



## CITY OF NEW BRAUNFELS POLICIES AND PROCEDURES

### PROCEDURE(S): PERFORMANCE & ACCOUNTABILITY

EFFECTIVE DATE: MAY 20, 2019

REVISION DATE(S): [PREVIOUSLY PERFORMANCE MANAGEMENT & DISCIPLINARY PROCEDURES] OCTOBER 1, 2022, FEBRUARY 1, 2023, OCTOBER 24, 2023, JULY 1, 2025

## PERFORMANCE & ACCOUNTABILITY

It is the intent of this policy to establish clear guidelines for correcting and preventing job performance deficiencies and misconduct, administering disciplinary action, and grievance procedures for City team members.

A Firefighter or Police Officer covered by Chapter 143 of the Texas Local Government Code is strictly governed by that statute and their respective department policies and is not governed by this policy.

### **A. PAY FOR PERFORMANCE**

The City of New Braunfels utilizes an annual performance review for each Full-Time (FT), Part-Time Regular (PTR), and Part-Time (PT) team member. The performance review period is communicated by Human Resources on an annual basis. Based upon performance, as documented on the City of New Braunfels Performance Evaluation Form, Full-Time and Part-Time Regular team members may be eligible for a merit-based pay increase, provided funding is available and approved by City Council. These increases are not automatic, but rather rewarded based upon individual performance and subject to available funding as approved by the City Council during the budget process (percentage increases for defined performance ratings may be subject to change, based on approved funding).

#### **1. Guidelines**

A team member must be employed in their current position for six (6) months on or before the designated review period to be eligible for a performance increase (based on an overall performance evaluation rating). All evaluations will be reviewed by the Department Director **before** being presented to the team member. If the Department Director has concerns about certain evaluations, then Human Resources should be contacted for guidance. Any disciplinary action in the previous 12 months of the designated review period should be taken into consideration when compiling the evaluation. Annual performance evaluations will be completed within a time frame designated by Human Resources. Any changes in team member performance will require an amended evaluation and/or an addendum.



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### 2. Performance Evaluations

A team member shall be evaluated by their direct Manager/Supervisor on an annual basis, or at such other times, not more than twelve (12) months from the previous evaluation, as the team member's Manager/Supervisor deems appropriate. The evaluation will be forwarded to the team member's Department Director for review and endorsement prior to the discussion with the team member. The performance evaluation is intended to support the growth and development of the team member, their Manager/Supervisor, and the Department Director by assessing how the team member's performance contributes to the department and the City's overall goals. Team members and supervisors/managers/directors should have frequent performance discussions to ensure mutual understanding of expectations and alignment on a team member's performance. The evaluation includes an assessment of what a team member accomplished and how the accomplishments were achieved. The "what" are the goals achieved and the "how" are the leadership behaviors, traits and attributes (City Leadership Practices) demonstrated to achieve the goals.

Performance Evaluation is a tool used to:

- a. Measure actual performance against expected performance
- b. Provide an opportunity for the team member and the supervisor to exchange ideas and feelings about job performance
- c. Identify team member training and development needs, and plan for career growth
- d. Identify skills and abilities for purposes of promotion or transfer
- e. Support alignment of organization and team member goals
- f. Provide legal protection against lawsuits for wrongful termination

### 3. Performance Rating Scale [\(English\)](#) [\(Spanish\)](#):

- Exemplary Performance
- Distinguished Performance
- Achieving Performance
- Developing Performance
- Improvement Needed



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Please reference the Performance Rating Scale detailed descriptions ([English](#)) ([Spanish](#)) for further details and explanations on each performance rating level. Team members may also submit written responses/rebuttals to be attached to the performance evaluation. Written responses/rebuttals must be submitted within five (5) business days of receiving the performance evaluation.

### B. Progressive Discipline

While disciplinary action typically begins at the lowest level and progresses as needed, Managers/Supervisors and Department Directors may administer more serious disciplinary measures, including termination, without prior warning when warranted by the severity of the offense or conduct. Additionally, the disciplinary action can include more than one type of discipline. Whenever possible, Managers/Supervisors should inform a team member about their deficient conduct or performance, outline what is expected of them, and may give the team member sufficient time to improve their job performance and/or conduct before administering a suspension, demotion, or termination.

Absolutely no explicit or implicit right to continued employment is intended or shall be interrupted to exist in this or any other City policy. This policy does not modify the status of team members as "team members at will" or, in any way, restrict the City's right to bypass the disciplinary procedures suggested.

