

 <b>El Paso Police Department Procedures Manual</b>	<b>Chapter 9: Personnel Policies</b>
<b>902 Discipline Procedures</b>	<b>Effective Date: 12/13/2021 Previous Version: 06/23/2008</b>

## 902 DISCIPLINE PROCEDURES

- A. Routing. All documents forwarded to the Internal Affairs Division will be routed through the chain of command. Once disposition of a case is determined, the Internal Affairs Division will administer any disciplinary action and maintain records of the case.
- B. Employee Appeals. Employees will be informed of the disposition of their case. Employees may appeal suspensions, demotions, or terminations within 30 days of receipt of notice of the decision. Officers may appeal suspensions and terminations as prescribed by the Contract and elect to go before the Civil Service Commission, through the Association, or elect to use an arbitrator. Civilian employees may appeal suspensions or terminations through City Personnel to the Civil Service Commission.
- C. Grievances. Formal grievances may be filed regarding any order that is believed to violate the rights granted to employees by the City Charter, excluding all disciplinary matters. Additionally, officers may dispute grievances involving the application, interpretation, or enforcement of the Contract pursuant to the procedures established in Article 21 of the Articles of Agreement between the City of El Paso and EPMPOA. Civilian employees will follow grievance procedures of the Civil Service Rules.
- D. Termination. In accordance with the Civil Service Rules and Regulations and any applicable provisions of the current Collective Bargaining Agreement, when an employee is discharged for misconduct a Notice of Termination that contains the reason and effective date for dismissal will be provided to the employee. A Separation and Clearance Form notice that directs the employee to the appropriate department for review of their status of fringe and retirement benefits will also be provided.
- E. Police Action Suspended. Officers who are serving a suspension from duty will have their police powers suspended. Officers suspended for any period of time will not take any police actions nor have any police authority during the suspension. If the suspension is for four or more consecutive days, commanders will collect, and officers will relinquish, their badge and Department identification.
- F. Employees Under Administrative Leave With Pay. Employees placed on administrative leave with pay will be assigned to day shift and will report by telephone to the Internal Affairs Division at least twice during their shift. Employees will not be assigned to any particular location. Employees will not be required to remain at their homes while on administrative leave, but will be available to report to work, in uniform if applicable, on one hour's notice. Assistant chiefs or above will determine and advise the affected employee, if police action is suspended. This determination is made on a case-by-case basis.

### 902.1 DISCIPLINARY PROCESS

The purpose of this policy is to inform all employees of the procedures for accepting, processing, and investigating complaints concerning allegations of employee misconduct. This policy defines provisions applicable only to the investigation and disposition of allegations of administrative misconduct.

Establishment of procedures for investigating complaints and allegations of employee misconduct is crucial to the integrity of the El Paso Police Department. The Department shall accept and investigate, fairly and impartially, complaints of employee misconduct and impose any disciplinary action that may be justified, in a timely and consistent manner.

- A. Executing Disciplinary Actions. All disciplinary actions taken under the section are subject to, and shall be consistent with, applicable state law, local ordinances, administrative rulings, Civil Service Rules, and collective bargaining agreements.
- B. Acceptance of Complaints. Complaints may be received by the Internal Affairs Division or supervisory members of the Department either in person or in writing.
  - 1. Employees shall provide assistance to those who express the desire to lodge complaints against any employee of the Department. This includes, but is not limited to:
    - a. Calling a supervisor to the scene to document the complaint
    - b. Explaining the Department's complaint procedures,
    - c. Providing referral to individuals and/or locations where such complaints may be made in person
    - d. Explaining alternative means for lodging complaints, such as by mail
- C. Citizen's Complaint Form. If the complainant party is present, supervisors will have the complaining party fill out the Citizen's Complaint Form. The Citizen's Complaint Form is not the complainant's statement. Supervisors will take the citizen's sworn, notarized statement and note the complaint on the supervisor log with sufficient information to later complete a PID, if so directed. If necessary, supervisors will assist the complaining party in filling out the Citizen's Complaint Form. The complainant will be given a copy of the completed Citizen's Complaint Form and a copy of the sworn statement as a receipt. Telephone complaints and persons refusing to fill out a Citizen's Complaint Form and/or sworn statement will be documented on the supervisor log. The supervisor log with the Citizen Complaint Form and/or sworn statement will be forwarded to the division commander. If the complaining party is not present, supervisors will document the complaint on the supervisor log with sufficient information to later complete a PID, if so directed.

