



Department of Human Resources

MAYOR

Renard U. Johnson

TO: Hiram Samaniego, Community Center Supervisor

FROM: Mary Wiggins, Chief Human Resources Officer *Mary Wiggins*

DATE: March 3, 2025

SUBJECT: Discussion and Action on the Hearing Officer's Report and Recommendation on the 10- day suspension with the Parks and Recreation Department, in accordance with the City Charter, Article 6 Section 13-2 and 13-3 (G)(P)

CITY COUNCIL

District 1

Alejandra Chávez

District 2

Dr. Josh Acevedo

District 3

Deanna M. Rocha

District 4

Cynthia Boyar Trejo

District 5

Ivan Niño

District 6

Art Fierro

District 7

Lily Limón

District 8

Chris Canales

Your appeal has been placed on the Civil Service Commission Agenda as Item #3 for their meeting to be held on **Thursday evening, March 13, 2025**. 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 Failure to attend the meeting to address the Commission may result in your appeal being deemed withdrawn.

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.

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

CITY MANAGER

Dionne Mack

CC: Pablo Caballero, Director of Parks and Recreation
Erica Salamanca, Department HR Manager
Claudia Cancellare, Employee Relations Officer
Cecy Mungaray, Employee Relations Officer
Matthew Marquez, Assistant City Attorney
Patricia Palafox, Hearing Officer to the Civil Service Commission
Employee File

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



SUSPENSION APPEAL FORM

Date: 10/25/24

Civil Service Commission Secretary
300 North Campbell
El Paso, Texas 79901

To the Honorable Civil Service Commission:

I, Hiram Samaniego, of the Parks and Recreation

Department, under the provisions of 6.13-4, hereby appeal my Department Head's order given

to me on Oct. 11, 2024 to to place me on SUSPENSION from

Oct. 28, 2024 to Nov. 8, 2024.

Additional comments:

Signature: Hiram Samaniego

(Please Print)

Name: Hiram Samaniego

Address: [REDACTED]

City/State/Zip: [REDACTED]

Telephone: [REDACTED]

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

Do you have an attorney or personal representative? Yes No

If yes, Please give name and address:



CITY OF EL PASO, TEXAS
NOTICE OF SUSPENSION

Item #3

Name: Hiram Samaniego	Last 4 #'s of SS #: [REDACTED]	Date: October 11, 2024
Position: Community Center Supervisor	Employee ID #: [REDACTED]	
Address: [REDACTED]		
From: Parks and 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: Oct, 28th TO Nov 8th.

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:

- G. Dishonesty, theft, violation of a law, or violation of policies relating to the handling or procurement of property, or negligence in care or misuse of City property;
- P. For just cause.

<p>I HAVE RECEIVED A COPY OF THIS NOTICE</p> <p><u>Hiram Samaniego</u> Employee's Signature</p> <p>Date: <u>Oct. 11, 2024</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
NOTICE OF SUSPENSION

Item #3

Name: Hiram Samaniego	Last 4 #'s of SS #: [REDACTED]	Date: October 11, 2024
Position: Community Center Supervisor	Employee ID #: [REDACTED]	

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:

- 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)
- 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)
- 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)

EMPLOYEE'S INITIALS HS



CITY OF EL PASO, TEXAS
NOTICE OF SUSPENSION

Item #3

Name: Hiram Samaniego	Last 4 #'s of SS #: [REDACTED]	Date: October 11, 2024
Position: Community Center Supervisor	Employee ID #: [REDACTED]	

- 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, 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)

EMPLOYEE'S INITIALS HS



CITY OF EL PASO, TEXAS
NOTICE OF SUSPENSION

Item #3

Name: Hiram Samaniego	Last 4 #'s of SS #: [REDACTED]	Date: October 11, 2024
Position: Community Center Supervisor	Employee ID #: [REDACTED]	

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 - EMPLOYEE HANDBOOK (January 2023)

EMPLOYEE CONDUCT

All successful organizations have certain rules which employees must follow. You are expected to become acquainted with the performance criteria for your particular job and with all rules, procedures and standards of conduct established by your department and by the City, as summarized in this handbook. Further, your conduct away from work must not adversely affect the City, its reputation, operational success, or relationship with its employees, customers or citizens.

If you do not fulfill the responsibilities set out by such performance standards, rules, procedures and standards of conduct, you may be subject to disciplinary action, the severity of which will depend upon the circumstances. Disciplinary action will be taken when an investigation of the facts shows that the conduct warrants such a result.

EMPLOYEE'S INITIALS HS



CITY OF EL PASO, TEXAS
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Item #3

Name: Hiram Samaniego	Last 4 #'s of SS #: [REDACTED]	Date: October 11, 2024
Position: Community Center Supervisor	Employee ID #: [REDACTED]	

People work together best in an atmosphere where they are valued as individuals and recognized as key members of a team. It is important that each member of our team understand what is expected. It is impossible to write policies and procedures covering every situation. Be sure you understand what is expected of you, and what you can expect from the City. If you have any question, discuss it with your immediate supervisor. Understanding is the key to teamwork.

The following are some examples of employee conduct that are not permitted and that may result in disciplinary action up to and including termination of employment:

- Falsification of time records, personnel records or other City records.

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, 2015)

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.

EMPLOYEE'S INITIALS HS



CITY OF EL PASO, TEXAS
NOTICE OF SUSPENSION

Item #3

Name: Hiram Samaniego	Last 4 #'s of SS #: [REDACTED]	Date: October 11, 2024
Position: Community Center Supervisor	Employee ID #: [REDACTED]	

- 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:

- 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:
 - Identify which State or Federal laws, rules, policies, and/or regulations were violated,
 - Contain narrative specifications (charges) and
 - 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

- 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.
 - 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

EMPLOYEE'S INITIALS HS



CITY OF EL PASO, TEXAS
NOTICE OF SUSPENSION

Item #3

Name: Hiram Samaniego	Last 4 #'s of SS #: [REDACTED]	Date: October 11, 2024
Position: Community Center Supervisor	Employee ID #: [REDACTED]	

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.

- 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.
- 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 - Deliberate falsification of reports or official documents – 2nd Offense: 15-Day Suspension

Date Received by Human Resources: May 28, 2024

120th Day Deadline, pursuant to CSC Rule 8 Section 3(e): September 25, 2024

SPECIFICATIONS:

During an investigation of a complaint that you brought forward, you admitted to once falsifying an official document. You stated you regularly administer the Fitness Incentive Program Test sessions for the City of El Paso Benefit’s program, Shape It Up. After one of these sessions, you did not recall the exact date, you signed a Fitness Incentive Program Application for another employee who did not actually test. Employees who take the physical fitness exam and score highly enough receive monthly monetary incentives.

Deliberately falsifying an official City document would have led to the employee unfairly receiving a monthly incentive. Your actions are not in alignment with the City’s values and are also a violation of the City of El Paso Employee Handbook.

Your disciplinary history reflects the following:

On February 9, 2011, you received a **3-day suspension** for an inducing or assisting another to commit an unlawful act, ethics violation.

The City of El Paso’s Disciplinary Matrix provides that a second (2nd) level 3 violation warrants a fifteen (15) day suspension; however, the department has taken into consideration the amount of time since your previous discipline as mitigating circumstances to issue a lesser amount of a **ten (10) day suspension**.