#### Types of Progressive Discipline

Unsatisfactory job performance and/or inappropriate conduct may be addressed in the following actions:

- Formal Outline of Performance Expectations
- Verbal Counseling
- Written Counseling
- Final Written Warning
- Performance Improvement Plan (PIP)
- Suspension
- Demotion, Transfer, or Termination



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Human Resources should be consulted at any time a Department Director wishes to issue a disciplinary action other than a verbal or written counseling. Written counseling/reprimands indicating a final warning or EAP referral, require consultation with Human Resources prior to issuance. Additionally, all team member investigations are required to be reported to Human Resources. The Department Director may change the order of the above disciplinary steps, and/or may choose not to utilize each step, depending on the facts of the case. All alternative discipline procedures should be approved by Human Resources and City Management.

1. **Formal Outline of Performance Expectations** – This step is used to address early or minor performance concerns or misunderstandings that do not warrant disciplinary action but require clarification and improvement. The goal is to establish clear expectations and provide the team member an opportunity to succeed through direct and documented feedback.

The formal outline should be provided in writing by the Supervisor or Manager and reviewed with the team member. It should identify specific performance concerns, clarify expectations moving forward, and outline any necessary support or follow-up actions. The document should be signed by both the team member and the Supervisor to acknowledge the discussion, and a copy should be retained within the department for reference.

This document is not considered disciplinary action and shall not be submitted to Human Resources or placed in the official personnel file unless it is referenced in future formal discipline.

A formal outline of performance expectations may not be appealed. However, team members are encouraged to discuss any concerns or clarifications with their Supervisor or Department Director. Team members may also submit a written response to be attached to the outline. Written responses must be submitted within five (5) business days of receipt.



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2. **Verbal Counseling** – This step is typically used to address an initial incident of minor misconduct or performance concerns. It serves to make the team member aware of the issue and to clearly communicate the expectations for improvement moving forward. The verbal counseling should be documented by the department using the City's Disciplinary Action Form and kept within the department for performance evaluation and record keeping purposes. Disciplinary Action Forms used for verbal counseling shall not be sent to Human Resources. The verbal counseling documentation shall be kept on record within the team member's department for a period not to exceed twelve (12) months unless the team member receives additional disciplinary action during the twelve (12) month period.

A verbal counseling may not be appealed by team members. However, team members who disagree with the counseling action may discuss the basis of disagreement with their Department Director. Team members may also submit written responses/rebuttals to be attached to the verbal counseling. Written responses/rebuttals must be submitted within five (5) business days of receiving the verbal counseling.

3. **Written Counseling** – This step is typically used for a first-time infraction of a more serious nature and is documented using the Disciplinary Action Form. The Disciplinary Action Form shall detail the specific deficiency or infraction, summarize any prior verbal counseling related to the issue, clearly outline the expected future behavior, and specify the potential consequences for continued unsatisfactory performance or conduct. The original of the written counseling shall be signed by both the Supervisor and team member (the team member will be provided a copy of the written counseling) and forwarded to Human Resources to be filed in the team member's personnel file. A final written warning may be administered at any time dependent upon the severity of the violation.

A written counseling may not be appealed by team members; however, team members may submit responses/rebuttals for attachment to a written counseling.



## CITY OF NEW BRAUNFELS POLICIES AND PROCEDURES

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Responses/rebuttals must be submitted to Human Resources within five (5) business days of receiving the written counseling. A written counseling becomes a part of team members' permanent personnel files and shall be forwarded, along with any team member responses/rebuttals, to Human Resources.

**4. Performance Improvement Plan** – When the job performance of an team member falls below an acceptable standard, the Department Director may place the team member on a Performance Improvement Plan (PIP). The PIP will include regular, timely discussions between the Department Director and/or Manager/Supervisor and the team member, with the following documented in writing:

- a. The specific unacceptable deficiency in the team member's performance;
- b. The necessary improvement;

The period of time in which improvement must occur; and a clear statement that failure to demonstrate and sustain satisfactory improvement will lead to further consequences. PIPs are not subject to appeal. However, team members may submit a written response or rebuttal to be attached to the PIP. These responses must be provided within five (5) business days of receipt. The original PIP will be retained by Human Resources, with copies provided to both the team member and their department.

**5. Suspension** – A suspension is a disciplinary action that results in unpaid time off from work. Team members may be suspended without pay for no less than one full work shift. Before suspending an exempt team member, the Department Director must consult with Human Resources to ensure compliance with the Fair Labor Standards Act (FLSA). Team members may elect to use accrued vacation leave in place of unpaid suspension time, up to a maximum of 40 hours per disciplinary incident.

