

PREAMBLE

THIS MEMORANDUM OF UNDERSTANDING, entered into this _____, by and between Lexington-Fayette Urban County Government (hereinafter "LFUCG"), and American Federation of State, County and Municipal Employees (hereinafter the "Union"), by which said parties hereby agree upon the terms and conditions as hereinafter set out, concerning benefits and working conditions of certain employees of the Division of Waste Management. Matters of inherent managerial policy, as defined by LFUCG Ordinance 4-75 and which is cited in Article 3 of this Memorandum of Understanding shall not be the subject of this memorandum of understanding.

Meet and Confer Memorandum of Understanding
Division of Waste Management

Article	Description	TA Date
PREABMLE		5/6/2013
1	Recognition	5/6/2013
2	Subordination	5/14/2013
3	LFUCG Rights	4/17/2013
4	Non-Discrimination	4/17/2013
5	Strikes, Work Stoppages, and Slowdowns	4/18/2013
6	Union Security	4/18/2013
7	Union Business	6/3/2013
8	None	NA
9	Lay-Off and Recall	6/3/2013
10	Job Vacancies and Promotions	5/14/2013
11	Grievance Procedure	3/20/2015
12	Work Week and Overtime	10/15/2013
13	Division Orders and Standard Operating Procedures	4/30/2013
14	Health and Safety	4/18/2013
15	Disciplinary Procedures	3/20/2015
16	Personnel Files	4/30/2013
17	Residency	4/18/2013
18	Military Leaves	4/18/2013
19	Legal Protection	5/6/2013
20	Paid and Unpaid Leaves	5/6/2013
21	Fitness for Duty	5/6/2013
22	None	NA
23	Health and Wellness	12/03/2013
24	None	NA
25	None	NA
26	None	NA
27	Personal Property Reimbursement	5/6/2013
28	None	NA
29	Alcohol and Drug-Free Workplace	4/18/2013
30	Responsible Relationship	4/18/2013
31	Federal or State Laws	5/14/2013
32	Gender	4/18/2013
33	None	NA
34	None	NA

ARTICLE 1
RECOGNITION

Section 1. Pursuant to LFUCG Ordinance 4-75, LFUCG recognizes the Union as the exclusive representative for non-managerial employees of LFUCG Division of Waste Management.

Section 2. The Union recognizes the Mayor's representative and designee as the sole representative of LFUCG for the purposes of negotiating this Memorandum of Understanding.

Section 3. As used in this Memorandum of Understanding, unless specified otherwise, the term "member(s)" refers to non-managerial employees of the LFUCG Division of Waste Management.

ARTICLE 2
SUBORDINATION

This Memorandum of Understanding shall, in all respects wherever the same may be applicable herein, be subject and subordinate to all applicable statutes, constitutional provisions and any revisions, amendments or newly adopted provisions to any statute or constitutional provisions in effect upon the effective date of this Memorandum of Understanding or which may be hereafter enacted. This Memorandum of Understanding will also be subordinate to any/all matters addressed through the LFUCG Code of Ordinances.

ARTICLE 3
LFUCG RIGHTS

Section 1. The inherent right to manage, direct and control working forces in all respects is expressly reserved to LFUCG; subject, however, to such limitations as are contained in this Memorandum of Understanding. Exclusive rights of the LFUCG shall include, but not be limited to, any subject not preempted by Federal and State law.

- A. Determination of the organizational structure of the Division of Waste Management, including the existence, continuance, abolishment, restructuring, or combining, of all bureaus, departments, units, branches, and subparts thereof.
- B. The right to promulgate, at its discretion, policies, rules, regulations, and Orders which are not inconsistent with this Memorandum of Understanding.
- C. The right to determine the methods, means, and personnel by which operations are to be implemented and established.
- D. The right to take action as necessary to carry out the mission of the Division of Waste Management in an emergency.
- E. Assignment of personnel consistent with the provisions of this Memorandum of Understanding.
- F. Determination of necessary qualifications, standards, and procedures, for hire and promotion, consistent with this Memorandum of Understanding.

- G. Establishment of standards of performance and service, and taking disciplinary action subject to this Memorandum of Understanding.
- H. Elimination of positions, and any consequent reductions in force or layoffs. LFUCG will notify the Local Union President of known reductions in force as soon as practical after the decision to reduce the force has been made.
- I. All rights as identified in LFUCG Ordinance 4-75.

Section 2. This Memorandum of Understanding is not intended to restrict consultation with the Union regarding matters within the right of LFUCG to determine.

ARTICLE 4

NON-DISCRIMINATION

Neither LFUCG nor the Union shall discriminate against any member because he or she is or is not a member of the Union, nor because of lawful Local activity or refraining there from, nor shall either party discriminate against any member on the basis of race, color, sex, creed, religion, marital status, ages, national origin, disability, political affiliation, or sexual orientation.

ARTICLE 5

STRIKES, WORK STOPPAGES, AND SLOWDOWNS

Section 1. The Union recognizes that it is unlawful to engage in strikes and work stoppages. The Union further agrees that it shall not engage in, condone, or encourage work slowdowns, unauthorized accelerated enforcement, and other concerted efforts to alter work production. In addition, the Union agrees that any of the foregoing actions by members may constitute cause for their termination, and that the Union shall not encourage such activity and shall take prompt and reasonable steps to discourage same.

Section 2. Mass or concerted resignations, and mass or concerted call-ins of sick or other leave, shall be deemed strikes or work stoppages hereunder.

ARTICLE 6

UNION SECURITY

Section 1. Membership in the Union is not compulsory. Members have the right to join or not join and neither party shall exert pressure or discriminate against a member regarding such matters. All employees covered by this Memorandum of Understanding, however, shall be required to pay their fair share of the cost of representation by the Union, as provided for in applicable law.

Section 2. Union membership dues, as authorized by members on the approved form described in Section 3 below, or fair share fees shall be deducted monthly in an amount certified by the Union. Members wishing to revoke their Union membership, or to join the Union membership, must notify LFUCG and the Union expressly and individually, in writing by certified mail. Upon such notification, LFUCG shall begin deducting membership dues or the fair share fee hereinafter described, whichever is appropriate, from the wages of such member as soon as practical but in no event later than the 2nd pay period following receipt of such notice.

Section 3. LFUCG agrees to deduct from the wages of any member the dues as authorized by said member or fair share fee, as long as it is a continual or regular deduction, on a form authorized by LFUCG and the Union.

Section 4. Union membership dues, and fair share fees, shall be transmitted to the Treasurer of Council 62 by the fifteenth (15th) day of the succeeding month after such deductions are made. The Union shall annually certify, in writing, the current and proper amount of its membership dues at least thirty (30) days prior to the initial deduction, for the next twelve-month operating cycle.

Section 5. The check-off of regular union dues shall be made only on the basis of written authorization signed by the individual employee from whose pay the dues will be deducted, on a form authorized by LFUCG and the Union. All employees, however, shall be required to pay their fair share of the cost of representation by the Union, pursuant to applicable law and the following:

- A. Employees who are included in the meet and confer unit but who exercise their right to decline to become members of the Union, shall be required to pay a fair share fee, the amount of which shall be determined as set forth below.
- B. The Union shall provide to all affected employees and to LFUCG at least thirty (30) days advance written notice of the amount of the “fair share” fee together with an accounting by an independent certified accountant setting forth the major categories of the Union’s budgeted expenses and designating those expenses which are related to meet and confer, memorandum of understanding administration, and grievance adjustment (“chargeable”) and those which are not germane to bargaining, contract administration, and grievance adjustment (“non-chargeable”). The accounting and designations must be in a manner allowing for appraisal of which portions of union expenses are non-chargeable, and should indicate the percentage proportions of total union expenses devoted to chargeable and non-chargeable purposes. The initial amount of the fair share or service fee shall be the amount of the union dues reduced by a percentage equivalent to the percentage of the total union expenses devoted to indisputably non-chargeable purposes as determined by the certified public accountant.

