

Pursuant to Administrative Order, the following procedure is hereby established to be used in personnel disciplinary cases when the seriousness of the infraction warrants possible discharge. The purpose of this procedure is to afford permanent employees the opportunity to present any information believed pertinent to the situation before disciplinary measures are decided on.

- (a) the employee will be informed in writing of the charges against him, of the possible disciplinary actions that may be taken, and of the time, date and place at which the employee will be given an opportunity to respond to the charges.
- (b) at the specified time, date and place, the employee will be allowed to respond to the charges and to present all information that the employee believes to be pertinent.
- (c) following the opportunity for response by the employee, the employer will determine appropriate disciplinary action to be taken and will promptly inform the employee, in writing, of that determination.

Probationary employees may be afforded any or all of these procedural steps, on a case by case basis, at the supervisor's discretion after consultation with the Personnel Director.

Administrative Order No. 8 dated December 15, 1984, is hereby repealed.

DATED this 4th day of December, 1987.


ALAN TANDY, City Administrator



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MEMORANDUM

TO: Department Heads
APPROVED BY: Alan Tandy, City Administrator
FROM: James L. Tillotson, City Attorney
BY: Paul J. Luwe, Staff Attorney
DATE: December 3, 1987
RE: New Administrative Order on Pretermination
Procedural Steps and Hearing

Attached is a new administrative order on pretermination procedural steps. This new administrative order supersedes Administrative Order No. 8 dated December 15, 1984.

The old order provided that prior to termination management would give the employee written notice of the proposed action and the opportunity to respond in the form of an informal hearing. This new administrative order still requires that these same pretermination procedural steps be followed as in the old order. However, this new administrative order requires that these procedural steps be afforded only to permanent employees. These procedural steps may be provided to probationary employees at the option of management on a case by case basis after the supervisor has consulted with the personnel director.

The old administrative order was implemented in December 1984, when the law in this area was unsettled. This order was drafted taking into consideration the status of law at that time and the projected development of the law. Since this time, the courts have held that these procedural steps which are required for permanent employees, need not be afforded to a probationary employee. Employers can summarily discharge probationary employees without cause. The City has conformed its practice to the current status of the law by applying this order only to permanent employees. The new administrative order reflects the current status of the law.

Under the new wrongful discharge statute, a discharge is wrongful if the employer violates an express provision of its own written personnel policy. Therefore, strict compliance with this new administrative order is imperative to insulate the City from wrongful discharge claims based on violations of our written policy. Each department head will ensure that its supervisors receive a copy of this new administrative order. Any questions concerning this order should be directed to either the Personnel Director or the City Attorney's Office.

PJL/ssw
Attachment