
Discipline Procedures

1026.1 PURPOSE AND SCOPE

The purpose of this procedure is to provide an effective and responsive system of personnel accountability, responsibility, and discipline.

An effective and responsive system of personnel accountability and discipline, based on a clearly defined disciplinary system that enables all employees to know what is expected of them, and to understand that appropriate discipline will be administered when required. Fairness and justice are the essential foundation of the disciplinary process and everyone shares in this responsibility to be sure that it is equitably maintained.

The Fresno State Police Department will administer discipline in a fair, timely, and consistent manner, directed toward ensuring that members of the department have every opportunity to correct deficient performance. Employees will be told in a timely manner of their performance deficiencies, and when sanctions are applied, they will be consistent with the employee's past record and the seriousness of the situation. All employees are required to adhere to all Department rules, regulations, policies and procedures as outlined in this manual.

1026.2 NATURE OF DISCIPLINE

Depending on the severity of the infraction, the administration of corrective action or discipline (for non-probationary personnel) shall be progressive in its application. In most situations in the absence of any other violation by the employee of rules or policies, initial infractions shall receive a lesser penalty than a repeated violation. This does not preclude the right of the Chief of Police from administering more severe penalties for first time infractions, should the situation warrant.

The role of supervisors is crucial in the disciplinary process. Supervisors have the best opportunity to observe the conduct, attitudes, and demeanor of employees and to detect those instances when corrective action or disciplinary actions are necessary (counseling, remedial training, reprimand, etc.)

All employees being disciplined will be informed of the allegations and corrective action or discipline imposed at the time such action is taken.

1026.3 GENERAL CONDUCT SUBJECT TO CORRECTIVE OR DISCIPLINARY ACTION

The following general conduct may be subject to corrective or disciplinary action:

1. Any offense punishable under federal or state laws/statutes.
2. Violation of any provision of the rules and regulations of the Department or University.
3. Disobedience of any lawful order.
4. Personal actions that reflect negatively against the reputation of the Department or University.

Fresno State Police Department

POLICY MANUAL

Discipline Procedures

5. Incompetent or negligent performance of assigned duties.

1026.4 SPECIFIC CONDUCT SUBJECT TO CORRECTIVE OR DISCIPLINARY ACTION

1. In accordance with California State University rules and California Education Code 89535, a member of the Department may be made the subject of disciplinary action when warranted.
2. Examples of conduct which may result in disciplinary action include, but are not limited to the following:
 - (a) Commission of a crime
 - (b) Use of intoxicants in violation of the rules and regulations of Department Policy (hold for #) (Standards 4.1 and 4.2)
 - (c) Illegal use of narcotics or drugs
 - (d) Willful neglect of duty
 - (e) Willful disobedience of orders
 - (f) Absence from duty without leave
 - (g) Conduct unbecoming an officer
 - (h) Use of unreasonable and unnecessary force
 - (i) Sleeping on duty
 - (j) Accepting or soliciting a bribe
 - (k) Soliciting gratuities
 - (l) Use of police badge, uniform, business card or identification card for personal gain
 - (m) Aiding and abetting the escape of a prisoner
 - (n) Appropriating for one's own use property, evidence, or items received in the course of duty
 - (o) Falsification of reports, official records, or communications
 - (p) Divulging confidential information that may be detrimental to an investigation or another person without first obtaining consent from a supervisor
 - (q) Feigning sickness or injury to evade duty
 - (r) Misuse or willful rough and careless handling of State property
 - (s) Tardiness/absenteeism
 - (t) Insubordination
 - (u) Failure or refusal to perform duties

Fresno State Police Department

POLICY MANUAL

Discipline Procedures

1026.5 IDENTIFYING ACTS OF MISCONDUCT

Acts of misconduct by Department members are identified by the following means:

1. Complaints by citizens
2. Complaints by other Department members
3. Observations by supervisory staff of the Department
4. Findings arising from investigations or audits
5. Complaints and/or information received from other law enforcement or criminal justice agencies
6. Incidents reported to the Department or incidents that come to be known by the Department

1026.6 COMPLAINT HANDLING AND INVESTIGATION OF DISCIPLINARY ALLEGATIONS

Complaints against Department members and the investigation of disciplinary allegations will be handled in accordance with Policy 1008, Personnel Complaints.

Prior to any inquiry, investigation, or disciplinary process, supervisors and managers shall review the applicable bargaining unit agreement and, in the case of sworn officers, Assembly Bill AB 301 (peace Officer Bill of Rights) to ensure that proper compliance is being made with these mandates.

1026.7 ELEMENTS OF PROGRESSIVE DISCIPLINE

When corrective action or formal discipline is indicated by the finding, one or more of the following actions may be taken by the Chief of Police and/or university administration, subject to the provisions of the California State University, its collective bargaining agreements, California Education Code and when necessary, the approval of the President and/or the Chancellor of the California State University:

1. Verbal counseling
2. Memorandum of Counseling
3. Oral reprimand
4. Written reprimand
5. Suspension
6. Demotion
7. Dismissal from the Department.

Remedial training may also be included in addition to one of the above actions or in lieu of a memorandum of counseling if approved by the Chief of Police, depending on the severity of the infraction.