- C. The above described notice must also include a clear statement of the manner in which the amount of the fair share or service fee may be challenged by affected employees. The procedure for said challenges shall include a requirement that the challenges be in writing and delivered to the Union, with a copy to LFUCG, within thirty (30) days after receipt of the written notice described in the preceding subsection B.
- D. In the event of a challenge to the fair share fee, the Union shall afford the challenger a reasonably prompt resolution of the challenge, by an impartial decision-maker who may be an arbitrator chosen from a panel of arbitrators supplied by the Federal Mediation and Conciliation Service or a similar organization of professional arbitrators. The method of selection of the impartial arbitrator shall include a request for a panel, and the opportunity for alternate striking between the Union and the employee. All challenges to a single notice of the amount of the fair share fee shall be decided by a single decision-maker at a single hearing.
- E. In the event of a challenge, fifty percent (50%) of the fair share fee (as described in subsection B, above) shall be placed in an escrow account by LFUCG until the issuance of a decision by the impartial decision-maker as set forth above.
- F. In the event of a challenge, the final amount of the fair share fee as determined by the impartial decision-maker shall reflect only those expenses affirmatively related to collective bargaining, contract administration, and grievance adjustment.
- G. Upon rendering the impartial decision-maker's decision, the disputed amounts held in escrow shall be distributed to the challenging employee, the Union, or both, as

indicated in the arbitrator's decision.

H. Provided the foregoing conditions are met, then the deduction of the initial amount of the fair share or service fee shall be automatic following the thirty (30) day notice and information provided for hereinabove, and shall begin thirty (30) days after the provision of such notice regardless of whether the employee has signed written authorization therefore.

I. The Union shall indemnify and hold harmless LFUCG against any expense or liability, including attorney fees that may arise out of or by reason of any action taken by LFUCG consistent with the foregoing, in connection with the collection of dues or a fair share fee. In the event LFUCG should be held liable or responsible for repayment of moneys paid to the Union pursuant hereto, the Union shall reimburse said monies to LFUCG

J. These provisions shall be interpreted insofar as possible in a manner consistent with applicable federal statutes or case law.

ARTICLE 7
UNION BUSINESS

Section 1. For purposes of negotiating the next Memorandum of Understanding, the Union may select not more than two (2) member and one (1) alternate along with the Union President to represent the Union during working hours without loss in compensation, along with a representative from the staff of Council 62 and in a manner consistent with the ground rules established for such representation in the 2013 meet and confer sessions.

Section 2. LFUCG Division of Waste Management and AFSCME may meet up to once every four (4) months, not to exceed three (3) times a year, upon agreement of the parties to discuss issues of interest to both. The party requesting said meeting must present a meeting agenda in writing to the other party no later than seven (7) days in advance of the meeting. The meetings shall last no longer than one (1) hour unless otherwise mutually agreed. Attending these meetings for the Union may be two members, including the local President or designee, and one other member chosen by the Local, and one representative from Council 62 staff. Attending these meetings for LFUCG will be the Director of Waste Management and the Director of Human Resources, or their respective designees. By prior mutual agreement, the parties may agree to bring in additional individuals who may be pertinent to the conversation, but no more than two Waste Management employees who are members of local 4468 shall be on paid time during these meetings.

Section 3. Upon request, one (1) paid Union representative and the grievant

may attend grievance meetings with management held within the Division of Waste Management. For purposes of grievance meetings as described herein, in addition to the Union representative, one (1) additional member as an unpaid observer and the named grievant may attend. The attorney for the grievant may attend in place of the unpaid observer, but at no time the number of Union representatives, including the named grievant, shall exceed three (3) persons. In the event the Union wishes to initiate a grievance meeting, then they shall give management at least two (2) business days advance notice. Such meetings shall be scheduled at a mutually agreeable day and time. Members may also request representation at disciplinary meetings, as outlined in Article 15 of this Memorandum of Understanding.

Section 4. LFUCG agrees to provide the Union designated space or a bulletin board upon which the Union may post notice of meetings, announcements, or Union information. The Union further agrees that it shall not post any material which would be derogatory to any individual, LFUCG, Lexington Division of Waste Management, Commonwealth of Kentucky, or which constitutes campaign material for or against any person, organization, or faction thereof. Campaign material does not include announcements or information regarding internal campaign election meetings of the Union. All notices of the Union shall consist of items in good grammar and taste. LFUCG shall determine the size of the bulletin board. The locations of the bulletin board shall be mutually agreed upon. In addition the Union shall be permitted to send LFUCG email for the exact same purposes and under the exact same restrictions it uses bulletin boards. All material must be approved by the Director of Waste Management or his/her designee before posting. Such approval decision must be made within one (1)

business day.

Section 5 . The parties agree that they will each pay one-half (1/2) of the cost of the printing of this Memorandum of Understanding.

ARTICLE 9

LAY-OFF AND RECALL

Section 1. When it becomes necessary to reduce the number of Waste Management employees that will affect Members covered by this Memorandum of Understanding, AFSCME shall be notified as soon as practical.

Section 2.

(a) The urban county council shall in the exercise of reasonable discretion have the authority to abolish any classified civil service position when economic necessity requires it or there is no longer a need for a particular position to exist. Any employee occupying said position may be laid off or suspended until and if such position is recreated or reestablished. The abolition of any position shall not be a subterfuge to effect another purpose but shall be actual and bona fide, and shall not amount to the mere alteration, modification or abolition of title only.

(b) When employees in a designated class within an executive unit are to be laid off, such employees shall be determined in the following order of succession:

- (1) Part-time employees;
- (2) Temporary employees who are filling classified positions;
- (3) Probationary employees;
- (4) Permanent employees.

(c) Any reduction in the number of employees of any executive unit shall to the extent that it requires the layoff of any permanent employees be made in the reverse order of their seniority, computed the same as under Article 8 for original appointments. In case of equal service, regular employees in the class involved shall be laid off in order of the lowest average performance rating for the last two (2) years of service.

(d) Should any employee contend that he has been aggrieved by the abolition or proposed abolition of his position, he may at any time within ninety (90) days file a petition in the Fayette Circuit Court, stating his reason why it should not be abolished; and upon issue joined thereon, by the urban county government, the burden shall be on the latter to establish the necessity for and the good faith of the urban county government in abolishing said office or position.

Section 3.

(a) If any abolished position is recreated or reestablished within one (1) year, then any former classified civil service employee who was deprived of his position shall be restored to the position he formerly held or occupied in the order of his seniority as provided in Article 8, if he shall elect to do so.

(b) The director shall simultaneously advise any such employee at his last-known address and advertise pursuant to KRS chapter 424 that the position has been recreated or reestablished.

(c) All classified civil service employees who are recalled must report within thirty (30) calendar days from the date of recall. Employees who fail to report within the prescribed time limits will be considered to have declined reemployment.

(d) Probationary employees who are recalled must complete their remaining time in probationary status before they can be permanently appointed. Time spent in layoff status will not be counted toward the required probationary period.

(e) Prior service time shall be counted for purposes of determining a recalled employee's seniority as well as entitlement to vacation leave, sick leave and, for employees hired before June 24, 1996, longevity pay.

Section 4. AFSCME will be furnished copies of all official layoff and recall notices to the affected Member(s) or a list of such layoffs and recalls as appropriate.

ARTICLE 10

JOB VACANCIES AND PROMOTIONS

Section 1. When LFUCG determines that a vacant position is to be filled or a job is created in a position covered by this Memorandum of Understanding, the notice of the position to be filled shall be posted for five (5) working days in conspicuous locations appropriate for such notice in Waste Management facilities and a copy given to the Union. Members interested in the posted vacancy shall fill out an online LFUCG application.