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CITY OF EL PASO, TEXAS
NOTICE OF SUSPENSION

Item #3

Name: Hiram Samaniego	Last 4 #'s of SS #: [REDACTED]	Date: October 11, 2024
Position: Community Center Supervisor	Employee ID #: [REDACTED]	

Based on the above specifications, the City of El Paso Parks and 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 HS



Department of Human Resources

MAYOR
Oscar Leeser

October 29, 2024

CITY COUNCIL

Hiram Samaniego
[REDACTED]
[REDACTED]

District 1
Brian Kennedy

Dear Mr. Samaniego:

District 2
Dr. Josh Acevedo

REFERENCE: SUSPENSION- HIRAM SAMANIEGO- CSC CASE NO.24-PR-05PP

District 3
Cassandra Hernandez

Your case has been assigned to Hearing Officer Patricia Palafox, (Telephone 915- [REDACTED]). If you have any questions regarding your hearing, please contact the Hearing Officer.

District 4
Joe Molinar

District 5
Isabel Salcido

*Either party may request the hearing be recorded. If you have any questions, please reference the Recording Rule or call Symone Menchaca at 915-212-1242 for more details.

District 6
Art Fierro

District 7
Henry Rivera

District 8
Chris Canales

CITY MANAGER
Dionne Mack

Sincerely,

Mary Wiggins

Mary Wiggins
Chief Human Resources Officer
Civil Service Commission Secretary

CC: Pablo Caballero, Parks and Recreation Director
Claudia Cancellare, Employee Relations Officer
Cecy Mungaray, Employee Relations Officer
Matt Marquez, Assistant City Attorney
Patricia Palafox, CS Commission Hearing Officer
Employee File

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





Department of Human Resources

MAYOR
Oscar Leeser

October 29, 2024

CITY COUNCIL

Patricia Palafox
[REDACTED]
[REDACTED]

District 1
Brian Kennedy

Dear Ms. Palafox:

District 2
Dr. Josh Acevedo

REFERENCE: SUSPENSION APPEAL CASE

District 3
Cassandra Hernandez

The Civil Service Commission has assigned the case listed below to you. I have enclosed a copy of the appeal letter and the appropriate documents. Please contact the named employee and Assistant City Attorney, Matthew Marquez, [REDACTED]@elpasotexas.gov, to schedule a hearing. This appeal was timely filed.

District 4
Joe Molinar

District 5
Isabel Salcido

NAME: Hiram Samaniego
DEPT: Parks and Recreation
TYPE: Suspension Appeal
DOCKET NO. CSC Case 24-PR-05PP
EMPLOYEE REP: None

District 6
Art Fierro

District 7
Henry Rivera

*Either party may request the hearing be recorded. If you have any questions, please reference the Recording Rule or call Symone Menchaca at 915-212-1242 for more details.

District 8
Chris Canales

CITY MANAGER
Dionne Mack

Sincerely,

Mary Wiggins

Mary Wiggins
Chief Human Resources Officer
Civil Service Commission Secretary

CC: Pablo Caballero, Parks and Recreation Director
Claudia Cancellare, Employee Relations Officer
Cecy Mungaray, Employee Relations Officer
Matt Marquez, Assistant City Attorney
Patricia Palafox, CS Commission Hearing Officer
Employee File

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 RE:)	
)	
)	DOCKET NUMBER:
HIRAM SAMANIEGO)	CSC 24-PR-05PP
)	

PRE-HEARING ORDER

On November 13, 2024, a pre-hearing telephone conference was held in this matter.

Present at the Pre Hearing conference were:

Matthew Marquez representing the City and

Hiram Samaniego representing himself.

As a result of the pre-hearing conference, the following order is entered.

IT IS ORDERED THAT:

1. The evidentiary hearing will be held on January 7, 2025 commencing at 9:30 a.m. and continuing if necessary on January 8, 2025 at a location provided by the City.
2. Discovery requests must be no later than November 18, 2024, with answers provided by no later than December 13, 2024. Discovery requests shall be limited to two requests of no more than 25 requests each. Additional requests must be agreed to by the opposing party, and if not agreed to, must be approved by the Hearing Officer.
3. If a party desires to have a prospective witness who is not currently employed with the City served with a subpoena, that party shall deliver to Symone Menchaca, Administrative Support Specialist in Human Resources, City Hall, a written list of all persons to be subpoenaed, along with the latest available address for such witness or witnesses, no later than December 23, 2024. An additional copy shall be delivered to the Hearing Officer

Item #3

- by e mail. If the party desires to have documents or other things subpoenaed, such documents or objects must be described in the subpoena request.
4. Although the Employee has stated that he will be the only witness he will call, if the Employee desires the attendance at the Hearing of a witness who is a current employee of the City of El Paso, the employee shall deliver to the attorney for the City who is handling this case, a list of employees the Employee desires as witnesses. The list must be delivered no later than December 23, 2024. If unknown at the time, such a name shall be delivered at least five working days prior to the Hearing date. The City will arrange attendance at the Hearing of all witnesses listed in the Employee's Witness list as long as they are currently employed by the City.
 5. The Employee will deliver to the City, and the City will deliver to the Employee no later than 5:00 p.m. on December 30, 2024 by mail, in person, or e mail:
 - A. A final list of witnesses, including all information necessary to locate such witnesses, as well as a brief statement of each witness's anticipated testimony; and
 - B. Copies of all exhibits which the party anticipates offering as evidence at the hearing. If the proposed exhibit is an object rather than a document, the party will present a photograph of the object to the opposing party and the parties will make arrangements to view the object before the hearing.
 6. At the Hearing, if exhibits number over five, they shall be marked "C-1, 2" for the City, and "A-1, 2" for the Employee, and will be attached with a clip or similar device and will have a cover sheet listing the exhibits and the numbers. Sufficient copies of all exhibits must be brought to the Hearing so that the exhibits may be presented to the Hearing Officer and the opposing party. Prior to the commencement of the Hearing, parties are to confer

Item #3

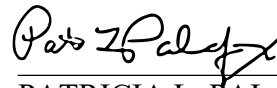
on exhibits and stipulations.

7. The parties must read Civil Service Commission Rules which apply to Hearings.

8. Length of Hearing: 8 hours.

Time may be expanded by the Hearing Officer upon good cause.

Signed this 18th day of November, 2024.



PATRICIA L. PALAFOX,
HEARING OFFICER

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

IN THE MATTER OF

HIRAM SAMANIEGO, APPELLANT

AND

THE CITY OF EL PASO

§
§
§
§
§
§
§

DOCKET NO. 24-PR-05PP

CITY OF EL PASO'S AMENDED EXHIBIT LIST

#	DESCRIPTION	DATE
	<i>City of El Paso Employee Investigation</i>	
C-1	Proposed Notice of Suspension	9/20/2024
C-2	Signed Notice of Suspension	10/11/2024
C-3	Prior Notice of Suspension	2/9/2011
C-4	Acknowledge of Receipt of Employee Handbook	1/13/2016
C-5	Investigation / Complaint Summary	5/28/2024
C-6	Human Resources Dept. Complaint	5/28/2024
C-7	City of El Paso Discipline Policy & Matrix	5/30/2015



COPY





CITY OF EL PASO, TEXAS
PROPOSED NOTICE OF SUSPENSION **Item #3**

Name: Hiram Samaniego	Last 4 #'s of SS #: [REDACTED]	Date: September 20, 2024
Position: Community Center Supervisor	Employee ID #: [REDACTED]	
Address: [REDACTED]		

From: Parks and Recreation
Subject: Suspension Without Pay

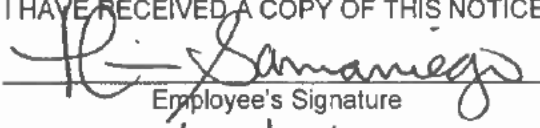
THIS IS TO NOTIFY YOU THAT YOUR EMPLOYMENT WITH THE CITY OF EL PASO IS HEREBY **SUSPENDED FOR 10 WORKDAYS** EFFECTIVE: _____ TO _____.

