. The final determination for discipline at the minimum level or higher rests with the Department Head as defined in Civil Service Rule 8 and Rule 11, or as defined in the Civil Service Rules and Regulations.

The offenses listed under each level are not intended to be an exhaustive listing. No attempt has been made to list every possible cause for disciplinary or adverse action. The fact that specific misconduct is not listed as an offense does not mean discipline cannot be imposed. Supervisors should evaluate misconduct not listed to the offenses listed and use a form of discipline that most closely coincides with a comparable, listed offense.

The following are the categories of discipline:

- B. **Suspension:** A suspension without pay for a definite period of time must be completed on an appropriate Notice of Suspension form in accordance with Civil Service Commission Rules. The Notice of Suspension must:
 1. Identify which State or Federal laws, rules, policies, and/or regulations were violated,

EMPLOYEE'S INITIALS KD



CITY OF EL PASO, TEXAS
PROPOSED NOTICE OF SUSPENSION

Name: Kirk Douglas	Last 4 #'s of SS #: 5695	Date: June 3, 2024
Position: Recreation Leader	Employee ID #: 031205	

2. Contain narrative specifications (charges) and
3. Include a record of previous discipline, if any. The Notice of Suspension shall be administered by the Department Head. The Department Head, along with supervisors, shall work with the Human Resources Director for specifications. The Notice of Suspension must always be reviewed by the City Attorney's Office before being administered to the employee.

V. APPLICATION OF THE DISCIPLINARY MATRIX

- A. The application of progressive discipline is designed to take into account any instance of corrective action or previous discipline. The Department Head shall choose the appropriate disciplinary action at the appropriate level for each offense.
 1. A Department Head has a choice of severity of disciplinary action beginning from the floor for the specific type of offense, at the appropriate level. When significant mitigating or aggravating circumstances exist, the discipline range may be expanded upon in either direction. For example, if the matrix indicates a 10-day suspension, the Department Head may determine that a less severe consequence is more appropriate based on mitigating factors. Likewise, the discipline could be greater than a 10-day suspension if there are significant aggravating factors. Whenever prior violations are used to support a more severe discipline, those offenses shall be cited in the notice of Discipline. When a series of offenses have been committed and action could not have been taken on each before another was committed, a more severe discipline maybe assessed for the combined offenses rather than what would be appropriate for any single offense.
 2. The Department Head in accordance with CSC Rule 11 retains the right to promulgate rules and regulations regarding the operation of his or her department. Similarly, situations may arise that are not written in a rule or policy; in such a circumstance, an appropriate level of discipline will be imposed. Nothing in this policy shall prohibit a Department Head from departing from utilizing a higher form of discipline, to include termination, if the circumstances warrant such action.
 3. These disciplinary guidelines are standard recommendations and not meant to be an all-inclusive list of possible infractions. The Human Resources Director retains the right to modify, or amend this policy and matrix as needed without advance notice.

City of El Paso Disciplinary Matrix (May 30, 2018)

Level 3 Violation – Sexual Harassment – incident of a sexual nature – 1st Offense: 10-day Suspension

Date Received by Human Resources: February 20, 2024

120th Day Deadline, pursuant to CSC Rule 8 Section 3(e): June 19, 2024

SPECIFICATIONS:

A Fact-Finding Process/Investigation was initiated by Human Resources on February 20, 2024 after a member of the public, working as a Score Keeper, alleged being sexually harassed by you.

Based on the fact-finding process, there is evidence to support violations of the Sexual Harassment Prevention Policy and Procedures, as follows:

EMPLOYEE'S INITIALS KD



CITY OF EL PASO, TEXAS
PROPOSED NOTICE OF SUSPENSION

Name: Kirk Douglas	Last 4 #'s of SS #: 5695	Date: June 3, 2024
Position: Recreation Leader	Employee ID #: 031205	

On February 16, 2024, in the course and scope of your employment, you engaged in a conversation with a non-City Score Keeper, while she was engaged in conducting business on City property. On February 17, 2024, the day immediately following your interaction, the score keeper reported the details of your interaction.

Specifically, she reported to Parks and Recreation staff that you began making conversation, and you began asking questions about her age and more personal aspects, such as her relationship status. She informed you that she was only 18 years old, and you asked whether she would date an older guy. She reported that she responded no, but you insisted on essentially trying to minimize your age difference and that you could work things out.