Section 2. Upon written request, the Division of Human Resources will provide the Union with the names of the applicants in the bargaining unit applying for the position and the name of the person awarded the position.

Section 3. The Member who is awarded the position/vacancy shall receive the new rate of pay and classification if applicable no later than the beginning of the next pay period following ratification by the Urban County Council.

Section 4. Specialized training will be provided on a regular basis to provide members the opportunity of a new assignment where a vacancy exists.

ARTICLE 11

MEMORANDUM OF UNDERSTANDING GRIEVANCE PROCEDURE

Section 1 – The phrase “MOU grievance” as used in this Article does not mean “grievance” as defined in LFUCG Code of Ordinances Section 22-32 and Section 21-49. Instead, an MOU grievance as used in this Article solely refers to a difference or dispute between a member and LFUCG regarding the meaning, interpretation or application of the express terms of this Memorandum of Understanding. Matters of recruitment, examination, classification, probation compensation programs affecting the classified civil service, matters addressed in LFUCG Code of Ordinances Section 21-49 and Section 22-32, and discipline shall not be the subject of the MOU grievance procedure outlined herein. All MOU grievances shall be set forth in writing. Any MOU grievance as defined above shall be adjusted in the manner set out below. Only the Unit may file an MOU grievance as the representative of any member(s) of the meet and confer unit (hereinafter referred to as the “Unit”).

Section 2 – The Unit President or his designee from the current list of stewards and the grievant shall represent the Unit in the Steps below. All time limits specified herein shall be calendar days unless specified otherwise. The following rules for the presentation and solution of MOU grievances are prescribed:

Step 1 & 2 – Manager: The MOU grievance shall, within ten (10) days of the grieved event, be submitted in writing to the Manager or the designated supervisor, who shall meet and discuss the MOU grievance with the Unit Representative within seven (7) days after the date of submission of the form. The Manager or designated supervisor shall give a written decision to the Unit Representative within (10) days following the meeting.

Step 3 – Director Waste Management and/or Commissioner of Environmental Quality & Public Works: If the Unit is not satisfied with the decision obtained in Step 2, the Unit may appeal in writing to the Director of Waste Management or his appointed designee and/or the

Commissioner of Environmental Quality & Public Works, provided that the appeal is presented within ten (10) days after receipt by the Unit of the Step 2 decision. Within ten (10) days after receipt of the appeal, the Director of Waste Management or this designee and/or the Commissioner of Environmental Quality & Public Works shall meet and discuss the MOU grievance with the Unit, and give the Unit his decision in writing within ten (10) days following the meeting.

Step 4 – Chief Administrative Officer or his Designee: If the Unit is not satisfied with the answer obtained in Step 3, the Unit may appeal the MOU grievance to the Chief Administrative Officer within ten (10) days after receipt of the Step 3 answer. Within ten (10) days after receipt of the appeal, the Chief Administrative Officer or his designee shall meet and discuss the MOU grievance with the Unit Representative, and shall provide a written decision within ten (10) days following the meeting.

Step 5 – Advisory Mediation:

- (a) If the Unit is not satisfied with the Step 4 answer it may, within seven (7) days after receipt of the Step 4 answer, seek mediation by advising LFUCG in writing of its intent to proceed. A panel of seven (7) names shall be provided from the Federal Mediation and Conciliation Services (FMCS) within forty-five (45) days of the Unit's notice.
- (b) A mediator shall be selected by the Unit and LFUCG by alternately striking a name from the panel submitted by FMCS. The parties shall meet for the purpose of striking names from the panel within fourteen (14) days of receipt by both parties of the panel from which a mediator is to be selected.

- (c) The mediator's fee and expenses and the cost of any hearing room shall be shared equally by the parties.
- (d) The powers of the mediator are limited as follows: The mediator shall have no right to alter, amend, modify, disregard, add to or subtract from or change in any way any term or condition of this Memorandum of Understanding or to render an award that is in Conflict with any provision of this Memorandum of Understanding. The mediator shall consider only the specific issue or issues submitted and shall confine the decision to a determination on the facts and an interpretation and application of the Memorandum of Understanding. The mediator's decision shall be nonbinding.

Section 3 - If an MOU grievance is not presented within the time limits set forth in this Article, the MOU grievance shall be considered waived. If an MOU grievance is not appealed to the next Step within the specified time limit or any extension thereof, it shall be considered settled on the basis of LFUCG's last decision. If LFUCG does not answer an MOU grievance or an appeal thereof within the specified time limits the MOU grievance shall be deemed as denied at that Step and the MOU grievance may be appealed to the next Step. The time limits in each Step may be extended by a mutual written agreement of LFUCG and the Unit Representative involved in each Step. It is agreed that MOU grievance settlements reached at the first or second steps are not precedent setting to either party.

Section 4 - The procedure contained in this article is the sole and exclusive means of resolving all MOU grievances arising under this Memorandum of Understanding.

Section 5 - LFUCG and its representatives agree that it will not attempt to bring about a settlement with a bargaining Unit member on any MOU grievance referred to the Unit after it has received notice from the Unit that it will be representing the bargaining Unit member.

ARTICLE 12

WORK WEEK AND OVERTIME

Section 1. If ready, willing and able to work, all full-time Members shall be eligible to work a forty (40) hour work week assuming work is available. The work week shall run from Monday through the following Sunday, during seven (7) consecutive twenty-four (24) hour periods.

Section 2. A Member shall be paid one and one half (1 ½) times the Member's regular hourly rate for all hours worked in excess of forty (40) hours. Overtime related to special duties i.e. material recovery facility, cart distribution, safety/training, and special events/litter collection will be worked by the members regularly assigned to those duties on an as needed basis. In the event additional personnel resources are needed for the following special events, i.e. Roots & Heritage Festival, Rolex, Picnic with the Pops, 4th of July Festival, and the Latino Festival, then members who have the essential skills and training for these special events will be eligible to work overtime via a rotating list of interested members (created on a first come first served basis). However, management reserves the right to ensure a core group of three (3) members who are regularly assigned these duties are also assigned overtime for these special events.

Members will be moved to the bottom of the rotation list only after they have either been contacted and refused overtime, or have accepted and worked the offered overtime. Members who are regularly offered overtime as part of the Training Team will not be on the overtime rotation list, and shall not be offered additional overtime unless everyone on the overtime rotation list has declined. At times, it will be necessary to offer

overtime to members out of order on the rotation list if they have the necessary skill and ability required of the task or operation to be performed. In the event that members are eligible and have the time to work the specific assignment, but refuse to perform the assignment, their names will be removed from the list for a period of one year. If members who are assigned to work overtime do not follow the Division of Waste Management's call-in procedures or do not perform their assignments properly they will be removed from the list for a period of one year and subject to disciplinary action in accordance with the LFUCG Uniform Disciplinary Code Guidelines. However, the Division of Waste Management reserves the right to reinstitute those members taken off the rotating overtime list to fulfill any emergent personnel needs.

Section 4. Those employees subject to the incentive plan as solely determined by the Division of Waste Management will be allowed to go home with no loss in pay up to two (2) hours before the end of their shift once they have completed their route and any assignments they have been given for that day.

ARTICLE 13

DIVISION ORDERS AND STANDARD OPERATING PROCEDURES

Section 1. LFUCG has the right to promulgate rules and regulations, including disciplining members, not inconsistent with the express provisions of this Memorandum of Understanding.

Section 2. No changes in Operation Orders, policies, rules, regulations, Standard Operating Procedures, and the like of the Division of Waste Management shall be effective until they have been posted in a conspicuous location and forwarded to the Union for a period of seven (7) calendar days prior to the effective date subject to the terms of Article 3, excluding personnel assignments or other matters requiring immediate operational need or response.