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:
G. Dishonesty, theft, violation of a law, or violation of policies relating to the handling or procurement of property, or negligence in care or misuse of City property;
P. For just cause.

I HAVE RECEIVED A COPY OF THIS NOTICE



Employee's Signature

Date: 09/20/24

BY CERTIFIED MAIL NUMBER: _____


DEPARTMENT HEAD

COPY RECEIVED AND FILED
HUMAN RESOURCES

BY: 
DIRECTOR



CITY OF EL PASO, TEXAS
PROPOSED NOTICE OF SUSPENSION

Item #3

Name: Hiram Samaniego	Last 4 #'s of SS #: [REDACTED]	Date: September 20, 2024
Position: Community Center Supervisor	Employee ID #: [REDACTED]	

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:

- 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)
- 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)
- 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)

EMPLOYEE'S INITIALS

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 JAN 22 2025
 CIVIL SERVICE
 COMMISSION



CITY OF EL PASO, TEXAS
PROPOSED NOTICE OF SUSPENSION

Item #3

Name: Hiram Samaniego	Last 4 #'s of SS #: [REDACTED]	Date: September 20, 2024
Position: Community Center Supervisor	Employee ID #: [REDACTED]	

- 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, 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)

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EMPLOYEE'S INITIALS

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CITY OF EL PASO, TEXAS
PROPOSED NOTICE OF SUSPENSION

Item #3

Name: Hiram Samaniego	Last 4 #'s of SS #: [REDACTED]	Date: September 20, 2024
Position: Community Center Supervisor	Employee ID #: [REDACTED]	

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 - EMPLOYEE HANDBOOK (January 2023)

EMPLOYEE CONDUCT

All successful organizations have certain rules which employees must follow. You are expected to become acquainted with the performance criteria for your particular job and with all rules, procedures and standards of conduct established by your department and by the City, as summarized in this handbook. Further, your conduct away from work must not adversely affect the City, its reputation, operational success, or relationship with its employees, customers or citizens.

If you do not fulfill the responsibilities set out by such performance standards, rules, procedures and standards of conduct, you may be subject to disciplinary action, the severity of which will depend upon the circumstances. Disciplinary action will be taken when an investigation of the facts shows that the conduct warrants such a result.

EMPLOYEE'S INITIALS

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JAN 22 2025

CIVIL SERVICE
COMMISSION



CITY OF EL PASO, TEXAS
PROPOSED NOTICE OF SUSPENSION

Item #3

Name: Hiram Samaniego	Last 4 #'s of SS #: [REDACTED]	Date: September 20, 2024
Position: Community Center Supervisor	Employee ID #: [REDACTED]	

People work together best in an atmosphere where they are valued as individuals and recognized as key members of a team. It is important that each member of our team understand what is expected. It is impossible to write policies and procedures covering every situation. Be sure you understand what is expected of you, and what you can expect from the City. If you have any question, discuss it with your immediate supervisor. Understanding is the key to teamwork.

The following are some examples of employee conduct that are not permitted and that may result in disciplinary action up to and including termination of employment:

- Falsification of time records, personnel records or other City records.

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, 2015)

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.

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JAN 22 2025

CIVIL SERVICE COMMISSION



CITY OF EL PASO, TEXAS
PROPOSED NOTICE OF SUSPENSION

Item #3

Name: Hiram Samaniego	Last 4 #'s of SS #: [REDACTED]	Date: September 20, 2024
Position: Community Center Supervisor	Employee ID #: [REDACTED]	

- 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:

- 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:
 - Identify which State or Federal laws, rules, policies, and/or regulations were violated,
 - Contain narrative specifications (charges) and
 - 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

- 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.
 - 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

EMPLOYEE'S INITIALS

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CITY OF EL PASO, TEXAS
PROPOSED NOTICE OF SUSPENSION

Item #3

Name: Hiram Samaniego	Last 4 #'s of SS #: [REDACTED]	Date: September 20, 2024
Position: Community Center Supervisor	Employee ID #: [REDACTED]	

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.

- 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.
- 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 - Deliberate falsification of reports or official documents – 2nd Offense: 15-Day Suspension

Date Received by Human Resources: May 28, 2024

120th Day Deadline, pursuant to CSC Rule 8 Section 3(e): September 25, 2024

SPECIFICATIONS:

During an investigation of a complaint that you brought forward, you admitted to once falsifying an official document. You stated you regularly administer the Fitness Incentive Program Test sessions for the City of El Paso Benefit's program, Shape It Up. After one of these sessions, you did not recall the exact date, you signed a Fitness Incentive Program Application for another employee who did not actually test. Employees who take the physical fitness exam and score highly enough receive monthly monetary incentives.

Deliberately falsifying an official City document would have led to the employee unfairly receiving a monthly incentive. Your actions are not in alignment with the City's values and are also a violation of the City of El Paso Employee Handbook.

Your disciplinary history reflects the following:

On February 9, 2011, you received a 3-day suspension for an inducing or assisting another to commit an unlawful act, ethics violation.

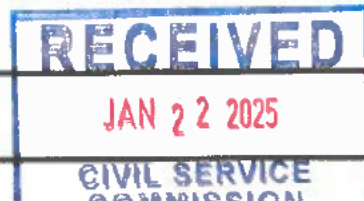
The City of El Paso's Disciplinary Matrix provides that a first (2nd) level 3 violation warrants a fifteen (15) day suspension; however, the department has taken into consideration the amount of time since your previous discipline as mitigating circumstances to issue a lesser amount of a ten (10) day suspension.

EMPLOYEE'S INITIALS

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CITY OF EL PASO, TEXAS
PROPOSED NOTICE OF SUSPENSION

Item #3

Name: Hiram Samaniego	Last 4 #'s of SS #: [REDACTED]	Date: September 20, 2024
Position: Community Center Supervisor	Employee ID #: [REDACTED]	

Based on the above specifications, the City of El Paso Parks and 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.

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 JAN 22 2025
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 COMMISSION



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EMPLOYEE'S INITIALS HS



CITY OF EL PASO, TEXAS
NOTICE OF SUSPENSION

Item #3

Name: Hiram Samaniego
Position: Community Center Supervisor

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

Date: October 11, 2024

Address: [REDACTED]

From: Parks and 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: Oct, 28th TO Nov 8th.

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:

- G. Dishonesty, theft, violation of a law, or violation of policies relating to the handling or procurement of property, or negligence in care or misuse of City property;
- P. For just cause.