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## 902.2 PRELIMINARY INFORMATION DOCUMENT (PID)

These involve an investigation of those allegations that, if true, would result in counseling, contract forms, formal counsel, or an administrative action. A Preliminary Information Document (PID) will be completed.

- A. The employee's immediate supervisor will fully investigate and take appropriate notarized statements. The documentation will be forwarded via the chain of command to the commander, division manager or above, who will make a determination of sustained or not sustained.
- B. If the complaint is sustained, the commander, division manager or above, will recommend the appropriate discipline up to and including formal counseling. The complaint will be forwarded through the employee's chain of command to the appropriate Assistant Chief. After review, the Assistant Chief will forward the complaint with the Assistant Chief's recommendation of adjudication disposition and discipline, if applicable, to IAD who will complete the necessary paperwork and ensure proper distribution, notification, and record-keeping.

### 902.3 COMPLAINTS RESULTING IN A SUSPENSION, DEMOTION IN RANK/PAY GRADE, OR TERMINATION

These are complaints that would, if proven true, result in suspension, demotion in rank or pay grade, or termination of the accused employee. These complaints will be investigated by IAD; however, any supervisor receiving a complaint will undertake appropriate preliminary investigation. These types of complaints are documented on the supervisor log and forwarded through the chain of command.

- A. Upon IAD's receipt of a complaint, the accused employee may be contacted and advised of the nature of the allegation(s). The employee may be advised of the appropriate discipline level, should the allegations be sustained. If desired, the employee will be given a reasonable opportunity to seek advice or counsel.
- B. If the employee agrees that the allegations are true and that the discipline is appropriate, the case is resolved without conducting a formal administrative investigation. This applies only to cases that are less serious in nature, do not open the Department or the City to liability, or would not otherwise require a formal investigation.
- C. The Department reserves the right to revisit or investigate the original matter should new allegations or evidence surface.
- D. Should an officer accept a suspension, these dispositions are made with the understanding the employee will not appeal the agreed upon discipline.
- E. Any issues involving training or Department policy that may be discovered during a formal investigation or during resolution of a case as stated in (B) of this section will be appropriately addressed.
- F. Should the employee deny the allegations or not agree upon the appropriate discipline, the case will be investigated by IAD.
  1. After completion of the investigation, at the discretion of the Chief of Police, the case will be reviewed by the Discipline Review Board, Special Discipline Review Board, or the accused employee's Assistant Chief or executive level manager who will make a determination of adjudication disposition.
  2. If determined by the Discipline Review Board, Special Discipline Review Board, Assistant Chief, or executive level manager to be not sustained, unfounded, or exonerated, the case will be sent to IAD for filing and appropriate notification.
  3. Sustained cases will require the Discipline Review Board, Special Discipline Review Board, Assistant Chief, or executive level manager to recommend the appropriate level of discipline and then forward the case to IAD.
  4. In cases presented to the Discipline Review Board, or Special Discipline Review Board, the findings of the board will be final unless discipline is too disparate in comparison to previous discipline cases being brought to the Chief of Police.
  5. IAD will prepare the appropriate pre-disciplinary paperwork for review by the Chief of Police. Once reviewed and approved by the Chief of Police, the employee will receive notification as appropriate.
- G. IAD will be responsible for issuing the final disciplinary paperwork and making all the proper notifications.