Section 3. A member shall be bound by any change in Operation Orders, policies, rules, regulations, Standard Operating Procedures, and the like, upon receipt thereof so long as they are consistent with the provisions of this Memorandum of Understanding and any superseding laws and statutes upon posting thereof as provided in Section 2.

ARTICLE 14
HEALTH AND SAFETY

Section 1. The Division will take precautions to safeguard the health and safety of members during their hours of work and maintain standards of safety and sanitation, and the Union and all members shall cooperate in all matters concerning health and safety.

Section 2. No member shall be required to work in excess of ten (10) hours consecutively, provided however; a member may waive this section. This section shall not apply in exigent circumstances as determined by the Director.

Section 3. The Division will make available on a twenty-four (24) hour basis all necessary safety equipment applicable to the tasks that members have been assigned. Members shall be permitted to obtain said equipment with the permission of the member's supervisor.

Section 4. Any uniforms or clothing required by LFUCG Division of Waste Management to be worn by members shall be provided by LFUCG and replaced periodically in order to keep up with the normal wear and tear associated with this job.

Section 5. At least one copy of the LFUCG Employee Handbook shall remain accessible for Members on premises at the main LFUCG Waste Management Facility. Further, employees will be made aware of and instructed on how to access the Employee Handbook on line. Copies of any Policy and Procedures not included in the Employee Handbook shall also be maintained in the same fashion.

Section 6. Two (2) members employed by the Division of Waste Management shall be placed on the LFUCG Safety Review Board. The members shall be selected by mutual agreement of the Director of Waste Management and the Local Union President.

Section 7. Members shall not be obligated to take their vehicles out in dangerous or extreme conditions, such as those days where LFUCG has closed non-essential operations due to extreme weather, such as snow and ice.

ARTICLE 15
DISCIPLINARY PROCEDURES

Section 1. It is agreed that LFUCG has a right to discipline Unit members for just cause. The LFUCG's Uniform Disciplinary Code shall be used as the guideline for this Article. This code is subject to amendment and/or change. A copy of the current code is appended to this MOU as Appendix A. The disciplinary code that will be used as a guideline for this Article will be the current published disciplinary code for all LFUCG employees as found in the Employee Handbook.

Section 2. Discipline of Unit members includes the issuance of an oral warning, a written reprimand, a suspension, or charges for dismissal. Coaching and counseling sessions are not disciplinary actions and are not covered under this Article. Oral warnings shall be removed from the member's record twelve (12) months from the date of the entry.

Section 3. No Unit member shall be dismissed, suspended, or involuntarily reduced in grade or pay for any reason except inefficiency, misconduct, insubordination, or a violation of law involving moral turpitude, or as otherwise may be provided by state law, except in accordance with the provisions of KRS 67A.280 and the relevant provisions of Lexington-Fayette Urban County Government's Code of Ordinances, which may be amended. A Unit member is entitled to representation by a Unit attorney at any disciplinary proceeding of the Civil Service Commission involving that member at the discretion of the member and consistent with the rules and regulations adopted by the Commission.

Section 4. In the event a Unit member is to receive discipline, he/she may request the

attendance of the Unit president or his designee for the purpose of observing. The Unit representative is not entitled to otherwise participate. The disciplinary process shall not be unreasonably delayed due to the availability of the Unit representative. It is solely the responsibility of the Unit member to request a representative and any advisory meeting between the Unit member and the representative shall not occur during work hours.

ARTICLE 16
PERSONNEL FILES

Section 1. Personnel files and any other employee files and records are the sole property and responsibility of the LFUCG.

Section 2. LFUCG's responsibilities for employee files include upkeep, retention, production, and purging of files.

Section 3. LFUCG shall maintain employee confidentiality to the full extent permitted by law and access to a member's personnel records shall be restricted to the following:

- A. Member who is the subject of the file or authorized (in writing) representative may review their own records upon request.
- B. Member's supervisor.
- C. Director and/or designee.
- D. Director of Division of Human Resources and/or designee.
- E. Member of the Department of Law

Section 4. No file, record or content therein of which a member has not been previously advised will be utilized against the member for matters of discipline.

Section 5. LFUCG shall follow retention schedules for employee files that comply with applicable laws and regulations. In the event a subpoena or Open Records Request is served on LFUCG, it shall immediately notify the member and/or the Union.

Section 6. Supervisors may maintain one file on each member under their

direct supervision and documents contained in the supervisory file shall not be retained after one (1) year from said documentation.

ARTICLE 17

RESIDENCY

No member shall be required to live in Lexington/Fayette County.

ARTICLE 18
MILITARY LEAVES

Section 1. Members who are also Members of the National Guard, the military reserve or any of the armed services of the United States shall be granted leaves of absence, not to exceed twenty-one (21) calendar days per military training year (i.e. October 1 - September 30) to participate in regular annual training, consistent with LFUCG practice.

Section 2. A Member inducted or enlisted into active duty with the armed forces of the United States, any reserve unit or the National Guard for a period in excess of thirty (30) days shall be eligible to continue his selected medical insurance plan at the same level of employee contribution derived from this Memorandum of Understanding.

ARTICLE 19

LEGAL PROTECTION

Section 1. LFUCG shall provide for the defense of a Member in any civil action arising out of an act or omission occurring within the scope of his employment pursuant to Section 2-7 of the LFUCG Code of Ordinances.

ARTICLE 20

PAID AND UNPAID LEAVES

I. VACATION AND HOLIDAY LEAVE

Section 1. Annual Vacation/Holidays

Effective upon ratification of this Memorandum of Understanding by the LFUCG, full-time Members are eligible to receive annual vacation/holiday time with pay as provided in the schedule set forth below:

Vacation

<u>Years of Service</u>	<u>Monthly Leave Earned</u>
1 through 10 years	10 hours / month
10 years or higher	14 hours / month

Holidays

Those members who work a 4-day, 10-hour schedule will receive 10 hours of holiday pay for the holidays listed below. Those members who work a 5-day, 8-hour schedule will receive 8 hours of holiday pay for the holidays listed below.

Independence Day	New Years Day
Martin Luther King Jr.'s Birthday	President's Day
Memorial Day	Christmas Day
Christmas Eve Day	Labor Day
Thanksgiving (Thursday and Friday)	

In addition, at the beginning of each fiscal year, each employee shall be granted sixteen (16) hours of swing holiday leave, which may be taken at any time during the fiscal year in accordance with the requirements of this Memorandum of Understanding.

A. The following is the agreed process for requesting vacation time:

1. Prior notice:

- a. Regular vacation leave time must be requested by the employee in writing on the Leave Request form a minimum of one (1) week in advance.
- b. Advance prior notice however, should generally be equal to the amount of time that the employee wishes to be off. For example, if an employee wants to take a two (2) week vacation, it is reasonable to expect that the request be submitted at least two weeks prior to the beginning of the vacation, or preferably sooner.
- c. Vacation time must be approved by the employee's immediate supervisor. An approved vacation is a signed Leave Request form. Vacations will be granted on a first-requested basis.

2. Reasons leave denied

- a. Leave will be granted only if the time does not interfere with the Waste Management Division's operations and with other approved leaves.
- b. When a supervisor denies a requested leave and that employee does not report to work; then the employee will be marked Absent Without Approved Leave (AWOL).

B. Annual vacation/holiday accrual is cumulative to the extent set forth herein.

Accrued annual vacation cannot exceed one-hundred sixty-eights (168) hours.

Accrued annual-holiday cannot exceed (80) hours. Any vacation/holiday in

excess of this amount must be taken by December 31 of any calendar year. Upon separation of service (i.e. retirement, termination, resignation), a Member shall be entitled to receive reimbursement for accrued annual vacation/holiday. Payment for vacation/holiday shall be based on the Member's regular rate of pay. Holiday hours shall be calculated as time worked.