I HAVE RECEIVED A COPY OF THIS NOTICE

Hiram Samaniego
Employee's Signature

Date: Oct. 11, 2024

BY CERTIFIED MAIL NUMBER: _____

[Signature]
DEPARTMENT HEAD

COPY RECEIVED AND FILED

HUMAN RESOURCES

BY: [Signature]
DIRECTOR

DISTRIBUTION: Original – Human Resources Department; Copy – Department



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CIVIL SERVICE COMMISSION



CITY OF EL PASO, TEXAS
NOTICE OF SUSPENSION

Item #3

Name: Hiram Samaniego
Position: Community Center Supervisor

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

Date: October 11, 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:

- 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)
- 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)
- 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)

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CITY OF EL PASO, TEXAS
NOTICE OF SUSPENSION

Item #3

Name: Hiram Samaniego	Last 4 #'s of SS #: [REDACTED]	Date: October 11, 2024
Position: Community Center Supervisor	Employee ID #: [REDACTED]	

- 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

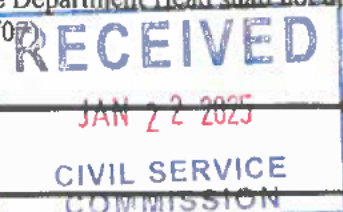
Regular employees suspended for not more than ten (10) working days may elect to forfeit annual leave for a period equal to the suspension, or to the extent of the employee's annual leave balance, subject to approval of the Department Head. The election provided for herein, shall work a waiver of the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

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CITY OF EL PASO, TEXAS
NOTICE OF SUSPENSION

Item #3

Name: Hiram Samaniego
Position: Community Center Supervisor

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

Date: October 11, 2024

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 - EMPLOYEE HANDBOOK (January 2023)

EMPLOYEE CONDUCT

All successful organizations have certain rules which employees must follow. You are expected to become acquainted with the performance criteria for your particular job and with all rules, procedures and standards of conduct established by your department and by the City, as summarized in this handbook. Further, your conduct away from work must not adversely affect the City, its reputation, operational success, or relationship with its employees, customers or citizens.

If you do not fulfill the responsibilities set out by such performance standards, rules, procedures and standards of conduct, you may be subject to disciplinary action, the severity of which will depend upon the circumstances. Disciplinary action will be taken when an investigation of the facts shows that the conduct warrants such a result.

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Item #3

Name: Hiram Samaniego	Last 4 #'s of SS #: [REDACTED]	Date: October 11, 2024
Position: Community Center Supervisor	Employee ID #: [REDACTED]	

People work together best in an atmosphere where they are valued as individuals and recognized as key members of a team. It is important that each member of our team understand what is expected. It is impossible to write policies and procedures covering every situation. Be sure you understand what is expected of you, and what you can expect from the City. If you have any question, discuss it with your immediate supervisor. Understanding is the key to teamwork.

The following are some examples of employee conduct that are not permitted and that may result in disciplinary action up to and including termination of employment:

- Falsification of time records, personnel records or other City records.

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, 2015)

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.

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Position: Community Center Supervisor	Employee ID #: [REDACTED]	

- 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:

- 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:
 - Identify which State or Federal laws, rules, policies, and/or regulations were violated,
 - Contain narrative specifications (charges) and
 - 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

- 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.
 - 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



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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.

- 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.
- 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 - Deliberate falsification of reports or official documents – 2nd Offense: 15-Day Suspension

Date Received by Human Resources: May 28, 2024

120th Day Deadline, pursuant to CSC Rule 8 Section 3(e): September 25, 2024

SPECIFICATIONS:

During an investigation of a complaint that you brought forward, you admitted to once falsifying an official document. You stated you regularly administer the Fitness Incentive Program Test sessions for the City of El Paso Benefit's program, Shape It Up. After one of these sessions, you did not recall the exact date, you signed a Fitness Incentive Program Application for another employee who did not actually test. Employees who take the physical fitness exam and score highly enough receive monthly monetary incentives.

Deliberately falsifying an official City document would have led to the employee unfairly receiving a monthly incentive. Your actions are not in alignment with the City's values and are also a violation of the City of El Paso Employee Handbook.

Your disciplinary history reflects the following:

On February 9, 2011, you received a 3-day suspension for an inducing or assisting another to commit an unlawful act, ethics violation.

The City of El Paso's Disciplinary Matrix provides that a second (2nd) level 3 violation warrants a fifteen (15) day suspension; however, the department has taken into consideration the amount of time since your previous discipline as mitigating circumstances to issue a lesser amount of a ten (10) day suspension.

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Name: Hiram Samaniego	Last 4 #'s of SS #: [REDACTED]	Date: October 11, 2024
Position: Community Center Supervisor	Employee ID #: [REDACTED]	

Based on the above specifications, the City of El Paso Parks and 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.

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NOTICE OF SUSPENSION

Item #3

Name: Hiram Samaniego
Position: Community Center Supervisor

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

Date: February 9, 2011

Address: [REDACTED]

From: City of El Paso Parks and Recreation Department
Subject: Suspension Without Pay

THIS IS TO NOTIFY YOU THAT YOUR EMPLOYMENT WITH THE CITY OF EL PASO IS HEREBY SUSPENDED FOR THREE (3) WORKDAYS EFFECTIVE: February 14 through February 16, 2011.

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 permanent employee may be discharged, suspended or reduced in rank or position as provided in this 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 permanent employees:

- J. Inducing or assisting another to commit an unlawful act;
- M. Violates the City's Ethics Ordinance;
- P. For just cause.

I HAVE RECEIVED A COPY OF THIS NOTICE

H Samaniego
Employee's Signature

DATE Feb 9, 2011

BY CERTIFIED MAIL NUMBER: _____

[Signature]
DEPARTMENT HEAD

COPY RECEIVED AND FILED

HUMAN RESOURCES

BY *[Signature]*
DIRECTOR

DISTRIBUTION: Original – Human Resources Department; Copy – Department

Sched 1104 - 3 wkday SUS - signed VLS for 24 hrs on 2/9/11 2011 Page 1 of 6

naic / iud

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2/9/11 2011
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CITY OF EL PASO, TEXAS
NOTICE OF SUSPENSION

Item #3

Name: Hiram Samaniego
Position: Community Center Supervisor

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

Date: February 9, 2011

CIVIL SERVICE COMMISSION RULES AND REGULATIONS

RULE 15. 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)

- 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)
- m. Violates the City's Ethics Ordinance; or (Added 7/31/07)
- p. For just cause. (Added 7/31/07)

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 or her fairly upon his or her 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 and 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 in evidence at any subsequent hearing,

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Position: Community Center Supervisor	Employee ID #: [REDACTED]	

except for the limited purpose of determining compliance or non-compliance with the provisions of this Rule as provided in paragraph "e" 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)

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. Disciplinary action must be taken against an employee within 80 working days after the occurrence of the incident giving rise to the discipline or from the date that the Department Head knew or should have known that disciplinary action is appropriate, whichever is later, 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)

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. In computing any time periods set forth in this Rule, Saturdays, Sundays, and City Holidays shall not be included. (Amended 01/06/04)

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 preceding will be dismissed without judgment. (Amended 7/31/07)

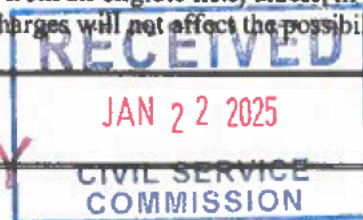
Section 5. Disqualification for Reappointment.

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

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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 the 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, 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 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. Any formal counseling, or a written reprimand issued before 8/25/09 will be removed from an employee's personnel file as soon as practicable twenty-four (24) months after the formal counseling is placed in their file provided the employee has not received any other disciplinary action during the time period. Any such formal counseling which qualifies to be removed, shall not be used against the employee for purposes of progressive discipline or for performance evaluations, as of the expiration of the twenty-four (24) month period. (Added 8/25/09)(Amended 11/2/10)

RULE 19. DEPARTMENTAL RULES

Section 1. Any department head shall have the right to promulgate rules and regulations regarding the operation of his or her department, and the conduct of the employee therein, provided that such rules do not conflict with the Civil Service Charter or the Rules promulgated there under.