A team member may be suspended without pay for up to a maximum of thirty (30) working days within a twelve (12) month period beginning with the first day of the first suspension. The suspension shall be issued by the team member's Department



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Director. A written notice outlining the specific deficiency or infraction, along with the potential consequences of continued unsatisfactory performance and/or conduct, shall be prepared. The notice must be signed by both the Department Director and the team member, and a copy will be provided to the team member. The written suspension form shall become permanent parts of the disciplinary record maintained in the team member's personnel file in Human Resources. Suspensions may be appealed in accordance with City policy.

6. **Demotion**— A team member may be demoted, which will include a corresponding reduction in pay. The demotion shall be administered by the team member's Department Director. A written notice of demotion shall describe the deficiency or infraction involved and states the likely consequences of further unsatisfactory performance and/or conduct. The written demotion notice shall be signed by the Department Director and the team member, and a copy given to the team member. The original written notice of disciplinary demotion shall be placed in the team member's personnel file. However, the demotion does not disqualify the team member from future consideration for pay increases or promotional opportunities, provided they meet performance-based criteria.
7. **Termination** – A team member may be terminated from City service when warranted by the seriousness of an offense or ongoing performance or conduct issues. Termination is typically appropriate for severe violations of rules, policies, procedures, or laws; repeated minor infractions; or failure to improve performance or conduct following previous disciplinary actions.

Before initiating termination, the Department Director or their designee must consult with Human Resources to review all relevant facts, documentation, and circumstances. This consultation also includes determining whether the team member will be placed on administrative leave, with or without pay, pending the final decision.

A written notice of termination outlining the reasons for the action shall be signed by the Department Director or Human Resources and provided to the team member. A



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copy of the notice will be filed in the team member's official personnel file.

8. **Mandatory Counseling, Training, Medical Assistance** – If a team member's performance is adversely affected by personal circumstances, medical issues, skill deficiencies, or other factors, the City may require the team member to participate in counseling, medical evaluation, or targeted training, as appropriate. These measures are intended to support the team member's ability to meet performance expectations and continue contributing effectively to the organization. The team member will be advised that if they fail to seek counseling, training, and/or medical assistance after being mandated to do so, they may be terminated. The written directive for assistance or training shall be signed by the Supervisor and the team member. A copy of the directive shall be given to the team member and the original will be forwarded to Human Resources to be filed in the team member's personnel file, and/or medical file, as appropriate.
9. **Disciplinary Probation** – A team member may be placed on disciplinary probation for a period up to one (1) year. A written notice of disciplinary probation shall outline the performance or conduct concerns, specify the expectations for improvement, and detail the potential consequences of continued deficiencies. The notice must be signed by the Department Director and/or their designee, as well as the team member, with a copy provided to the team member. A non-civil service team member on disciplinary probation will be ineligible for any pay increases granted during that period. After successfully completing disciplinary probation and receiving a satisfactory performance evaluation, the team member may be eligible for a pay increase in accordance with the established pay plan guidelines. The written disciplinary probation form shall be filed in the team member's personnel file.
10. **Restitution Discipline** – When a team member acts in such a manner that causes damage or destruction to City property, the team member may be required to reimburse the City for the cost of repairs and/or replacement of the equipment.
11. **Procedure for Criminal Activity** – When disciplinary action is being considered due to a



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team member's involvement in criminal activity, a separate investigation, independent of any law enforcement inquiry, will be conducted. The nature of the criminal activity will be reviewed in relation to the team member's position and responsibilities. Any disciplinary action will be based on the findings of this internal investigation, which may include official or public documents provided by the law enforcement agency.

12. **Transfers and Reassignments** – A team member may be transferred or reassigned as deemed appropriate by management. These actions may be used as part of corrective measures or operational needs, depending on the situation. Transfers and reassignments are not subject to appeal.

### C. Grievance Procedure

The Grievance Procedure allows team members to appeal disciplinary action to a higher level of management for review. The level to which a disciplinary action can be appealed depends on the type of disciplinary action and whether the team member receives disciplinary action that results in loss of compensation, suspension, or termination. A team member shall comply with any disputed conduct, policy, or practice until such dispute is resolved. Public safety team members are governed in accordance with Chapter 143 of the Local Government Code and the City of New Braunfels Firefighter's and Police Civil Service Commission Rules and Regulations (please reference [Local Rules](#)). **THIS POLICY DOES NOT ALTER THE AT-WILL EMPLOYMENT RELATIONSHIP BETWEEN THE CITY AND THE CITY TEAM MEMBER.**

#### a. Levels of Appeals

- a. Verbal or written reprimands issued by a supervisor or Department Director are not subject to appeal; however, team members may submit a written rebuttal to be included in their personnel file.
- b. Disciplinary actions involving loss of pay, reduction in salary, or termination are initially determined by the team member's Department Director, with or without input from the immediate supervisor. These actions may be appealed to a grievance



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panel, which will review the case and make a recommendation to the City Manager.