C. Acknowledging that due to operational constraints it is sometimes difficult for members to keep their accrued annual vacation/holiday time under the maximum levels set above, members will be guaranteed leave if requested at least thirty (30) days in advance of the effective date of the leave.

Section 2. Vacation and holiday leave may be taken in hourly increments.

II. LEAVE OF ABSENCE WITHOUT PAY

Leave of absence may be granted to maintain continuity of service in instances where unusual and unavoidable circumstances require a member's absence. Leaves are granted on the assumption that the member will be available to return to regular employment when the conditions necessitating the leave permit.

The duration of each leave of absence will depend upon each circumstance and the recommendation and approval of the Director of Waste Management, but shall not exceed ninety (90) days. The leave of absence is considered a privilege. Granting of leaves of absence will be administered with utmost discretion, taking into account the member's service record and the circumstances necessitating the request. Intended period of absence from work must be indicated.

Never will a leave of absence be authorized to permit a member to engage in gainful employment other than mandatory military service. When the need to be absent is known, the member will be expected to advise the Director of Waste Management in writing at the earliest possible time. Absence without reason may result in disciplinary action. The giving of false reasons for an absence shall result in disciplinary action. Leaves of absence will not interrupt service time. The member shall be returned to the same, or equal employment, unless circumstances of the agency have so changed as to make it impossible or unreasonable to do so. Leave of absence shall be without pay and benefit accrual. A condition precedent to a request for a leave of absence requires a member to have exhausted all vacation, holiday, and approved sick leave benefits.

III. SICK LEAVE

Section 1. Sick leave with pay shall be granted to a member when he is unable to perform his duties because of his sickness or injury or that of an immediate family member. The immediate family of the member for purpose of this section shall include parents, spouse, and children. Sick leave may be taken in hourly increments.

Section 2. A member who is unable to report for duty because of illness, injury, prescribed medication or treatment shall immediately notify his manager or other competent authority as designated by the manager upon determining the need to be absent from duty. This notification should be made at least one (1) hour prior to the scheduled reporting time.

Section 3. Medical Statement

A. A member who is absent from work for three (3) or more consecutive work days, or where the manager has reasonable suspicion to believe an abuse of

sick leave may be occurring, may be required to provide a medical statement from his treating physician substantiating his need for leave.

- B. Proof of abuse of paid sick leave privileges may constitute grounds for disciplinary action including dismissal.

Section 4. Sick leave shall be accrued at a rate of ten (10) hours per month. Sick time may be accumulated up to six hundred (600) hours. Once a member has accrued six hundred (600) hours of sick time, any amount of time exceeding the six hundred (600) hour cap shall be paid to the member at his regular rate of pay, as soon as practical after January 1 of each calendar year.

IV. FAMILY MEDICAL LEAVE (FMLA)

Any member who has been on the payroll at least one year and who has worked twelve hundred fifty (1250) hours during the pervious twelve (12) months may be entitled to up to twelve (12) weeks of leave (or 480 hours) in a twelve (12) month period under the Family and Medical Leave Act. This time may cover the birth of a child for the mother or father, or placement of a child in the home through foster care or adoption. The member must use all accrued sick, vacation and/or holiday leave, after which the remaining leave will be without pay.

V. BEREAVEMENT LEAVE

Section 1. A Member will be able to use up to three (3) days of Bereavement Leave time for a death for the following listed immediate family members. Bereavement Leave will be treated as a permitted absence without loss in pay for purposes of arranging or attending funeral services or settling an estate. Additional time for bereavement leave may be granted using sick, holiday, or vacation time when bereavement leave has been exhausted. Bereavement Leave may be used in hourly

increments and is not required to be taken consecutively. Bereavement leave will be granted for the following family members: Parents, Step-parents, Spouse, Spouse's Parents, Children, Step-children, Foster Children, Siblings, Step-siblings, Half-siblings, Brother-in-law, Sister-in-law, Grandparents, Spouse's Grandparents, Grandchildren, and Great-Grandparents.

Section 2. A member will be able to use up to one (1) day of Bereavement Leave time for a death of the following: Aunt, Uncle, First Cousin, Niece, or Nephew (this does not include "in-law" or "step-relationships").

ARTICLE 21

FITNESS FOR DUTY

Section 1. Any member who sustains an injury or an illness as a result of a service connected incident must notify their immediate supervisor immediately after the incident occurs. It is the responsibility of a member to advise the Director through the appropriate chain of command of an inability to perform all job functions required of active duty status. If an appropriate medical authority determines that a member can perform assigned duties as outlined in the Division of Waste Management job description for that grade, he will remain on active duty unless he is in on FMLA status.

Section 2. If the member is medically required to be absent from their job duties and cannot perform their duties as a result of a service-connected injury or illness, the member must complete a Disability Leave Request Form and submit it to the Director through the chain of command for submission to the Director of Human Resources within ten (10) work days of the incident.

Section 3. The completed Disability Leave Request form must have the following documentation attached:

- A. A copy of the corresponding First Report of Injury or Illness (IA-1); and
- B. A written statement from an appropriate medical authority as to the member's specific diagnosis, treatment plan, and your current work activity status.

Section 4. An injured or ill member will initially be placed on their own accumulated sick leave, or if sick leave is not available, on vacation or holiday leave for

all absences from scheduled work time. Upon an investigation and authentication by the Division of Risk Management that the member's injury or illness is the result of a service-connected incident, all sick, vacation, or holiday leave hours that have been used as a result of the injury or illness will be reinstated. It is the member's responsibility to submit a new Disability Leave Request form with the required supporting documents if the medical authority states that he is unable to perform work in any capacity, past the date for which the disability leave status has been granted. Disability leave status can only be granted for a period of up to twelve (12) months for each injury or illness except as provided in Section 9.

Section 5. If, during a disability leave, an appropriate medical authority determines that the member can perform their duties as outlined, he must return to duty, unless he is in a FMLA status. Any return to work is based on a medical statement as to their work limitations, and they must submit the statement to their immediate supervisor.

Section 6. If the member is on disability leave status, he must submit a statement from an appropriate medical authority releasing him before the member can return to his regular duties.

Section 7. When the member has been granted disability leave status, he must refund to LFUCG the amount equal to any Worker's Compensation wage payments made to him as a result of the injury or illness in order to be eligible for disability leave status. Any time over ninety (90) days that is spent on disability leave status will not count toward the member's vacation accrual rate nor will he accumulate sick leave or vacation leave during such absence from duty. When an official LFUCG holiday

occurs, the member will receive holiday pay but not disability leave pay for that day.

Section 8. If an appropriate medical authority determines that the member has a permanent disability, the member shall apply, if eligible, to the County Employees Retirement System for disability retirement benefits or apply for alternative LFUCG employment. Failure to apply for disability retirement benefits or alternative employment will terminate the member's disability leave status short of the twelve (12) months and he may resign or his employment will be terminated.

Section 9. The total time in disability status will not exceed twelve (12) months for the same injury or illness except that this may be extended at the discretion of the Director for up to an additional six (6) months if there is a definitive return to work date provided by the MCO physician.

Section 10. Any member who sustains an injury or an illness as a result of a service connected incident and is prevented from performing the essential functions of his regular job assignment, but is not prevented from working altogether, that Member may request and/or be offered a temporary reassignment to a position which they are still capable of performing the essential functions of. Temporary reassignments shall be considered on a case-by-case basis but will not be unduly withheld so long as there is an appropriate position available. The LFUCG Division of Waste Management agrees to make an effort to make temporary assignments available to members who are unable to perform the functions of their job due to reasons other than service connected injuries. AFSCME Local 4468 recognizes that those injured in a service connected incident will be given priority on receiving modified duty assignments, and the final decision on

making these assignments rests solely with the Director of the Division of Waste Management. Modified duty assignments are not guaranteed and for non-service connected injuries will in no case exceed six (6) months from the date of the injury or illness.

