

CITY PROPOSAL – DISCIPLINARY ACTIONS

ARTICLE 25 GRIEVANCE PROCEDURE

25.8 Disciplinary Grievances

25.8.1 Employees in the bargaining unit shall only be disciplined for cause. Discipline is defined to include those matters that are cognizable before the Civil Service Commission plus disciplinary transfers.

25.8.1.1 The San José Municipal Code defines disciplinary action as dismissal, demotion and suspension. In addition, the appointing authority may reduce an employee's salary step. The salary may be reduced to no lower than step one (1) of the salary range, and the amount and length of time of the salary reduction will be specified in the Notice of Intended Discipline. The salary may be reduced either for a specified period of time or until the condition which caused the salary reduction has been corrected.

25.8.2 Persons on probationary status (entry-level or promotional) may not appeal under this agreement rejection on probation.

25.8.3 Letters of reprimand may be appealed under this section only to the ~~City Manager level~~Chief of Police or designee.

25.8.4 Documented Oral Counselings (DOCs) retained by the Internal Affairs Division may be appealed under this section only to the level of Assistant Chief of Police. However, should a particular DOC be the result of the Assistant Chief's having reduced a higher form of discipline to a DOC with which the affected officer is still dissatisfied, such DOC may be appealed to the level of the Chief of Police. DOCs received for preventable, automobile accidents shall not be appealable unless the officer contends that the accident was not preventable.

25.8.5 Nothing herein constitutes a waiver of rights of employees otherwise granted by law (e.g., Government Code Sections 3300 et. seq.).

25.8.6 An employee challenging a suspension, demotion, dismissal, salary step reduction or disciplinary transfer shall have the option of choosing between the dispute-resolution provisions of this Agreement, or appeal to the Civil Service Commission. Any employee who wishes to preserve the right of appeal to the

Commission must comply with the time requirements for filing such appeal as specified in the Civil Service Rules. Within twenty (20) days of the date of a Notice of Discipline, the employee may file an appeal with the Civil Service Commission or pursue the grievance procedure or both. The grievance procedure shall begin at Step IV Arbitration for this process. Immediate arbitration shall not apply.

25.8.6.1 Employees who elect to use the dispute-resolution provisions of this Agreement, as opposed to electing their right to appeal their discipline to the Civil Service Commission, recognize and agree that any resulting arbitrator's award will be published. The published version of the arbitrator's award will redact the name and any other identifying features of the officer to preserve confidentiality. The opportunity to appeal to the Civil Service Commission shall fulfill the City's obligations to provide an administrative appeal pursuant to Government Code section 3304.

25.8.7 The employee shall confirm [his/her/their](#) election of remedies in writing to the Director of Employee Relations. If the employee files an appeal to the Civil Service Commission and also an appeal through the grievance procedure of this Agreement within the required timelines, the election of remedies must be made no later than 45 days from the date of the Notice of Discipline. The election of remedies must also be made prior to the submission of a request for a list of arbitrators and prior to scheduling a Civil Service Commission appeal hearing. As otherwise provided in this Agreement, for the matter to go to binding arbitration, the POA must agree (i.e., must be the party taking the matter to arbitration).