Further, she reported that during the interaction you repeatedly asked her for her social media (Instagram) information, and she told you no multiple times. Similarly, she reported that you repeatedly asked for her phone number, and she had to keep saying no. Overall, she directly reported that the situation made her feel uncomfortable, because of your persistence and not taking no for an answer.

In March and April of 2024, you were asked about this occurrence by investigators/analysts with Human Resources. You acknowledged that you spoke to the Score Keeper about her Instagram account. When the Score Keeper did not give you her Instagram information, you stated that you made a comment to her that Instagram is a public place and questioned her as to why she would not give you her Instagram information if she does not post any "explicit photos". Whether your words were "explicit photos" or "nudes", this insistent questioning on personal matters was still offensive and inappropriate for the workplace. Your repeated and persistent actions went beyond attempting to engage in conversation or getting to know the Score Keeper in a friendly manner.

Additionally, a witness confirmed that you repeatedly stood at the entrance of the gym where the Score Keeper was working and stared at her on more than five (5) occasions causing her to feel uncomfortable in the workplace.

Your actions are in violation of the Sexual Harassment Prevention Policy and Procedures. According to the policy, Sexual Harassment is strictly forbidden. Any behavior that constitutes inappropriate workplace behavior is prohibited, regardless of intent or severity. The policy is designed to stop this type of behavior and prevent its reoccurrence. Your actions and behavior are not in alignment with City's Mission, Vision or Values and will not be tolerated.

Your disciplinary history reflects the following:

On May 8, 2024, you received a three (3) day suspension for Disobeying a Direct Order.

Based on the above specifications, the City of El Paso Parks & Recreation Department has determined that your services are to be suspended for ten (10) workdays. Be advised that a recurrence of this or of a similar type incident will result in more severe disciplinary action, up to and including termination of your employment with the City of El Paso.

You have thirty (30) days from the date you receive the final notice to appeal this action to the Civil Service Commission. The City reserves the right to amend these charges and/or specifications at a later date.

EMPLOYEE'S INITIALS kd

**BEFORE THE CIVIL SERVICE COMMISSION
FOR THE CITY OF EL PASO, TEXAS**

IN THE MATTER OF

KIRK DOUGLAS, APPELLANT

AND

THE CITY OF EL PASO

§
§
§
§
§
§

DOCKET NO. 24-PR-01PP

AFFIDAVIT OF ALEJANDRA RIVERA – SR. HUMAN RESOURCES ANALYST

STATE OF TEXAS §
 §
COUNTY OF EL PASO §

BEFORE ME the undersigned authority, appeared Alejandra Rivera, who, being by me duly sworn, said as follows:

1. “My name is Alejandra Rivera. I am over the age of eighteen (18) years, of sound mind, and capable of making this affidavit. I have never been convicted of a crime and am competent to make this affidavit. The sworn factual statements below are within my personal knowledge and are true and correct.

2. I am one of the Senior Human Resources Analysts (“HR”) with the City of El Paso. I specifically work in the City’s Human Resources Department’s – Employee Relations section. I have worked with the City for about 5 years, since October 2019. I began my career with the City as a HR Analyst, and promoted to a Senior HR Analyst in October 2022. Prior to beginning my professional career with the City, I graduated from the University of Texas of El Paso in 2018, with a degree in human resources.

3. I was assigned to be the lead HR investigator/analyst in this matter. I conducted the investigation over a period of several weeks. I helped prepare the Proposed Notice of Suspension served on Mr. Douglas. As part of HR’s employee relations section, I am routinely involved in disciplinary matters with employees from Parks & Recreation and other City departments.

4. Once the investigation was completed and Proposed Notice of Suspension was prepared and reviewed, the next step was to serve Mr. Douglas with the notice of proposed disciplinary action being contemplated by the Department Head, in this case Pablo Caballero, the Director of the City’s Parks & Recreation Department.