Section 3. 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.

EL PASO CITY CODE – CHAPTER 2.92 – ETHICS

2.92.050 - Standards of conduct.

Officers or employees:

G. Shall not knowingly perform or refuse to perform any act in order to deliberately thwart the execution of the city ordinances, rules or regulations or the achievement of official city programs;

N. Shall not, in the case of an employee, recklessly disregard the established practices or policies of the city relating to the duties assigned to the employee;

EL PASO PARKS AND RECREATION DEPARTMENT-RECREATION DIVISION

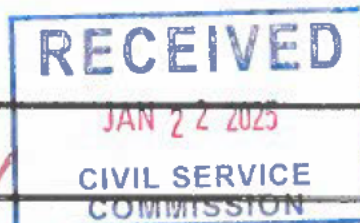
GENERAL RECEIPTS POLICY (3/22/06)

EMPLOYEE'S INITIALS

HS



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CITY OF EL PASO, TEXAS
NOTICE OF SUSPENSION

Item #3

Name: Hiram Samaniego

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

Date: February 9, 2011

Position: Community Center Supervisor

Employee ID #: [REDACTED]

All money received by any staff on behalf of the City of El Paso is to be receipted with official City of El Paso receipts and accounted for the following City procedures. The receipt books have three parts:

1. White copy goes to the patron;
2. Yellow is to be turned in (with deposit receipt) at the main office,
3. Pink stays at the facility as part of its records.

"Cash" is defined as coin, currency, checks, and money order transactions. Account for cash as it is received. City receipt books can be obtained from the Parks and Recreation Administrative Analyst's office. These receipt books number are to be entered in the general receipts log book to insure that they are all used before any new ones are issued and that none are lost or unused. These receipts will mainly be used as proof of payment for the participants (i.e. classes, daycare/preschool, etc).

Ultimately, the city staff handling the monies will transfer the responsibility to the recreation center coordinator/supervisor, or to the staff member previously assigned by him, at the end of the day or work shift.

SPECIFICATIONS:

On November 4, 2010, a complaint of improper cash handling was made to the City of El Paso Human Resources Department. The complaint alleged that money was being collected from various teams in the Adult Basketball League, which you supervise, and then used to pay officials and/or scorekeepers in games that had been forfeited.

Fees for any of the City's sports activities must be approved by City Council and documented. Only fees approved by City Council can be collected. There are no approved forfeit fees in the Department's fee schedule. All fees for the officials are included in the registration fees. Despite these facts, you informed a scorekeeper to collect a \$46 "forfeit fee" from teams in the Adult Basketball League if a forfeit occurred. Of that amount \$18 would be given to each official and \$10 would be given to the scorekeeper. Any payments for officials due to forfeits should have been issued through the Department's accounts payable office. As of November 23, 2010, the Department's accounts payable section had no record of any payments being prepared for any forfeited basketball games this season. Cash handling procedures were circumvented by instructing and allowing teams to conduct cash transactions on the floor to pay officials and/or scorekeepers for forfeited games. All money received on behalf of the City of El Paso is to be receipted; however, this did not occur with unauthorized "forfeit fees" being collected and distributed on the court. The "forfeit fees" you were allowing to be collected for Adult Basketball were never approved and should never have been collected. You have been negligent in your duties by either instructing or allowing employees under your direction to collect these unapproved fees.

Additionally, a complaint was received concerning you playing basketball during your work hours. When you are on duty as Community Center Supervisor, your primary responsibilities are to oversee the administration of the Acosta sports facility and programs that are assigned to you. This does not include playing as a substitute player on a basketball team in order for the game to go on. Your actions antagonized your staff because you were seen as abusing your authority by claiming you were exempt and could play in these games. Your actions were inappropriate and presented a safety hazard because you were not performing work within the scope of your job duties. By actively participating in a sport, such as basketball, you failed to set a good safety example for your staff and the sports center.

In conclusion, you violated the General Receipts Policy and fee schedule and allowed the cash handling process to be circumvented. You abused your authority by playing in basketball games during work hours.

Your disciplinary history reflects the following:

EMPLOYEE'S INITIALS

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CITY OF EL PASO, TEXAS
NOTICE OF SUSPENSION

Item #3

Name: Hiram Samaniego
Position: Community Center Supervisor

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

Date: February 9, 2011

On October 23, 2009, you received a **Formal Counseling** in which you were cautioned about your conduct relating to the maintenance of an environment that is respectful and free of harassment and intimidation.

Based on the above, the City of El Paso Parks and Recreation Department has determined that your services are to be suspended for **three (3) workdays**.

You have 30 days from the date of notification to appeal this action to the Civil Service Commission. The City reserves the right to alter or amend the charges and/or specifications at a later date.

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**ACKNOWLEDGMENT OF RECEIPT OF THE
EMPLOYEE HANDBOOK**

I have received a link to the City of El Paso "Employee Handbook" which contains a synopsis of the City's policies, procedures and guidelines related to my employment. I understand that I am to read, become familiar with and comply with these policies, procedures and guidelines. 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 expressed 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.

Employee Signature:

R. Samaniego

Printed Name:

Hiram Samaniego

Date:

01/13/2016

Kronos [REDACTED]
[REDACTED]



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Investigation/Complaint Summary

Date of Complaint: May 28, 2024

Employee Hotline #: (If Applicable)

Department: Parks & Recreation

Type of Complaint (check all that apply):

Race Age National Origin Color Gender Disability Religion

Workplace Violence Hostile Workplace Sexual Harassment Retaliation Bullying

Rule Violation: N/A

Complainant(s): Hiram Samaniego, Community Center Supervisor, [REDACTED]

Respondent(s): Lluvia Espinoza, Recreation & Sports Coordinator, [REDACTED] Jose Esquivel, Recreation Leader, [REDACTED]

Background and Basis of Complaint:

On May 28, 2024, the Human Resources Department received a complaint from Hiram Samaniego, Community Center Supervisor. The report alleges violations of falsification of official documents during the administration of the Shape It Up – Fitness Incentive Program Tests. A summary of the allegations and findings of fact are provided below. The investigation consisted of one (1) interview, formal statements from three (3) employees, four (4) Fitness Incentive Program Applications, and a video recording.

List of Witnesses Interviewed:

Hiram Samaniego, Community Center Supervisor, 017023

Allegations & Findings of Fact:

Allegation #1: On May 17, 2024, Lluvia Espinoza signed and submitted a Fitness Incentive Program Application for Jose Esquivel without him testing.

Finding(s): This allegation is conclusive. In statements from Lluvia Espinoza and Jose Esquivel, both stated Jose Esquivel had not tested that day, but had tested previously and were waiting to submit his results until the May 17, 2024 session when they believed he was allowed to retest. Video from the Armijo Recreation Center shows that Jose Esquivel was present and helped administer the tests, but did not actually test at all. Some of the tests were outside and not visible in the video. Mr. Esquivel's score sheet reflects that he participated in the bench press,



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Item #3

sit ups, push-ups, and vertical jump, but in the video, he is not seen participating in any of these exams. Lluvia Espinoza signed off on his Fitness Incentive Program Application. City Benefits staff was able to confirm that the form was submitted; however, because Mr. Esquivel had tested as recently as September 2023, it was denied. Jose Esquivel did not receive any additional compensation from submitting this application.

