



# ACTON POLICE DEPARTMENT

DEPARTMENT MANUAL; P&P: Administration		
POLICY & PROCEDURE # 4.23	DATE OF ISSUE: 1/31/2024	EFFECTIVE DATE: 2/12/2024
SUBJECT: Disciplinary Process	ISSUING AUTHORITY: Chief James Cogan	
REFERENCE(S): Massachusetts Police Accreditation Commission #26.1.5; 26.1.6; 26.1.7; 26.1.8; 52.1.2; 52.2.7	___NEW    __X__AMENDS    ___RESCINDS	

## I. POLICY

Supervisors shall mentor the personnel they oversee, therefore all supervisory personnel are responsible for the performance, conduct, appearance, counseling, and adherence to Acton Police Department policies, procedures, and directives by the subordinates they have command over. **[26.1.5]**

Any employee (both sworn, and civilian) may be relieved from duty by a supervisor of higher rank by temporary administrative action due to an employee's physical or psychological fitness for duty, or for an action pending disposition of an internal affairs investigation (see Internal Affairs Policy 4.06).

Supervisors have the authority to remove employees from duty. A supervisor relieving an employee of duty due to physical or psychological fitness or other concerns shall immediately notify the Chief of Police, Deputy Chief, and Division Commanders. The circumstances of the incident should be thoroughly documented by the supervisor. If the circumstances are warranted, the employees, so relieved, will surrender their issued badge, ID credentials, and all department-issued firearms and license to carry firearms. The supervisor shall then instruct the employee that they are not to return to the police station until contacted by the Chief of Police or their designee. If the reason the employee is relieved of duty is based on concerns for alcohol or other substance abuse or if the emotional status of the employee gives rise to concerns for impaired operation, the employee will not be allowed to operate a vehicle and will require alternate transportation arrangements be made. Any employee, so relieved, shall comply immediately with this directive when instructed to do so.

A supervisor may also temporarily relieve a subordinate for non-disciplinary reasons. As an example, an employee involved in or witnessed a traumatic incident who may not be psychologically ready to assume normal duties may be relieved from duty. In such cases, the supervisor will notify the Chief of Police and will use their best efforts to counsel and assist the officer in contacting any outside resources that could assist

the officer in dealing with the traumatic incident. An officer who is relieved for non-disciplinary reasons shall be entitled to full pay and benefits while so relieved.

The authority given to each level of supervision and command relative to disciplinary actions is as follows: **[26.1.5]**

1. **Oral Reprimand** – A supervisor may orally reprimand an employee for actions contrary to the policies and procedures of the Acton Police Department. An oral reprimand shall be given in a manner that will not embarrass the employee before other employees or the public.
2. **Written Reprimand** – Any superior ranking official (Chief of Police, Deputy Chief, Lieutenant, Sergeant, or Communications Supervisor) may initiate a written reprimand. Said reprimand may be applied to any infraction of the policies and procedures or rules and regulations. A reprimand may also be levied for repeated procedural errors or any infraction of other written directives.
3. **Suspension With or Without Pay** – In a situation where the Chief of Police deems “just cause” exists for suspension, the Chief may make a recommendation to the Town Manager, and the Town Manager may suspend an employee with or without pay. In addition, the Chief of Police may relieve any employee from duty by Temporary Administrative Action due to an employee’s physical or mental fitness for duty. Temporary Administrative Action may also be taken pending the disposition of an internal affairs investigation. Any supervisor may, based on their reasonable observations, require a department employee to submit to a test to determine the employee’s blood alcohol level. The results of the test may be used in a subsequent disciplinary action. Refusal by the employee to submit to such a test may be grounds for disciplinary action itself, and the employee may be subject to dismissal.
  - a. If any employee is believed to be under the influence of alcohol, a certified breath test operator shall administer such a test. The supervisor will witness the testing and will be required to sign the report.
  - b. If the employee has a reading of .02 or higher, or there is other competent evidence of impaired ability to perform his/her duties, the supervisor shall immediately relieve the employee of duty and a full written report made to the Chief of Police or their designee by the supervisor in charge.
  - c. If the employee refuses to submit to the testing, then the supervisor shall immediately relieve the employee from duty for failure to cooperate in an administrative investigation. A full and complete report shall be forwarded to the Chief of Police.

4. **Demotion** – In a case where the Chief of Police sufficiently believes there is just cause for demotion, they may request the Town Manager order the employee demoted. Any employee may also be demoted for failure to adequately perform their assigned duties or for a lack of sufficient work product. Any demotion shall be made in accordance with the current contractual rights of the employee and the General Laws of the Commonwealth of Massachusetts.
5. **Termination** – In a case where the Chief of Police believes there is sufficient just cause, they may recommend the termination of any department employee to the Town Manager. The Town Manager may order said termination after an appropriate hearing according to law and any contractual obligations. If an investigation of an employee's misconduct results in termination, the following shall be provided to the employee: **[26.1.7]**
  - a. A written statement citing the reasons and cause for termination.
  - b. The effective date of the termination.
  - c. A written statement of the status of accrued employee benefits after termination.

## II. **APPEALS PROCESS**

Any Department employee (sworn or non-sworn) who is the recipient of disciplinary action has the right of appeal pursuant to the collective bargaining contracts, civil service guidelines, and the General Laws of the Commonwealth of Massachusetts. **[26.1.6]**

1. **Civil Service Employees** – Employees covered under Civil Service Guidelines may appeal to Civil Service or may elect for the appeal to be heard by a mutually agreed upon arbitrator. The Town and employee will equally divide the cost of the arbitrator.
2. **Non-Civil Service** – Employees may appeal to a mutually agreed-upon arbitrator. The Town and employee will equally divide the cost of the arbitrator.

The aggrieved party shall notify the opposing party of their intent to file arbitration within seven (7) calendar days. Failure to file such notice within such period will result in forfeiture of the right to arbitration. The Town and employee agree that the decision of the arbitrator is binding on both parties.

All employee disciplinary records including the disciplinary action taken shall be kept separate from the affected employee's personnel file.

The Department shall, in accordance with Massachusetts State Record Retention Regulations, retain all files pertaining to personnel investigations and any disciplinary action taken against any employee as a result of said investigation.

Personnel investigation files are confidential and shall not be released without the approval of the Chief of Police or their designee

1. Written records pertaining to all internal affairs investigations against the department or an employee and/or any subsequent disciplinary action shall be maintained in a secure area in the Deputy Chief's office. **[26.1.8]**
2. A concerned supervisor may review a completed personnel investigation file in the Deputy Chief's office, only after presenting sufficient reason (need to know) to the Chief of Police.
3. POST must be provided with a disciplinary record for each officer which includes **[26.1.8]**
  - a. Every complaint the officer was subject to during the course of employment.
  - b. All disciplinary records of the officer which include the final disposition of any complaint and if discipline was imposed.

## **DISCIPLINARY PROCESS INFORMATION:**

**History: Manual I, Section II & III.**