5. On Friday May 31, 2024, myself and Director Caballero were scheduled to meet with Mr. Douglas at the City's "City 3" building to serve Mr. Douglas with the Proposed Notice of Suspension. However, Mr. Douglas did not attend the meeting that day, so we rescheduled for the following Monday June 3, 2024, to promptly provide him with the notice.
6. On Monday June 3, 2024, myself and Director Caballero met with Mr. Douglas. Mr. Douglas was served with the Proposed Notice of Suspension, dated June 3, 2024. The Proposed Notice of Suspension was signed by Mr. Douglas on the bottom left-hand corner of page 1. Attached to this Affidavit is the Proposed Notice of Suspension, signed June 3, 2024.
7. Additionally, at the June 3, 2024, meeting Mr. Douglas was also provided with the written materials in the possession of Director Caballero that formed the factual and evidentiary basis for the proposed disciplinary action. Specifically, Mr. Douglas was provided with several categories of documents and signed an Acknowledgement Memorandum that he received those documents on that day. Attached to this Affidavit is the June 3, 2024 memorandum signed by Mr. Douglas. The purpose of such a meeting is to simply provide the employee with the discipline notice and documents, so the employee can review the details.
8. During the meeting on June 3, 2024, Mr. Douglas was informed that within 10 working days of the notice, he had the option to request a conference meeting with Director Caballero. This 10-day window is meant for an employee, such as Mr. Douglas, to review the notice and documents and decide whether they want to request a conference with the Director to discuss the matter and proposed disciplinary action. In this case that was a 10-day suspension. However, Mr. Douglas did not request the conference to meet with Director Caballero.
9. Once the 10-day window passed, a follow up meeting was scheduled for June 20, 2024, to provide Mr. Douglas with the final Notice of Suspension. The 10-day mark would have occurred on June 17, 2024, but Mr. Douglas was on vacation and leave for several days, and there was a City holiday as well.
10. On June 20, 2024, Mr. Douglas met with myself and Director Caballero. Mr. Douglas was provided with the opportunity to take vacation leave in lieu of suspension, but Mr. Douglas declined. The final Notice of Suspension, dated June 20, 2024, was signed by Mr. Douglas and he began serving the 10-day suspension. Attached to this Affidavit is the final Notice of Suspension, signed June 20, 2024.
11. I am familiar with the manner in which HR and other City department records are created and maintained by virtue of my duties and responsibilities as a Senior Human Resources Analyst. The records are kept in the course of regularly conducted activities by HR and City departments, and it is the regular practice to make these records.

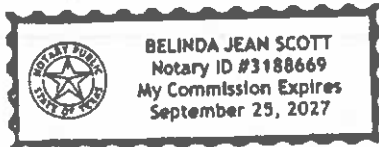
Affiant states nothing further."

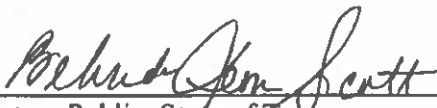
Signed this 26 day of September, 2024.


Alejandra Rivera

BEFORE ME, personally appeared Alejandra Rivera, proved to me through a government issued identification to be the person whose name is subscribed in the foregoing instrument and acknowledged to me that he executed the same for purposes and considerations thereby expressed.

SWORN TO AND SUBSCRIBED before me on this 26th day of September, 2024.




Notary Public, State of Texas

**CIVIL SERVICE
RULES AND REGULATIONS**

TABLE OF CONTENTS

	Rule	Section	Page
CIVIL SERVICE COMMISSION	1		1
Appointment	1	1	1
Officers	1	2	1
Election	1	3	1
Removal of Officers	1	4	2
Committees	1	5	2
Procedural Rules	1	6	2
Robert's Rules of Order	1	7	3
Suspension of Rules	1	8	3
Commission Recorder	1	9	3
Public Employee's Right to Privacy	1	10	3
Removal of Commissioner for Cause	1	11	3
Hearing Officers	1	12	4
Restriction on Representation of Employees by Former Commissioners	1	13	4
Ex Parte Communications	1	14	4
Non Discrimination	1	15	5
Policy Creation	1	16	5
DEFINITIONS AND RULES OF CONSTRUCTION	2		6
RESERVED	3		10
CERTIFICATION	4		11
Certification	4	1	11
Certification for Promotion	4	2	11
Waiver	4	3	11
APPLICATION AND PROMOTIONAL PROCESS AND LATERAL TRANSFER PROCESS	5		12
Filing of Applications	5	1	12
Appeals from Disqualification from Examination	5	2	12
Frequency and Examination	5	3	12
Eligibility	5	4	12
Seniority and Efficiency Points	5	5	13
Special Credit	5	6	13
Penalty for Deceit in Examination	5	7	13
Duration of Eligible Lists	5	8	13
Removal from the Promotional List of Persons Permanently Separated from Service	5	9	13
Removal from Lower List if Appointed from Higher List	5	10	13
Required Licenses or Certificates	5	11	13
Transfer to Same Class and Grade	5	12	14
Transfer During Probationary Period	5	13	14
LEAVE OF ABSENCE, RESIGNATION, SICK LEAVE, AND VACATIONS	6		15
Leave of Absence	6	1	15

