

Section 13. Employee Relations

Standards of Conduct – The following examples are given in order to provide the employees guidance concerning unacceptable behavior. If the MCWD chooses to correct an employee who engages in unacceptable behavior, the employee may be subject to corrective discipline up to and including termination. Please note that it is impossible to provide an exhaustive list of behaviors that are not acceptable. The following is therefore intended to simply provide some examples:

- A. Failure to meet job standards as described in the job description or as determined by the immediate supervisor, including becoming uninsurable based upon the driving standards of MCWD's insurance carrier.
- B. Failure to observe or comply with the provisions of the Employee Handbook.
- C. Insubordination.
- D. Abusive or vulgar language, or causing disruption to the work place or to fellow employees or visitors.
- E. Theft or unauthorized removal of MCWD property from MCWD premises.
- F. Misuse of MCWD's monies.
- G. Harassment, including but not limited to unlawful sexual harassment or gender-based or racial remarks.
- H. Excessive absenteeism or tardiness.
- I. Using, possessing, or being under the influence of (including as a result of prior indulgence) alcohol or illegal drugs while on MCWD premises or on duty, including while on-call.
- J. Job abandonment.
- K. Carelessness or negligence when performing duties or failure to follow health and safety regulations while on MCWD premises or while on duty.
- L. Unauthorized possession or removal of property, records, or other MCWD materials.
- M. Release of confidential information about the MCWD or its members.
- N. Altercations with or threats to fellow employees or the public.
- O. Possession of firearms on MCWD property or within MCWD vehicles.
- P. Gambling while on the job or on MCWD time.
- Q. Eavesdropping. Under California state law the consent of all parties participating in a call must be obtained before any person may record a telephone conversation or before a person who is not a party to a call may eavesdrop on or wiretap a call.
- R. Failure to report involvement in an accident occurring on the MCWD's premises, or involving MCWD's equipment, or giving false information in accident or insurance reports.
- S. Failure to immediately report the loss of a California driver's license due to suspension, withdrawal, forfeiture or confiscation by any court of law or by the California Division of Motor Vehicles. This rule applies only to those employees who must maintain such a license as a condition of his/her employment.

- T. Installing unauthorized software on MCWD's computer system and/or misuse of electronic systems (email, internet, fax) per policy.

Progressive Discipline – As a general policy, MCWD follows a progressive discipline policy to ensure a fair method of correcting employee conduct. The progressive discipline policy is intended to give employees advance notice of problems with his/her conduct or performance in order to provide him/her with an opportunity to correct any problems through the use of disciplinary actions less severe than termination. Normally, progressive discipline involves verbal counseling and one or more written warnings, however, exceptions or deviations from progressive discipline may occur whenever MCWD deems that circumstances warrant that one or more steps in the process be skipped. However, progressive discipline is not mandatory. Accordingly, circumstances may sometimes warrant immediate termination.

Disciplinary Actions – The objective of any disciplinary action is to correct less than satisfactory performance and to bring a worker's performance up to MCWD standards. Disciplinary action is not primarily punitive in intent, but is intended to be corrective action.

The appointing authority may take disciplinary action against any employee, provided that the rules and regulations prescribed herein are followed and that employee who is not on probationary status has the right to appeal pursuant to this section, except as herein provided. As used in this section, "disciplinary action" shall mean formal written reprimand, suspension, disciplinary demotion, disciplinary probation, or dismissal. No employee shall be terminated or disciplined without just cause and the principles of progressive discipline shall be followed unless circumstances warrant immediate termination. Regular employees shall be subject to disciplinary action by the General Manager or designee only in accordance with the procedures set forth below.

As part of MCWD's progressive disciplinary process, an employee may be placed on disciplinary probation for a specified period of time not to exceed four (4) months for each instance, with the understanding that should the causes for such action not be satisfactorily corrected or remedied during the period, subsequent disciplinary action may be taken, up to and including termination.

Notice of Disciplinary Action – In order to institute disciplinary action, the appointing authority shall serve notice of the proposed disciplinary action in accordance with the following procedures:

Except as otherwise provided herein or when emergency or other special circumstances require immediate action, a notice of proposed disciplinary action (other than for formal reprimand) shall be delivered to the employee, either personally or by the US Postal Service, to the current address listed on the employee's most recent personnel action form, no less than five (5) calendar days prior to the effective date of any punitive action against the employee.

The notice of proposed disciplinary action shall include the following:

- A. The nature of the disciplinary action;
- B. The effective date of the action;
- C. The causes for the action in ordinary, concise language with the dates and places thereof, when known;
- D. A statement that identifies the material or documents upon which the action is based and states that it is available for inspection; and
- E. A statement advising the employee of his/her right to respond either verbally or in writing to the appointing authority or his/her designee imposing the disciplinary action prior to the effective date and the right to be represented in that response.