Fresno State Police Department

POLICY MANUAL

Discipline Procedures

1026.8 DEPARTMENTAL AUTHORITY FOR CORRECTIVE OR DISCIPLINARY ACTION

1. Final Department disciplinary authority and responsibility rests with the Chief of Police and/or university administration.
2. Supervisory personnel may administer one or more of the following:
 - (a) Verbal counseling
 - (b) Training
 - (c) Written Counseling
 - (d) Written recommendations for other disciplinary actions
3. It is recognized that any supervisor (or in the case of CSUEU union employees "appropriate administrator) may take corrective action (excluding written reprimand, suspension, demotion, or dismissal) against an employee of lesser rank or classification for an observed infraction, regardless of the employee's direct chain of command.. Whether the supervisor or appropriate administrator exercises this authority or relays the information up the employee's direct chain of command will be contingent upon the circumstances.
 - (a) Observed infractions committed by an employee of equal or higher rank or classification shall be directed to the reporting employee's supervisor or appropriate administrator.
 - (b) Officers may not initiate any corrective action or disciplinary actions, but may make recommendations to their immediate shift supervisor.
4. Only the Chief of Police or member of the command staff may initiate disciplinary actions involving written reprimands, suspensions, demotions, or dismissals from employment with the university.

1026.9 RELIEF FROM DUTY

The following applies to Unit 8 contract employees. CSUEU employees will be guided by Unit 7 contractual language (Article 12 Temporary Suspension).

1. In a situation in which the possibility of termination, suspension, or demotion of a permanent employee is indicated, but where the Department needs time to conduct an investigation before proposing such action, or in a situation where immediate removal of an employee from the job is needed for the protection of persons or property, to preclude disruption of work or similar reasons, the employee may be relieved of duty with pay only after consultation and approval from the Chief of Police. The Chief of Police, or his/her designee, will notify Human Resources in these situations.
2. Normally, the highest ranking supervisor on duty shall have the authority to invoke this regulation in situations of disruption, although it is highly recommended that administrative review be sought in advance when time permits. Supervisors invoking this regulation should be prepared to justify fully their action and shall notify the Chief of Police or appropriate command staff member as soon as possible.

Fresno State Police Department

POLICY MANUAL

Discipline Procedures

- (a) The Chief of Police or a Department Commander/Manager shall determine if this regulation is to be invoked in situations where an investigation is to occur.
- (b) Nothing in this regulation shall give supervisors of this Department the authority to relieve from duty or escort from campus employees of other departments, although officers may be called upon to assist supervisors of other departments to enforce management rights.

1026.10 APPEALS FROM PENALTIES

Appeals from disciplinary measures may be made as provided in California State University personnel procedures, contractual agreements and, when applicable, in accordance with AB 301.

It is the intent of this Department to attempt to resolve employee disputes internally, wherever possible, without processing through Human Resources. Appeals of counseling memoranda, reprimands, and remedial training shall be made to the Chief of Police. For members of CSUEU written reprimands may be appealed to Human Resources. Appeals of proposed suspensions, demotions, or dismissals shall be made in accordance with contractual requirements of appropriate bargaining units.

1026.11 FORWARDING OF DISCIPLINARY REPORTS

- 1. Each level in the chain of command must review and forward reports bearing on disciplinary matters received.
- 2. Reviews should include approval, disapproval, or recommendations for modification.
- 3. No member or employee will alter or cause to be altered any facts or elements contained in the disciplinary report.
- 4. Disciplinary reports in transit through the chain of command will not be delayed but must be reviewed and forwarded in a timely manner.

1026.12 USE OF COUNSELING AND TRAINING

- 1. Counseling and training are intricate parts of the performance improvement and/or discipline process.
- 2. For first time minor infractions, supervisors should document that the employee has been counseled about the incident. In the case of sworn officers, the Supervisor Incident Reports (SIR) are used for this purpose, and the box indicating a "Oral Reprimand Summation" will be checked.
- 3. For a second infraction, written counseling will be documented utilizing a Supervisors Incident Report and the box indicating "written counseling" will be checked. Written Counseling will be approved by a Department Commander/Manager and forwarded to the Chief of Police. Counseling memos are placed in a working file in the administration office. These memos will not be forwarded to Human Resources, and will be removed from the employee's department file if there is not reoccurrence of any related

Fresno State Police Department

POLICY MANUAL

Discipline Procedures

performance issues after one (1) year. In the event of reoccurrence for related infractions, these memos may be used in support of progressive action.

4. Remedial training can help to ensure that disciplinary issues that may be related to insufficient training do not reoccur.

1026.13 DISMISSAL

If a non-probationary employee's misconduct results in dismissal, following appropriate administrative review, the following information will be provided to the employee:

1. A written statement citing the reason for dismissal.
2. The effective date of the dismissal.
3. A statement of the status of fringe and retirement benefits following dismissal.

1026.14 MAINTENANCE OF RECORDS OF CORRECTIVE AND DISCIPLINARY ACTIONS

1. All corrective action or disciplinary records, with the exception of Verbal and Written Counseling, will be forwarded to Human Resources for inclusion in the employee's official personnel file.
2. Copies of records forwarded to Human Resource will be maintained in the employee's department personnel file, which will be maintained in the Department administration office.
3. Corrective actions or disciplinary records will be purged from an employee's departmental personnel file in accordance with appropriate union contracts.