1/20/15; 11/15/16; 3/7/17; 9/19/17; 11/28/17



**CIVIL SERVICE
RULES AND REGULATIONS**

TABLE OF CONTENTS

	Rule	Section	Page
Sick Leave.....	6	2	15
Vacation Leave.....	6	3	16
Vacation Schedules.....	6	4	17
Special Leave Based on Operational Necessity.....	6	5	17
Resignations.....	6	6	17
False or Fraudulent Application for Leave.....	6	7	18
Unclassified Employees.....	6	8	18
APPEAL OF EFFICIENCY RATINGS.....	7		19
SUSPENSION, REDUCTION, DISCHARGE.....	8		20
Causes of Suspension, Reduction or Discharge.....	8	1	20
Disciplinary Notice.....	8	2	22
Notice of Proposed Disciplinary Action, Procedure and Limitation of Action.....	8	3	22
Resignation Before Appeal Decision.....	8	4	23
Disqualification for Reappointment.....	8	5	23
Non-Certification of Suspended Persons.....	8	6	24
Election to Forfeit Annual Leave.....	8	7	24
Formal Counseling.....	8	8	24
HEARINGS.....	9		25
Scheduling of Hearings.....	9	1	25
Expedited Hearings in Certain Disciplinary Appeals.....	9	2	25
Continuance of Appeals Hearings.....	9	3	25
The Rule as to Witnesses.....	9	4	25
EMPLOYEES SEEKING PUBLIC OFFICE.....	10		26
DEPARTMENTAL RULES.....	11		27
LAY-OFFS, JOB RIGHTS, REINSTATEMENT.....	12		28
Lay-offs.....	12	1	28
Job Rights.....	12	2	28
Reinstatement from Lay-Off.....	12	3	29
Reinstatement from Military Leave.....	12	4	29
Reinstatement Following Resignation.....	12	5	29
Reinstatement of Regular Part-Time Employee.....	12	6	30
Layoff of Regular Part-Time Employee.....	12	7	30
EMERGENCY RESPONSE BY CITY EMPLOYEES.....	13		31
GRIEVANCES.....	14		32
APPEAL REGARDING OUTSIDE EMPLOYMENT DENIAL OR REVOCATION.....	15		34

RULE 8

Suspension, Reduction, Discharge

Section 1. Causes of Suspension, Reduction or Discharge.

The following may constitute causes for discharge, suspension or reduction of regular employees: That an officer or employee in the Civil Service: (Amended 7/31/07)

- a. Has been convicted of, or entered a period of deferred adjudication with community supervision for, a felony or Class A or B misdemeanor; or (Amended 9/17/13)
- b. Has willfully, or through culpable negligence been guilty of brutality or cruelty to an inmate or prisoner of a city institution or to a person in custody, provided the act committed was not necessarily or lawfully done in self defense, or to protect the lives of others, or to prevent the escape of a person lawfully in custody; or (Amended 3/6/12)
- c. Has been under the influence of intoxicants or drugs or the use thereof while on duty; or
- d. Has contracted a disease or has some physical or mental ailment or defect which makes him unfit for Civil Service, to the extent permissible under federal and state laws. (This subsection may not be availed in any case to effect the discharge of an employee where such employee is entitled to and intends in due course to seek leave of absence for the purpose of procuring proper treatment for such disease if it is curable within the maximum of 12 month time allowed hereunder for leave of absence. Action hereunder will not in anywise affect the right of one suffering physical injury or disability arising from course of employment in the Civil Service to retirement or disability payments under any existing retirement or disability payments, or to participate in any retirement or disability plan adopted by the City); or (Amended 11/13/84, 8/25/09, 9/17/13)
- e. Is wantonly offensive in his conduct or language towards the public, an elected or appointed official, the head of any department, or his fellow employees; is abusive, threatening, or uses coercive treatment to another employee or a member of the public, or provokes or instigates violence; or abusive to an animal in the care or control of the employee; or (Amended 8/25/09, 3/6/12, 9/17/13)
- f. Is incompetent or negligent in the performance of duties, including but not limited to, failure to perform assigned tasks, or failure to discharge duties in an accurate, prompt, competent, or responsible manner; or (Amended 8/25/09, 9/17/13)
- g. Is dishonest, commits theft, violates a law, or violates policies relating to the handling or procurement of property, or negligent in care or misuse of City property; or (Amended 7/31/07, 3/6/12, 9/17/13)
- h. Abandons his position, has repeated unexcused absences or tardies, abuses leave privileges, or is absent without notification or without the provision of a valid or acceptable reason for the absence; or (Amended 9/17/13)
- i. Fails to meet or maintain qualifications, including but not limited to, failing to obtain or maintain required certificates, licenses or other credentials established for the employee's position or classification; or (Amended 9/17/13)
- j. Has induced, or has attempted to induce an officer or employee in the service of the City to commit an unlawful act or to act in violation of any lawful departmental or official regulation or order; or has taken any fee, gift, or other valuable thing in the course of his work or in connection with it, for his personal use from any person, when such fee, gift or other valuable thing is given in the hope or expectation of receiving a favor or better treatment than accorded other persons; or (Amended 8/25/09)