Other Finding(s): Hiram Samaniego admitted to signing Lluvia Espinoza's Fitness Incentive Program Application once when she had not physically tested. He recalls asking her not to submit it and Benefits did not have records of it.

Recommendation(s):

Discipline is recommended for Lluvia Espinoza, Jose Esquivel, and Hiram Samaniego for Deliberate Falsification of Reports or Official Documents.

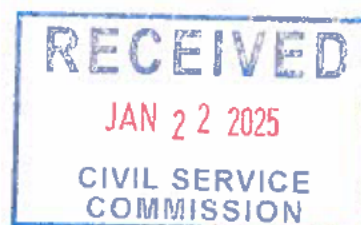
It is recommended that the Shape It Up program implement steps to create a "check and balances" system.

Investigation/Complaint Close-Out Date: August 14, 2024

Assigned investigator: Tracy Chavarria, Human Resources Business Partner



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HUMAN RESOURCES DEPARTMENT

Date: May 28, 2024

I, Hiram Samaniego, 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: Community Center Supervisor - 17 years

2. Who is your immediate supervisor?

RESPONSE: Carlos Rodriguez is my manager
My immediate supervisor is Linda Hammonds

3. Please tell me about the incident involving the Shape It Up program? Please give specific information: date, times, names, location.

RESPONSE: On Fri. May 17th as I waited for Lluvia I saw Pepe. Pepe got into the van and I told him at least both of us can administer the test. Pepe said he was testing. I said no problem, I can do it by myself if Lluvia wasn't there. Lluvia and Ricardo showed up and the test begun. My co-worker Eduardo Barron and I administered the bench press portion. As we continued Ricardo called those that had finished to follow them to the basketball gym. Eduardo and I got to the basketball gym and noticed the test

4. Was this the first time an incident happened like this? If not, please give details on previous incidents.

see other side →

RESPONSE:

That I'm aware this is the 1st time but I don't know because I don't or have not done the scoresheets nor sign the forms in a long-long time. With the majority of testers being male I usually demonstrate and count. Lluvia's role is mainly recording, paperwork.

Now there was one day when Lluvia went up to me to sign →

see other side →

05/28/2024

Date



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Hiram Samaniego
Signature



HUMAN RESOURCES DEPARTMENT

Date: May 28, 2024

5. If this incident happened previously, did you report it to anyone?

RESPONSE:

This one incident didn't happen previously.

When Lluvia had me sign the form I gave in and within the hour I texted her not to do it. She called me and I said the same thing. I did not report it to anyone except to her because she is the one that submits the forms to H.R.

6. Have you ever passed anyone testing for the Shape It Up program without them testing and/or passing? If so, who and when? Why?

No, but I signed so yes to an extent.

The process is completed when submitting forms to H.R. I gave in to the pressure. Now I'm here not giving in to the pressure and reporting what I witnessed on May 17th and confessing/sharing a "previous" incident.

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

RESPONSE:

NO.

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

Date May 28, 2024



Signature [Handwritten Signature]

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Continued - question # 3

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Item #3

was continuing. We finished with those that needed to complete sit-ups and push-ups. I explained the "jump" part of the test and Eduardo helped me. We left to Guillen M.S. to complete the 300 yd test. Lluvia told me to take a picture of the scoresheets since we had no "bibs" and to line them up in that order. Test ended. Lluvia stayed with Ricardo and Pepe finalizing results and I drove Eduardo to Armijo.

On Sunday I thought about the words Pepe told me that he was testing but I never saw him participate/test.

On Tuesday May 21st I emailed + called Roman Sandoval to verify if there was an application by Pepe. Since I didn't know Pepe's name I called Carlos who told me his name is Jose Esquivel; this name came up on Lluvia's email to the participants. I checked the pictures of the scoresheets and his name with scores were there. My conscience was bugging me all weekend and I met with Carlos at 5pm and told him all about this incident and about one time Lluvia went to me to sign her the Shape It Up form without testing.

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Continued - question #4

her form even though she did not participate. I remember signing so pressured by her action that I signed - more like distorted my signature. I left and texted her to not submit the form because I did not feel right. I don't know if she did submit her form or not and forgot about it until this incident with Pepe. Every year I participate in the Shape It Up but I do the blood test except for once when all were there. See → 1/4

Continued - question #4 - 2nd page

Item #3

I have been very passionate about sports, fitness, and recreation but prefer to test with the blood test to avoid any conflict of interest, but I can pass the test physically thank God because of my levels of activity and health.

This incident with Pepe's form turned in made me think of when I scribbled my signature giving in to the pressure. As I said I don't know if Lluvia submitted her own form to receive the incentive but I brought it up because it may be a correlation.

I should have never signed whether it was submitted or not, but this time I'm not giving in to the pressure. I had the weekend to think about it. And even though it is hard I'm here stating what I saw, what I did, and confessing it to my manager and to H.R.



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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.

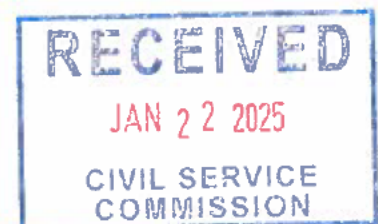
II. PROCEDURES:

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.



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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.



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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.



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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:



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Item #3

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



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Item #3

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



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CITY OF EL PASO DISCIPLINARY MATRIX

05-30-18

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 CIVIL SERVICE
 COMMISSION (CAUSE OF ACTION)

OFFENSE
 (CAUSE OF ACTION)

1ST OFFENSE
 PENALTY

2ND OFFENSE
 PENALTY

3RD OFFENSE
 PENALTY

4TH OFFENSE
 PENALTY

OFFENSE (CAUSE OF ACTION)	1 ST OFFENSE PENALTY	2 ND OFFENSE PENALTY	3 RD OFFENSE PENALTY	4 TH OFFENSE PENALTY
LEVEL 1 VIOLATIONS				
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

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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

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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**

OFFENSE (CAUSE OF ACTION)	1 ST OFFENSE PENALTY	2 ND OFFENSE PENALTY	3 RD OFFENSE PENALTY	4 TH OFFENSE PENALTY
LEVEL 2 VIOLATIONS				
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	

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JAN 2 2025
CIVIL SERVICE
COMMISSION (CAUSE OF ACTION)

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

Item #3

OFFENSE CAUSE OF ACTION	1 ST OFFENSE PENALTY	2 ND OFFENSE PENALTY	3 RD OFFENSE PENALTY	4 TH OFFENSE PENALTY
LEVEL 3 VIOLATIONS				
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	



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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**

OFFENSE (CAUSE OF ACTION)	1 ST OFFENSE PENALTY	2 ND OFFENSE PENALTY	3 RD OFFENSE PENALTY	4 TH OFFENSE PENALTY
LEVEL 4 VIOLATIONS				
At fault motor vehicle/equipment accident/incident resulting in serious injury or death.	TERMINATION			
AWOL (3 consecutive 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			

Item #3

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CIVIL SERVICE
COMMISSION



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

IN RE: HIRAM SAMANIEGO)
)
) DOCKET NUMBER
) 24-PR-05PP

RECOMMENDATION OF HEARING OFFICER

Case Procedural Summary

DATE OF DISCIPLINE: 10 Day Suspension Oct. 28-Nov 8, 2024
DATE OF ASSIGNMENT TO HEARING OFFICER: 10-29-2024
DATE OF PREHEARING: 11-13-2024
DATE OF HEARING: 1-7-2025
PLACE OF HEARING: City Attorney Library Conference Room
REPRESENTATIVE FOR CITY: Matthew Marquez, Asst. City Attorney
REPRESENTATIVE FOR EMPLOYEE: None. Represented himself.