ARTICLE 23

HEALTH AND WELLNESS BENEFITS

Section 1. Effective as of the execution of this Memorandum of Understanding, employees may elect to be covered by the health insurance plans offered by LFUCG. The options available to employees will include those plans, benefits, and contributions offered by LFUCG

Section 2. Each Member may elect to be covered by the health insurance plans, dental insurance, vision and other plans offered by LFUCG. Any premiums in excess of LFUCG monthly contributions shall be paid by the employee through equal pay period contributions. Effective upon implementation, LFUCG shall contribute the going rate per month on behalf of each employee enrolled in the flexible benefit program or as otherwise provided by LFUCG.

Section 3. If an employee opts not to enroll in the Flexible Benefit Plan or LFUCG monthly contributions exceed premium cost, LFUCG shall contribute the same monthly contributions as set forth herein or the excess contributions, whichever is applicable, to the employee's deferred compensation accounts. However, members must provide proof of alternate medical insurance coverage to request this provision.

Section 4. One member designated by Local 4468 shall sit on LFUCG's Benefits Advisory Committee for purposes of making a recommendation to LFUCG. LFUCG shall consider, but shall not be bound by any recommendation of the Benefits Advisory Committee, prior to determining which insurance coverage is selected.

Section 5. LFUCG Division of Waste Management agrees to provide boots for LFUCG Division of Waste Management employees once every one year.

ARTICLE 27

PERSONAL PROPERTY REIMBURSEMENT

A member may be reimbursed by LFUCG for work-related personal property damaged or destroyed while in the performance of an official action, but at the sole discretion of the LFUCG.

ARTICLE 29

ALCOHOL AND DRUG-FREE WORKPLACE

The policy that will be used will be the current published LFUCG Alcohol and Drug-Free Workplace Policy as found in the CAO Policies. This policy is subject to amendment and/or change.

ARTICLE 30

RESPONSIBLE RELATIONSHIP

The LFUCG and the Union recognize that it is in the best interest of both parties, the employees, and the public that all dealings between them be characterized by mutual responsibility and respect. To ensure that this relationship continues and improves, the LFUCG and the Union and their respective representatives at all levels will apply the terms of this memorandum of understanding in accordance with the language contained therein and consistent with the Union's status as exclusive bargaining representative of all employees in the unit. The grievance and arbitration provision shall be the sole remedy for all grievances which are qualified subject matter for arbitration.

ARTICLE 31

FEDERAL OR STATE LAWS

If any provision of this Memorandum of Understanding, or any amendments thereto, or application of the provisions of said Memorandum of Understanding and amendments to any employee, groups of employees, or circumstances are rendered invalid or inappropriate by any Federal or State Law, or by the final determination of any Court, Board, or Authority of competent jurisdiction, or should the National Labor Relations Board, as a result of any proceedings, hold any employee included within the bargaining unit not properly included within such unit, the remainder of said Memorandum of Understanding or amendments or the application of such provisions to an employee, groups of employees and circumstances other than those as to which it is held invalid or inappropriate, shall not be affected thereby.

ARTICLE 32

GENDER

Any and all reference in this Memorandum of Understanding to the masculine gender shall be deemed to refer to either female and/or masculine gender as the case may be.

A RESOLUTION RELATING TO RECOGNITION OF EMPLOYEE ORGANIZATIONS
BY THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT.

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN
COUNTY GOVERNMENT:

Section 1 - In accordance with the procedures set forth herein, the Urban County Council is willing to recognize legitimate employee organizations which represent a majority of the non-supervisory employees in an appropriate unit for the purpose of meeting and conferring with their representatives concerning employee benefits and working conditions. For the purposes of this resolution, meeting and conferring shall mean the willingness of administrators of the Urban County Government and representatives of the employee organization to meet and confer at reasonable times and places, but it shall not require either party to agree to a proposal or require the making of a concession. The terms under which recognition is to be granted shall be worked out by administrators of the Urban County Government and the employee organization requesting recognition and shall be subject to the approval of the Urban County Council.

With respect to the request of any employee organization for recognition, administrators of the Urban County Government are prepared, as long as the normal operations of employees in question are maintained, to immediately meet with representatives of the employee organization to work out the terms under which recognition would be granted. To help insure the orderly resolution of questions over recognition, the Urban County Council, where appropriate, is willing to join with the employee organization to jointly request the assistance of a mediator to assist the parties.

Section 2 - This resolution shall become effective immediately upon its passage.

PASSED URBAN COUNTY COUNCIL: October 3, 1974

ATTEST:


Clerk of Urban County Council


Mayor

PUBLISHED: October 9, 1974-1t

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING, is entered into by and between the Lexington-Fayette Urban County Government, hereinafter referred to as the Government, and the LEXINGTON PROFESSIONAL FIREFIGHTERS ASSOCIATION, LOCAL UNION 526 (also known as the International Association of Firefighters Local 526, AFL-CIO, CLC hereinafter referred to as the Representative.

W I T N E S S E T H

WHEREAS, differences have arisen between the Government and the members of the Lexington-Fayette Urban County Fire Department; and

WHEREAS, the Council of the Lexington-Fayette Urban County Government has adopted an ordinance setting forth specific procedures for recognition of legitimate employee organizations representing a majority of the non-supervisory employees in an appropriate unit. A copy of said ordinance is attached hereto and incorporated herein by reference.

In the event all members of the Lexington-Fayette Urban County Fire Department resume their normal duties and normal work activities, the following assurances and agreements are made by and between the parties:

1. Neither the Government nor the Representative shall knowingly permit or encourage any employee or member to harass or carry out reprisals against other members or employees of the Fire Department, because of their participation or non-participation in any job action prior to this date. Harrassment or reprisal shall not be defined to include disciplinary actions or judicial remedies available to Lexington-Fayette Urban County Government.

In the event charges should be filed as a result of the job actions, discipline would be fair, just and equal without discrimination on the basis of facts and circumstances.

2. Upon recognition, as set forth in the Ordinance, but not sooner than twenty (20) days and not longer than forty-five (45) days after the granting of said recognition, the Representative shall present its proposals in writing and by the forty-fifth day the Representative shall have the privilege of meeting and conferring with the administrators of the Government concerning employee benefits and working conditions. The Parties may jointly agree to use mediation to assist in the process of negotiation in the event the parties have difficulty in agreeing.

3. The Representative agrees not to promote, instigate, or otherwise create a work slow-down, strike or other concerted interference with the duties and operations of the Lexington-Fayette Urban County Fire Department. The Government agrees not to engage in any lockout of the employees covered by this agreement.

4. The parties agree that if any provision of this agreement or the application of such provision should be rendered or declared invalid by any Court action by reason of any existing or subsequently enacted State or Federal legislation, the remaining parts or portions of this Memorandum of Understanding shall remain in full force and effect.

Entered into this 31st day of October, 1974.