The City Manager's decision on such appeals is final.

- c. Decisions by a Department Director to place a team member on disciplinary probation or review are final and are not subject to appeal.

#### b. Appeal Process

- a. Only full-time team members are eligible to appeal upon completion of their six (6) month initial review period. The appeal process applies to disciplinary actions that result in loss of pay, suspension, salary reduction, or termination.
- b. If the decision of the Department Director results in lost compensation, reduction in pay, or termination, the aggrieved team member may submit their grievance (appeal) in writing to Human Resources within five (5) working days of the day they received the Department Director's determination. The grievance or appeal should include a summary of relevant facts and details, the resolution being requested, and any proposed solutions.
- c. The Human Resources Department shall review the request for a formal hearing on the grievance and may request additional information from either the team member and/or the department. The City Manager shall make a decision with regard to the request within five (5) working days after receipt of the request. In the event the City Manager is absent, they will make a decision on the request within five (5) working days after returning to the workplace.
- d. If the City Manager approves the request for a formal hearing, a hearing panel will be appointed as outlined below. The hearing will be scheduled within a reasonable timeframe, taking into account the availability of panel members, the team member, and any other individuals asked to participate.
- c. **Documentation and Witnesses** – If the grievant has any documentation for the panel to possibly consider, it must be received by Human Resources at least five (5) working days before the date of the hearing. The panel is not required to consider any documents or witnesses submitted after the five (5) working day deadline. If the



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grievant plans to present witnesses, the full name(s) and daytime contact information for each witness must be submitted in writing to Human Resources no later than five (5) working days prior to the scheduled hearing date.

- d. **Hearing Panel** – If the City Manager grants the request for a formal hearing, a hearing panel will be appointed by the City Manager and include the following members:
  - a. A minimum of two (2) Department Directors from departments other than the one in which the team member was employed at the time of the incident leading to the grievance.
  - b. One (1) team member serving at the level of Division Manager or higher, from a different department than the one in which the team member was employed at the time of the incident.
  - c. One (1) team member from any level who is not employed in the same department where the team member worked at the time of the incident.
  - d. The team member may also appoint one (1) City employee to serve on the hearing panel, provided that the individual is not involved in the disciplinary matter and will not serve as a witness.
- e. **Hearing** – The hearing shall not be recorded. No recording devices of any type are allowed to be used during the hearing.
  - a. If a team member engages an attorney to represent them, they will advise Human Resources (i.e., documents and/or witnesses) of this fact at least five (5) working days in advance of the hearing. Failure to provide timely notice to Human Resources may result in a re-scheduling of the hearing, as determined by Human Resources.
  - b. A team member shall present their own case, or a team member may elect to have an attorney represent them in the proceedings.
  - c. These hearings are not subject to the Texas Open Meetings act and therefore they are not open to the public, including the media. The grievant is only allowed to have their attorney present during the



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proceedings. Witnesses will be allowed into the hearing only while they testify and answer the panel's questions.

- d. Each side will be given equal opportunity to present their case and any witnesses may be questioned by the panel only. No cross examination of the other parties' witnesses will be allowed. Presentations shall be limited to relevant facts that are generally capable of being substantiated. The grievant has the burden of proof and therefore shall go first.
- e. Within five (5) working days of the conclusion of the hearing, the hearing panel shall submit a recommendation on the disciplinary action to the City Manager for their review and final determination.
- f. **Decision** – The hearing panel will submit a recommendation to the City Manager following the hearing. The City Manager will issue a final decision on the disciplinary action within a reasonable timeframe after receiving the panel's recommendation. If the City Manager is unavailable, a decision will be made within ten (10) working days upon their return. The City Manager's decision can sustain the disciplinary action of the Department Director, overrule the action of the Department Director, sustain the decision of the Department Director and increase or decrease any punishment, and/or modify the type(s) of disciplinary action levied by the Department Director. The City Manager's decision shall be in writing and a copy shall be given to the team member and their representative, if applicable. The City Manager's decision shall be final and non-appealable.
- g. **Notification to the Human Resources Department** – Department Directors shall forward to Human Resources the originals of any documentation concerning disciplinary actions, except verbal reprimands, including notices for hearings with team members on proposed disciplinary action. A written summary of the proceedings of the hearing panel to include any minority opinion, and all disciplinary decisions, shall be sent to the Human Resources Department for filing in the team member's personnel file.
- h. **Human Resources Role for Hearing** – The Human Resources Department will coordinate the scheduling of the hearing to include proper notifications to all parties, answer all



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inquiries from the grievant regarding procedures, and will be available during the hearing, if appropriate, to respond to policy questions.