WITNESSES FOR THE CITY:

Claudia Cancellare: Employee Relations Officer
Pablo Caballero: Department Director Parks and Recreation
Tracy Chavarria: Human Resources Investigator

WITNESSES FOR THE EMPLOYEE:

Hiram Samaniego, Parks and Rec Community Center Supervisor

EXHIBITS ENTERED AS EVIDENCE:

City Exhibits C-1 to C-7
Appellant's Exhibits: None

A. FACTS AND EVIDENCE

Hiram Samaniego works for the Parks and Recreation Department as a Community Center Supervisor. He has worked for Parks and Recreation for eighteen years.

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Item #3

The City of El Paso has a health and wellness program whereby employees who maintain certain levels of health and/or fitness may receive up to \$150.00 a month in extra pay. The program, called "Shape It up," is optional. The payout can result in a total of \$1800.00 a year in extra pay if an employee meets the program's requirements. This program saves the City millions of dollars in annual hospital and health costs. The extra money may be earned by either passing a fitness physical or by taking a blood test which shows certain biological health levels. The Parks and Recreation Department runs the fitness part of the program. For the fitness part, employees are given tests such as running, bench presses, jumping, and the like which are given and graded by employees of the Parks and Recreation Department. Hiram Samaniego has conducted these fitness tests. The blood/laboratory tests are not run by Parks and Recreation but by another department.

Until about two years ago, the Shape It Up Program had a Coordinator at the Parks and Recreation Department. When that Coordinator retired, the position remained unfilled for a time and the program was split into two parts. Parks and Recreation still ran the physical fitness exams, after which they sent a list of those passing to the Human Resources Department, who administered the money part with the payroll department who would pay the extra money earned to the employee.

At one time Hiram Samaniego and Lluvia Espinoza were co-workers. However, at the time of the incident on May 17, 2024, Lluvia Espinoza had been promoted to the Recreations and Sports Coordinator at Parks and Recreation. Hiram Samaniego was still a Community Center Supervisor. Lluvia Espinoza was on what is known as "promotional probation," which is a six month probation for employees who are promoted and during which they can be demoted for failing to perform well in the new position.

On May 17, 2024, Hiram Samaniego administered the physical fitness tests to a group of employees who were applying for the "Shape It up" monetary incentives. Another recreation leader from Parks and Recreation, Jose Esquivel, appeared with Lluvia Espinoza during the testing process being administered by Hiram Samaniego. Samaniego knew that Jose Esquivel had not been tested that day. When he noticed that Lluvia Espinoza had sent an e mail showing that Jose Esquivel was an employee who had been tested on May 17, 20204, Samaniego investigated further. He found that Lluvia Espinoza had signed and sent a form to payroll to pay the incentive



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to Jose Esquivel for passing the testing on May 17, 2024, when he had not tested. Samaniego then reported this to his supervisor Carlos Rodriguez who forwarded it up the chain of command.

During the investigation of this matter, Hiram Samaniego recalled another incident that had happened several years earlier, in 2022 or 2023, when Lluvia Espinoza was just his co-worker and had not been promoted to Recreations and Sports Coordinator. She had asked him to sign a form for her saying she had passed the testing physical when she had not been tested. Although he did sign it, feeling pressure to do so, within the hour he had texted her to not turn in the form because he did not feel right about it. He had forgotten about the incident until May 17, 2024, when Lluvia signed the form for Jose Esquivel even though he had not tested. Hiram reported this prior incident with Lluvia Espinoza to his supervisors and to the Human Resources investigator Tracy Chavarria. (Exhibit C-5). He had not thought about the prior incident until Lluvia Espinoza filed a fraudulent testing form for Jose Esquivel, just as she had asked Samaniego to do for herself years ago. Samaniego reported the prior incident because he thought it was relevant to the May 2024 incident as far as Lluvia Espinoza's preparation of false documents in the past.

The investigation and videos available of the testing facilities on May 17, 2024 supported Samaniego's allegations that Jose Esquivel had not tested on May 17, 2024, yet Lluvia Espinoza had signed a form with a score sheet showing that he had participated in the bench press, sit ups, push ups, and vertical jump. As a result of the investigation, Lluvia Espinoza was demoted from her position as Coordinator. Jose Esquivel was given a ten day suspension. However, Hiram Samaniego was also given a ten day suspension for the act several years ago which he had reported, that of signing a false statement and then telling Lluvia to not turn it in. The form Lluvia Espinoza prepared and which was knowingly signed by Hiram Samaniego stating that Lluvia had tested when she had not, was never turned in by her, as Samaniego requested, and she never received any money as a result.

Samaniego contends that he was a whistle blower who reported fraud and yet instead of rewarding him or thanking him for his actions, he was penalized. If he had never mentioned the prior incident, no one would have ever known of it. Moreover, he contends that right after he signed the fraudulent form, he regretted it and told Lluvia to not file it, and she did not. He had only mentioned the incident of 1-2 years ago because it was what made him suspicious of the May 17, 2024 actions involving Lluvia Espinoza. The City has no copy of any fitness form signed by



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Hiram Samaniego on behalf of Lluvia Espinoza. Samaniego appeals his ten day suspension because he is charged with “Deliberate falsification of reports or official documents” which is a Level 3 violation on the Disciplinary Matrix. He contends that when he signed the form years ago for Lluvia Espinoza, he was taken by surprise by her request, and immediately regretted having signed the form so he told her to not turn it in. He denies it was “deliberate falsification.” He contends that this is a stain on his eighteen year career with the City. Moreover, the City used a prior discipline of thirteen years ago to enhance the current discipline from a first offense to a second offense. The entirety of the case feels unfair to him as he received the same punishment as the employee, Jose Esquivel, who would have received money for a test he did not take, and Lluvia Espinoza was just demoted to a lower paying position even though she deliberately falsified Jose Esquivel’s fitness form. He believes his honest self-reporting of the prior incident with Lluvia Espinoza, which resulted in no harm, should not have resulted in a ten day suspension.

B. CITY POLICIES

The City Charter, Article VI, Section 6.13-3 allows for discharge, suspension, or reduction in grade for “Dishonesty, theft, violation of a law, or violation of policies relating to the handling or procurement of property or negligence in care or misuse of City property,” and “for just cause.” Civil Service Rule 8, Section 1, mirrors the Charter’s language.

The City of El Paso Employee Handbook, which Samaniego acknowledged receiving, states that an example of employee conduct that is not permitted and may result in discipline is “Falsification of time records, personnel records or other City records.” (Exhibit C-1 and C-2, p. 5, Exhibit C-4). The document which names employees who complete the fitness test successfully and are eligible to receive the monetary incentive in the “Shape it Up’ wellness program is a personnel record submitted to payroll for extra pay.

The City contends that Samaniego was dishonest and violated the policy relating to the falsification of personnel records when one or two years ago he signed a form stating that Lluvia Espinoza had passed a fitness test when she had not, even though the form was never submitted for payment, nor could the City find any record of it.