k. Deliberately or carelessly acting in a manner that endangers the safety of self or others; or (Amended 9/17/13)

l. Except as permitted in paragraph (q) below, engaging in the following political activity is prohibited and the employee will be subject to disciplinary action for the following conduct (Amended 1/20/15):

- (1) actively engaging in the management or organizational committee of any municipal campaign;
- (2) acting as a worker at the polls in a municipal election;
- (3) participating in the solicitation of money in a municipal election;
- (4) contributing money or other valuables for any political purpose in connection with municipal elections;
- (5) while on duty, engaging in the distribution of any political material;
- (6) while on duty, promoting or engaging in the candidacy of any candidate or political party during any election period, whether it be a partisan or municipal election;
- (7) using city time or resources for any political purpose;
- (8) while wearing a city uniform, engaging in any political activity;
- (9) attempting to influence the vote or political action of any city employee whether superior or subordinate, while on duty;
- (10) attempting to influence, through threat or coercion, the vote or political action of any city employee whether superior or subordinate, while on or off duty;
- (11) recruiting or encouraging other city employees to support or participate in municipal elections;

- (12) accepting political paraphernalia while on duty or on city property;
- (13) using your city title or position in an endorsement for any political election.

Anything not prohibited above is permitted, to include the following:

- (1) engaging in the organizational efforts of partisan elections;
- (2) participating in partisan election steering committees;
- (3) demonstrating their political preference in partisan or municipal elections by displaying political paraphernalia representative of their political preference, so long as the employee is off duty, not in uniform, and not in a city facility, and does not use his city position or title; (Amended 8/25/09)
- (4) participating in the dialogue of community forums in any election;
- (5) endorsing the candidate of their choice in any elections so long as the employee is off duty, not in uniform, and not in a city facility, and does not use his city position or title; (Amended 8/25/09)
- (6) participating in all matters related to their candidate's election in partisan elections;
- (7) joining political clubs and organizations;
- (8) participating in all partisan activities related to the election process.
(Amended 05/07/02)

m. Violates the City's Ethics Ordinance; or (Added 7/31/07)

- n. Refusal to follow the lawful order of a superior or supervisor; or (Added 7/31/07)
- o. Subjecting a fellow employee or subordinate to unlawful intimidation, harassment or retaliation; or (Added 7/31/07)
- p. For just cause; or (Added 7/21/07)
- q. As permitted by law, and as provided in Rule 10, an employee may become a candidate for public office while maintaining his or her employment with the City; however, the employee must continue to fulfill all the duties and responsibilities associated with his or her city employment. An employee is prohibited and will be subject to disciplinary action for campaigning or taking affirmative action for the purpose of gaining nomination or election to public office while on duty, while using city time or resources, and/or while in city uniform. (Added 1/20/15)

Section 2. Disciplinary Notice.