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT

By: H. Foster Pettit

H. Foster Pettit, Mayor

LEXINGTON PROFESSIONAL FIREFIGHTERS
ASSOCIATION LOCAL UNION 526

By: Richard C. Wilson President

John B. Drake Jr. Chairman

Raymond K. Glass

James R. Lutz

Melvin C. Miller

Berry L. Mergerson

AN ORDINANCE ESTABLISHING THE PROCEDURE FOR RECOGNITION OF
EMPLOYEE ORGANIZATIONS BY THE LEXINGTON-FAYETTE URBAN COUNTY
GOVERNMENT

WHEREAS, by Resolution No. 181-74, the Council of the Lexington-Fayette Urban County Government expressed its willingness to recognize legitimate employee organizations, as herein defined, which represent a majority of the non-supervisory employees in an appropriate unit for the purpose of meeting and conferring; and

WHEREAS, it is the intent of the Council of the Lexington-Fayette Urban County Government that nothing herein shall be construed to either encourage or discourage organization of its public employees; and

WHEREAS, it is necessary that guidelines be established so that the procedures for recognition and meeting and conferring are clear and definite;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - Definitions

a. "Public employer" or "employer" shall mean the Lexington-Fayette Urban County Government.

b. "Public employee" or "employee" means any person employed by the employer except persons elected by the people or appointed in the non-classified service, members of boards, authorities and commissions, attorneys for the employer, probationary employees employed after the effective date of this ordinance, seasonal employees, temporary or part-time employees, supervisors, managerial employees, and confidential employees.

c. "Managerial employee" means any employee involved in formulating, determining, or effectuating the policies of the employer, or agency thereof, and any employee who acts as a representative of the employer for the purpose of meeting and conferring.

d. "Confidential employee" means any employee who is

engaged in personnel work for the employer, who is employed in the Office of the Administrative Services, or who is the personal secretary to a Commissioner or Division Head.

e. "Supervisor" means any individual having authority in the interest of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees or responsibility to direct them, or to adjust their grievances, or effectively recommend such action, if in connection with the foregoing the exercise of such authority is not merely routine or clerical in nature but calls for the use of independent judgment.

f. "Employee organization" or "organization" means any employee or group of employees, associations, or fraternal order, however organized or constituted, which represents or seeks to represent public employees, as defined in Section 1 (b), concerning employee benefits and working conditions, but shall not include an organization that discriminates with regard to membership because of race, color, creed, sect, or national origin.

Section 2. Public Employees' Rights. Public employees shall have the right to form, join, and participate in, or to refrain from forming, joining, or participating in any employee organization.

Section 3. Recognition Procedures.

a. Any employee organization may, upon notification to the Chief Administrative Officer, file a petition in a form which will be provided for this purpose for recognition as the representative for the public employees in a proposed unit. The petition shall contain the signatures of thirty percent (30%) or more of the public employees within the proposed unit who desire to be represented by said employee organization for the purpose of meeting and conferring. The petition shall also contain the

following:

1. The name, affiliation, if any, and the address of the petitioning employee organization, and its representative.
2. A list of the elected officers, if any, their addresses, telephone numbers, and terms of office.
3. A description of the unit which petitioner claims to be appropriate.
4. The number of public employees in the proposed unit.
5. An acknowledgement that such organization agrees that its participation or assistance in any strike or job action shall result in the termination of recognition.
6. A copy of the local and/or national Constitution and By-Laws of the organization, if any.
7. A clear and concise statement of any other relevant facts.

b. Where a petition is filed pursuant to the provisions of subsection (3) of this section and the Chief Administrative Officer or his designated representative finds after an investigation of the petition that it meets the requirements of sufficiency concerning representation, he shall within 35 days of receipt of said petition:

1. Define the proposed unit and determine which public employees shall be qualified and entitled to vote in any election held.
2. In defining the proposed unit, the Chief Administrative Officer or his designated representative shall establish the broadest unit practicable in which employees have an identifiable community of interest in order to insure that representation of public employees is not fragmented.
3. Notify the Mayor and the Urban County Council and representatives of the petitioning unit of his findings by way of communication and said findings be also made public at the next regular meeting of the Urban County Council.
4. After approval of the communication by the Council, order an election by secret ballot to be conducted.

by the County Board of Elections
or its duly authorized representative, as soon
as practicable.

Section 4. Representation Elections.

- a. Any secret ballot election ordered pursuant to the provisions of this ordinance shall be conducted by the County Board of Elections, or its duly authorized representative who shall have charge of and make all necessary provisions for said election, canvass the vote, and certify the results thereof.
- b. The election ballot shall contain the name of the petitioning employee organization, and the name or names of any employee organization which petitions to intervene, if such petition contains the signatures of ten percent (10%) or more of the public employees in the defined unit and otherwise complies with Section 3(a) (1) - (7). The ballot shall also contain a statement that may be marked by any public employee voting that he does not desire to be represented by any of the named employee organizations.
- c. Notices of the election shall be posted as soon as practicable after the date, time and place of the election are determined, but not less than 3 days before the election.
- d. The employer and any employee organization appearing on the ballot shall have the right to designate one observer for each polling place: provided, however, that the County Board of Elections, or its duly authorized representative, may permit each party to designate two such observers. The function of observers will be to act as checkers at the polling place, to assist in the identification of voters, to inspect and check the machine before and after the election and assist in the actual vote count and certification of the same, and otherwise to assist in the conduct of the election as directed by the County Board of Elections, or its duly authorized representative. Electioneering shall not be permitted within fifty (50) feet of the polling place. Also, there shall be no electioneering during the working hours of eligible voters.
- e. Where the names of two or more employee organizations are on the ballot and none of the choices receives votes from fifty percent (50%) plus one (1) of the total number of public employees eligible to vote in the election, a runoff election shall be held;

Section 5. Meeting and Conferring.

a. Whenever an employee organization has been certified pursuant to the provisions of this ordinance, administrators of the Lexington-Fayette Urban County Government and representatives of the employee organization shall meet at reasonable times and places and confer over employee benefits and working conditions, but it shall not require either party to agree to a proposal or require the making of a concession.

b. Matters of inherent managerial policy, which shall include but shall not be limited to such areas of discretion or policy as the functions and programs of the public employer, the standards of services, the overall budget, the utilization of technology, the determination of whether goods or services shall be made, provided or purchased, and the methods, means and number of personnel by which the employer's operations are to be conducted, shall not be the subject of meeting and conferring.

Section 6. Mediation. Where appropriate, the parties may jointly request the assistance of a mediator. The mediator's function shall be limited to assisting the parties and it shall not include the issuance of any formal reports or public recommendations.

Section 7. Severability. If any provision of this ordinance or the application of such provision should be rendered or declared invalid by any Court action, the remaining parts or portions of this ordinance shall remain in full force and effect.

provided that the total number of votes received by the two or more employee organizations on the ballot is at least fifty percent (50%) plus (1) of the total number of public employees eligible to vote in the election. The runoff election ballot shall contain the two (2) choices from the original ballot which received the largest number of votes.

f. The County Board of Elections, or its duly authorized representative, shall certify the results of the elections, and where an employee organization receives valid ballots from fifty percent (50%) plus one (1) of the total number of employees eligible to vote in the election, the County Board of Elections, or its duly designated representative, shall certify the organization as the representative of those public employees who are members of said employee organization in the defined appropriate unit for the purpose of meeting and conferring.

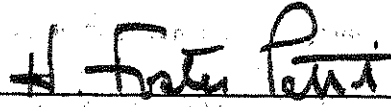
g. If the employer has a reasonable doubt as to an employee organization's majority status after said organization has been certified, or if a petition is submitted to the Chief Administrative Officer containing the signatures of thirty percent (30%) or more of the employees in an appropriate unit requesting that a decertification election be held, the Chief Administrative Officer shall order that a decertification election be conducted by secret ballot in accordance with the provisions set forth in this section.

h. No election shall be conducted in any unit or subdivision thereof in which a valid election has been held within the preceding twelve month period.

Section 8. Ordinance Takes Precedence. This ordinance shall take precedence over all conflicting ordinances and resolutions concerning this subject matter previously enacted by the Council of the Lexington-Fayette Urban County Government.

Section 9. Effective Date. This ordinance shall become effective after signed, published and recorded as required by law.

PASSED URBAN COUNTY COUNCIL: January 2, 1975



Mayor

ATTEST:


Clerk of Urban County Council

PUBLISHED: January 8, 1975-1t

TO:

FROM:

DATE:

SUBJECT: Technical Amendments to the Recognition Ordinance of
Employer Organizations

On Page 4 - Section 4 - Article d.