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C. THE DISCIPLINARY GUIDELINES (MATRIX)

The Parks and Recreation Department Director, Pablo Caballero, testified that he decided that discipline was appropriate for Hiram Samaniego because Samaniego had informed him that he had signed a personnel document knowing it was false, even if the document had not been processed after his signature. The Disciplinary Matrix states that “Deliberate falsification of reports or official documents,” is a Level 3 violation. Level 3 violations suggest a 10 day suspension for the first violation, a 15 day suspension for the second, and demotion/termination for the 3rd offense. (Exhibit C-7). Director Caballero testified that Jose Esquivel had no prior discipline so he was given a 10 day suspension for a first offense violation. Lluvia Espinoza was demoted to a position with less pay. Hiram Samaniego had a prior offense from February 9, 2011, or almost thirteen years ago, so his violation was a second offense violation, or 15 days suspension. However, Caballero mitigated the violation down to 10 days suspension. Claudia Cancellare, Employee Relations Officer, testified the Matrix allows the Department Director to escalate up or mitigate the discipline down because of factors such as service time, a clean record, or if the outcome was not serious. It is up to the Director’s discretion.

The City’s Disciplinary Policy and Matrix also states that employees have a duty to report employee misconduct or violations of policy. “Failure to report a violation of anything listed under II-(A) is considered a basis for discipline.” (Exhibit C-7, pp. 2-3). All supervisory employees are required to assist those who express the desire to report allegations of misconduct against any City Employee, and the information regarding allegations of misconduct must be immediately reported to the Department head and/or the Human Resources Director. Employees are required to provide a statement or answer questions during the administrative investigation and must not withhold information or they may be subject to disciplinary action, including termination. (Exhibit C-7, pp 2-3). Hiram Samaniego reported his findings of misconduct to his supervisor Carlos Rodriguez, who then reported to his Department Director Pablo Caballero, who then reported to Human Resources, who completed an investigation. Therefore, Samaniego and his supervisors followed the Disciplinary Policy. Samaniego followed the requirement that he “not withhold information” during the administrative investigation, even self-reporting as having signed a false document for Lluvia Espinoza years ago but which he had later told her not to process and she did not.



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Samaniego admitted that he had not followed up to make certain she had not processed the document.

D. DISCUSSION

The Notice of Suspension states that the reason for the discipline is as follows: “Deliberately falsifying an official city document would have led to the employee unfairly receiving a monthly incentive.” (Exhibit C-2, p.7). In fact, the document Lluvia Espinoza prepared saying she had passed the physical testing and which Samaniego signed did not lead to Espinoza receiving a monthly incentive because Samaniego verbally retracted his signature and the City has no record that Espinoza ever filed the document or received a monthly incentive for it. Therefore, it is not true that Samaniego’s actions “would have led to the employee unfairly receiving a monthly incentive.”

Yes, one or two years ago Samaniego was asked by his coworker Lluvia Espinoza to sign a form she had prepared saying that she had successfully taken a fitness test qualifying her for a money incentive, when he knew she had not been tested. He signed it but within hour he had told her to not turn it in. Yes, he “intentionally ” signed the form as Lluvia was not holding a gun to his head nor was she his supervisor telling him to sign or be fired. Yes, legally the act itself of signing can be penalized even when the fraud or theft is interrupted and no harm is done. For example, bank robbers stopped before they can get money from the teller are not exonerated.

However, I agree with Mr. Samaniego that it seems unfair that he reported fraud occurring on May 17, 2024, which would have cost the City money, truthfully mentioned during the investigation that a few years ago he had almost been roped into fraud by the same perpetrator, Lluvia Espinoza, but nothing irregular had resulted, and then he was penalized with a ten day suspension for the action he said happened one or two years ago. Moreover, Jose Esquivel was penalized with the same ten day suspension even though he was knowingly benefitting from the fraud of May 17, 2024. Coordinator Lluvia Espinoza was demoted but it is not clear what sort of record she will have on her personnel file, whereas Samaniego has a record that he “deliberately falsified an official document” and received ten days suspension. Also unfair in this particular case, given the particular facts, is that a discipline that happened almost thirteen years ago was



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used to raise the discipline on the Matrix from a first offense to a second offense, especially when there has been no intervening discipline in the thirteen years. His discipline on February 9, 2011 was a three day suspension for improper handling of cash and playing in basketball games during work hours. (Exhibit C-3). No other discipline has been issued in the following thirteen years until the present one.

Because of his reporting of fraud occurring on May 17, 2024, the procedures have changed in the way Parks and Recreation and Human Resources administer the Shape It Up Program so as to prevent future possibilities of fraud such as the one uncovered by Hiram Samaniego. During his hearing, Mr. Samaniego pointed to other possible fraudulent acts in the Shape it Up program which he hoped the City will more thoroughly investigate.

During his testimony, Mr. Samaniego testified that there are signs posted at the City which read "If you see fraud, report it." He said that if he had known that he himself would receive discipline for reporting fraud, he would have thought twice before reporting it. He does not want this discipline to be on his permanent record. He believes that a permanent record that he deliberately falsified a document, which he denies, hurts his career. He contends it was not a "deliberate" act. "Deliberate" in a legal sense might be different from the meaning of "deliberate" in Samaniego's mind when he signed the form Lluvia Espinoza had prepared without his input. Samaniego testified that he has taken some heat for being responsible for the demotion of one employee and the suspension of another. To punish a whistleblower who comes forth to report misconduct results in a message to others that perhaps it is better to just look the other way and not get involved. This is certainly the message Mr. Samaniego testified that he received when he was given a ten day suspension. He testified that had he received a letter of reprimand or a verbal counseling, he would not have been so upset but the ten day suspension seemed to be a punishment for his honesty in revealing an incident that happened years ago and resulted in no benefit to him or loss to the City.

If taken strictly legally without any consideration of other facts, then it is true that Samaniego signed a document he had not prepared, but one he knew was not true. He almost immediately regretted it and told Lluvia Espinoza, who had prepared the fraudulent document, that he had changed his mind about signing the document and he asked her to not turn it in. It was not turned in and the document was not processed nor was Lluvia Espinoza paid extra money



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because of it. However, if analyzed the way Samaniego presented his case, he did not “deliberately falsify” the document but in a moment of poor judgment and feeling under pressure, did sign it, only to retract his signature a short time later. Under the City Charter and Civil Service rules, the Department head has the burden to prove the discipline should be upheld and that burden is “preponderance, “ which in civil law is defined as “the greater weight of credible evidence.” It does not mean “without a reasonable doubt” such as in criminal cases, or other standards which may exist by statute or rule. Preponderance is usually explained as “51%” of the credible evidence.” If a case shows a tie of 50/50 for the employee and the Department Head, then the employee wins, since the Department Head must prove the validity of the discipline by 51%. Given the facts of this case, I recommend that the ten day suspension not be upheld as I do not believe that the Department Head has proven by a preponderance of the evidence in this particular case that Samaniego should receive a ten day suspension for the incident he was punished for, i.e. signing a form years ago which he retracted before it was processed. Samaniego self-reported in connection with being truthful during an investigation in May 2024 when he reported falsification of documents by Lluvia Espinoza and Jose Esquivel which would have led to monetary incentives being paid which were not earned had Samaniego not reported their misconduct.

E. CONCLUSION

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.
2. The Department Head has not met his burden of proof and has not proven by a preponderance of the evidence that the employee committed the conduct alleged in the specifications of the Notice of Separation, and that the conduct violated City and/or Department policies.
3. The Department Head has not met his burden of proof and proven by a preponderance of the evidence that the employee’s conduct warrants a ten day suspension.




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F. RECOMMENDATION

I recommend that the 10 Day Suspension of Hiram Samaniego not be sustained.

Respectfully submitted,


Patricia L. Palafox
Hearing Officer


Date



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