Disciplinary actions in the nature of a discharge, involuntary reduction, or suspension taken against a regular employee, other than at the end of a probationary period, will not become effective until the Department Head has first served upon such employee a written notice of discipline. The notice must contain one or more statutory reasons or grounds for discipline, together with such specifications of fact as will enable the employee to make an explanation and place him fairly upon his defense. The specifications of fact shall be of sufficient specificity so as to preclude the possibility of disciplinary action for the same act or omission in the future. Nothing contained herein shall prohibit the Department Head from using an employee's prior acts or omissions resulting in discipline in determining future disciplinary action against the employee. An employee may be disciplined for other acts or omissions not specified in the notice even if such acts arise from the same incident or event. A Department Head may not unilaterally reduce the discipline given once notice of discipline has been provided to the employee, without the employee's consent. A copy of such notice of discipline, together with the employee's explanation, if any, will be filed with the Human Resources Director. (Amended 06/24/03, 7/31/07, 8/25/09)

Section 3. Notice of Proposed Disciplinary Action, Procedure and Limitation of Action.

a. When disciplinary action in the nature of a five (5) day suspension or greater, a reduction, or discharge is being contemplated by the Department Head, the employee must be served with a notice of proposed disciplinary action which shall conform with the notice requirements set forth in Section 2 and Section 3 (b) of this Rule. In addition to the notice of proposed disciplinary action, the employee shall be furnished with the written materials and tangible things in the possession of the Department Head that form the factual and evidentiary basis for the proposed disciplinary action. No matter may be withheld from the employee that is inconsistent with the theory of discipline or that could tend to mitigate the contemplated sanction. (Amended 8/25/09)

b. Within ten (10) working days of receipt of the notice of proposed disciplinary action, the employee may request a conference with the Department Head. Within five (5) working days of receipt of the employee's response, the Department Head shall meet with the employee, provided further that this period may be extended with the mutual consent of the Department Head and the employee. No witnesses may be called to testify as part of the employee's explanation or response. During the conference, the employee, their representative, and the Department Head shall engage in discussions with a view toward reaching a consensus and agreement relative to the proposed disciplinary action. No part of the discussions that take place during the conference may be offered into evidence at any subsequent hearing, except for the limited purpose of determining compliance or non-compliance with the provisions of this Rule as provided in paragraph "f" and for impeachment purposes. In the event such a consensus is

reached, the execution by the employee of documents finalizing the settlement agreement shall constitute a waiver of the employee's right to appeal to the Commission, and the employee shall be so advised in plain language. (Amended 09/09/03, 01/06/04, 8/25/09; 1/20/15)

c. Respecting discharge, those departments currently using a pre-termination hearing shall not be required to have a conference as contemplated hereinabove provided that the time between notification and hearing shall be at least five (5) days and further provided that there shall be no change to current practices regarding violations of applicable federal laws. (Amended 09/09/03, 01/06/04, 8/25/09)

d. The employee is entitled to have a representative of their choice assist them in the preparation and presentation of their response, provided further that in the event the representative is an employee of the City, he shall use vacation leave or personal days for such time as may be required for the representative to attend the conference. If the employee does not have any accrued vacation or personal days, the employee will be placed on unpaid administrative leave for such time as may be required for the representative to attend the conference. The employee must provide his Department Head with two days notice of the request to take the above leave. The Department Head may disapprove the request if the leave significantly interferes with the operational needs of the department. (Amended 09/09/03, 01/06/04, 8/25/09)

e. A proposed written notice of disciplinary action must be served on an employee within 120 calendar days from the date Human Resources is made aware of the occurrence of the incident giving rise to the discipline, provided however that this period of limitation shall be tolled if an investigation is being conducted by a law enforcement authority into criminal charges against the employee arising out of the same incident. Once a Department Head receives notice from the employee that charges have been preferred, through an indictment or information, or that the criminal investigation has been concluded without the preferal of charges, then the time period will resume running. (Amended 09/09/03, 01/06/04, 8/25/09, 09/19/17)

f. Any issue of non-compliance with these provisions will be considered by the hearing officer and/or Commission upon the appeal of the disciplinary action. (Amended 01/06/04)

g. Excluding Section 3 (e), in computing any time periods set forth in this Rule, Saturdays, Sundays, and City Holidays shall not be included. (Amended 01/06/04, 09/19/17)

h. Nothing in this Rule shall prevent suspension of the employee from service without pay in appropriate circumstances. (Amended 01/06/04)

i. A copy of this Rule shall be attached to each notice of proposed disciplinary action. (Passed 1/6/04)

Section 4. Resignation Before Appeal Decision.