Pre-Disciplinary Due Process Meeting – If the employee does not waive his/her right to a Skelly meeting, the General Manager ~~or designee~~ shall conduct an informal meeting to allow the employee to respond to the charges made.

The employee may present information and respond to questions personally or through his/her representative.

The General Manager ~~or designee~~ shall give the employee written notice of the decision which shall be reached within five (5) working days after said meeting.

Implementation of Discipline – In the case of a suspension without pay of one (1) working day or less, or a suspension with pay of twenty (20) working days or less, the suspension may be imposed by a single notice containing items A, B, C, D & E above. This notice shall be delivered to the employee on or as soon after the effective date of the suspension as possible.

Except as provided above, in order to implement the proposed disciplinary action of a lesser disciplinary action based on the same cause(s), a notice of disciplinary action shall be delivered to the employee, either personally or by the US Postal Service to the current address listed on the employee's most recent Personnel Action form, on or before the effective date of the disciplinary action.

The notice of disciplinary action shall contain the information in items A, B, C, D & E above and, in addition, shall include a statement as to the right to appeal and representation by a party of his/her own choice and shall include a referral to the section of this agreement concerning appeals from disciplinary action.

Reprimand – An appointing authority may reprimand an employee by furnishing him/her with a statement, in writing, of the specific reasons for such reprimand. A copy of notice of the reprimand shall be given to the Management Services Administrator for inclusion in the employee's personnel file and shall not be subject to appeal, but the employee and/or his/her representative shall have the right to discuss the reprimand, or notice of

reprimand during normal business hours, with the supervisor issuing the reprimand within three (3) working days of receipt of reprimand.

Disciplinary reprimands shall be removed from the employee's personnel file after the second (2nd) year of their issuance, upon the employee's request, and if the employee does not receive any further disciplinary action in the two (2) year period.

Appeal of Disciplinary Action

A. Appeal

If an employee who has had a pre-disciplinary due process (Skelly) meeting wishes to appeal the decision of the General Manager ~~or designee~~ further, and who has completed his/her six (6) months probationary status, he/she shall file with the MCWD Board of Directors no later than the fifteenth (15th) day after receipt of said notice of disciplinary action.

Should said fifteenth (15th) day fall on a day in which offices of the MCWD are not open for business, the time within which said notice of appeal may be filed shall be extended until 5:30 p.m. of the next following day when MCWD offices are open for business.

B. Time of Hearing - Notice

A hearing by the MCWD Board of Directors or by a Hearing Officer appointed by the Board, relating to the validity of the charges upon which the disciplinary action was based shall commence not later than thirty (30) days after the date of the filing of the notice of appeal.

The appellant employee shall be given not less than ten (10) days written notice of the date, time, and place of said hearing of the Directors or the Hearing Officer. Said notice of the date, time, and place of hearing shall be effective upon its deposit in the US mail, postage prepaid with return receipt requested, and addressed to the last known address of the appellant as set forth in the appellant employee's personnel file.

C. Conduct of Hearing

At the time and place designated, the MCWD Board of Directors or Hearing Officer shall hold a hearing for the purpose of determining the validity of the charges brought against the appellant employee and of the reasonableness of the discipline imposed pursuant to said charges. Such hearing shall be closed to the public unless otherwise requested by the appellant employee. The appellant employee may be present and have the right to be represented by counsel.

The hearing may be continued from time to time and at the end of such presentation the MCWD Board of Directors or Hearing Officer may take the evidence under consideration for a reasonable period of time before announcing its decision in the matter.

D. Hearing

The General Manager ~~or designee~~ and the appellant employee may call witnesses, shall have the right of cross-examination and may present documentary and demonstrative evidence.

E. Recommendation of Hearing Officer

If a Hearing Officer is appointed by the MCWD Board of Directors, a non-binding advisory opinion or recommendation shall be presented in writing to the MCWD Board of Directors no later than ten (10) days after the hearing is complete.

F. Decision of MCWD Board of Directors

The decision of the MCWD Board of Directors shall designate express findings of the charges upon which the disciplinary action was based and may wholly reverse or affirm the disciplinary action imposed by the General Manager ~~or designee~~ or modify the severity of the same.

G. Loss of Salary

If the discipline action of the General Manager ~~or designee~~ is wholly reversed by the MCWD Board of Directors, or the severity of discipline imposed is partially reversed, the appellant employee shall be entitled, upon the decision of the Board of Directors or Hearing Officer, to complete the partial reinstatement, as the case may be, and shall be entitled to reimbursement from MCWD funds of that salary forfeited by virtue of that portion of the disciplinary action which was overruled by the MCWD Board of Directors.

H. Appeals of Decision

The findings and decision of the MCWD Board of Directors on appeal shall be final and conclusive on all parties, and not subject to the grievance procedures provided for in this handbook. Any employee whose termination for violation of MCWD rules is upheld by the MCWD Board of Directors shall not be eligible for rehire.