The acceptance by Department Head of the resignation of a person discharged before final action on the part of the Commission will be considered a withdrawal of the charges and the separation of the employee concerned will be recorded as a resignation and the proceeding will be dismissed without judgment. (Amended 7/31/07)

Section 5. Disqualification for Reappointment.

Any employee who is dismissed for cause or who resigns while not in good standing will be disqualified from taking a Civil Service examination for two years thereafter. His name will be removed from all eligible lists, unless, in the judgment of the Commission the cause of his dismissal or resignation under charges will not affect the possibility of his usefulness in some other position. (Amended 8/25/09)

Marquez, Matthew G.

Subject: Proposed Notice of Suspension (Kirk Douglas/Alondra Aleman)
Location: City 3
Start: Mon 6/3/2024 9:00 AM
End: Mon 6/3/2024 10:00 AM
Recurrence: (none)
Meeting Status: Meeting organizer
Organizer: Rivera, Alejandra
Required Attendees: Caballero, Pablo E.



Marquez, Matthew G.

Subject: Kirk Douglas Final Notice of Suspension
Location: City 3
Start: Thu 6/20/2024 9:00 AM
End: Thu 6/20/2024 9:30 AM
Recurrence: (none)
Meeting Status: Meeting organizer
Organizer: Rivera, Alejandra
Required Attendees: Gaballero, Pablo E.

Douglas, Kirk E

031205

6/01/2024 - 6/21/2024, Selected range of dates

1 Employee(s) Selected

Date	Schedule	Pay Code	Amount	In	Transfer	Out	In	Transfer	Out	Shift	Daily	Period
Sat 6/01	9:00AM-3:00PM			9:02AM		12:59 PM				4.0	4.0	4.0
Sun 6/02												4.0
Mon 6/03	10:00AM-6:30PM			9:58AM		12:30 PM				2.5		
				1:00P M		6:28P M				5.5	8.0	12.0
Tue 6/04	9:30AM-6:00PM			9:33AM		5:58P M				8.5	8.5	20.5
Wed 6/05				9:59AM		11:48 AM				1.8		
				12:18PM		4:00P M				3.7		
		SLP	1.9	4:00PM							7.4	27.9
Thu 6/06	1:00PM-9:30PM			10:58 AM		4:01PM	4:31PM		9:34 PM	10.1	10.1	38.0
Fri 6/07	10:00AM-6:30PM			8:02A M		2:02P M				6.0	6.0	44.0
Sat 6/08												44.0
Sun 6/09												44.0
Mon 6/10	11:30AM-8:00PM			11:03 AM		4:50PM	5:20PM		7:28 PM	8.0	8.0	52.0
Tue 6/11	11:30AM-8:00PM			11:32AM		3:00PM	3:30PM		7:58PM	8.0	8.0	60.0
Wed 6/12		VAC	8.0	8:00AM							8.0	68.0
Thu 6/13		VAC	8.0	8:00AM							8.0	76.0
Fri 6/14		SLF	8.0	8:00AM							8.0	84.0
Sat 6/15												84.0
Sun 6/16												84.0
Mon 6/17		SLF	8.0								8.0	92.0

Date	Schedule	Pay Code	Amount	In	Transfer	Out	In	Transfer	Out	Shift	Daily	Period
Tue 6/18		LWO	2.0									
		VAC	6.0								8.0	100.0
Wed 6/19		Juneteenth	8.0								8.0	108.0
Thu 6/20		LWO	0.07									
	9:00AM-6:15PM			9:00AM		1:31PM	2:02PM		5:30 PM	7.93	8.0	116.0
Fri 6/21		SUS	8.0								8.0	124.0
	12:30AM-9:00PM											

Totals

Account	Pay Code	Amount	Wages
51270/51270-000056205/0/0/0/0	EV	9.1	\$0.00
51270/51270-000056205/0/0/0/0	HOL	8.0	\$0.00
51270/51270-000056205/0/0/0/0	LWO	2.07	\$0.00
51270/51270-000056205/0/0/0/0	REG	66.03	\$0.00
51270/51270-000056205/0/0/0/0	SLF	16.0	\$0.00
51270/51270-000056205/0/0/0/0	SLP	1.9	\$0.00
51270/51270-000056205/0/0/0/0	SUS	8.0	\$0.00
51270/51270-000056205/0/0/0/0	VAC	22.0	\$0.00
51270/51270-000056205/0/0/0/0	WorkedtimeCPC	66.03	\$0.00