Strike out the last sentence beginning with "Others may.... and
substitute the following sentence:

"Electioneering shall not be permitted within fifty (50)
feet of the polling place. Also, there shall be no
electioneering during the working hours of eligible voters,
~~or during the periods of shift changes."~~

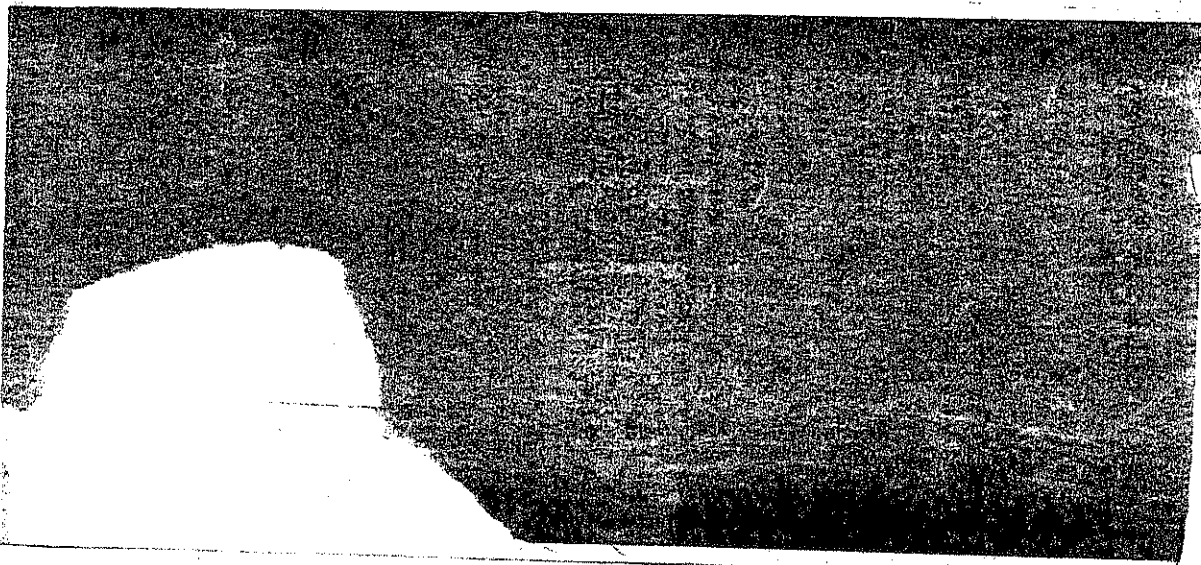
On Page 5 - Section 4 - Article f.

7th line down after "representative," strike out remaining sentence
and substitute the following:

"shall certify the organization as the representative of
those public employees who are members of said employee
organization in the defined appropriate unit for the
purpose of meeting and conferring.

Dean D. Hunter, Jr.
Chief Administrative Officer

DDH:RAW/jz



AN ORDINANCE ESTABLISHING THE PROCEDURE FOR RECOGNITION OF
EMPLOYEE ORGANIZATIONS BY THE LEXINGTON-FAYETTE URBAN COUNTY
GOVERNMENT

WHEREAS, by Resolution No. 181-74, the Council of the Lexington-Fayette Urban County Government expressed its willingness to recognize legitimate employee organizations, as herein defined, which represent a majority of the non-supervisory employees in an appropriate unit for the purpose of meeting and conferring; and

WHEREAS, it is the intent of the Council of the Lexington-Fayette Urban County Government that nothing herein shall be construed to either encourage or discourage organization of its public employees; and

WHEREAS, it is necessary that guidelines be established so that the procedures for recognition and meeting and conferring are clear and definite;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - Definitions

- a. "Public employer" or "employer" shall mean the Lexington-Fayette Urban County Government.
- b. "Public employee" or "employee" means any person employed by the employer except persons elected by the people or appointed in the non-classified service, members of boards, authorities and commissions, attorneys for the employer, probationary employees employed after the effective date of this ordinance, seasonal employees, temporary or part-time employees, supervisors, managerial employees, and confidential employees.
- c. "Managerial employee" means any employee involved in formulating, determining, or effectuating the policies of the employer, or agency thereof, and any employee who acts as a representative of the employer for the purpose of meeting and conferring.
- d. "Confidential employee" means any employee who is

engaged in personnel work for the employer, who is employed in the Office of the Administrative Services, or who is the personal secretary to a Commissioner or Division Head.

e. "Supervisor" means any individual having authority in the interest of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees or responsibility to direct them, or to adjust their grievances, or effectively recommend such action, if in connection with the foregoing the exercise of such authority is not merely routine or clerical in nature but calls for the use of independent judgment.

f. "Employee organization" or "organization" means any employee or group of employees, associations, or fraternal order, however organized or constituted, which represents or seeks to represent public employees, as defined in Section 1 (b), concerning employee benefits and working conditions, but shall not include an organization that discriminates with regard to membership because of race, color, creed, sex, or national origin.

Section 2. Public Employees' Rights. Public employees shall have the right to form, join, and participate in, or to refrain from forming, joining, or participating in any employee organization.

Section 3. Recognition Procedures.

a. Any employee organization may, upon notification to the Chief Administrative Officer, file a petition in a form which will be provided for this purpose for recognition as the representative for the public employees in a proposed unit. The petition shall contain the signatures of thirty percent (30%) or more of the public employees within the proposed unit who desire to be represented by said employee organization for the purpose of meeting and conferring. The petition shall also contain the

following:

1. The name, affiliation, if any, and the address of the petitioning employee organization, and its representative.
2. A list of the elected officers, if any, their addresses, telephone numbers, and terms of office.
3. A description of the unit which petitioner claims to be appropriate.
4. The number of public employees in the proposed unit.
5. An acknowledgement that such organization agrees that its participation or assistance in any strike or job action shall result in the termination of recognition.
6. A copy of the local and/or national Constitution and By-Laws of the organization, if any.
7. A clear and concise statement of any other relevant facts.

b. Where a petition is filed pursuant to the provisions of subsection (3) of this section and the Chief Administrative Officer or his designated representative finds after an investigation of the petition that it meets the requirements of sufficiency concerning representation, he shall within 36 days of receipt of said petition:

1. Define the proposed unit and determine which public employees shall be qualified and entitled to vote in any election held.
2. In defining the proposed unit, the Chief Administrative Officer or his designated representative shall establish the broadest unit practicable in which employees have an identifiable community of interest in order to insure that representation of public employees is not fragmented.
3. Notify the Mayor and the Urban County Council and representatives of the petitioning unit of his findings by way of communication and said findings be also made public at the next regular meeting of the Urban County Council.
4. After approval of the communication by the Council, order an election by secret ballot to be conducted.

by the County Board of Elections
or its duly authorized representative, as soon
as practicable.

Section 4. Representation Elections.

- a. Any secret ballot election ordered pursuant to the provisions of this ordinance shall be conducted by the County Board of Elections, or its duly authorized representative who shall have charge of and make all necessary provisions for said election, canvass the vote, and certify the results thereof.
- b. The election ballot shall contain the name of the petitioning employee organization, and the name or names of any employee organization which petitions to intervene, if such petition contains the signatures of ten percent (10%) or more of the public employees in the defined unit and otherwise complies with Section 3(a) (1) - (7). The ballot shall also contain a statement that may be marked by any public employee voting that he does not desire to be represented by any of the named employee organizations.
- c. Notices of the election shall be posted as soon as practicable after the date, time and place of the election are determined, but not less than 3 days before the election.
- d. The employer and any employee organization appearing on the ballot shall have the right to designate one observer for each polling place: provided, however, that the County Board of Elections, or its duly authorized representative, may permit each party to designate two such observers. The function of observers will be to act as checkers at the polling place, to assist in the identification of voters, to inspect and check the machine before and after the election and assist in the actual vote count and certification of the same, and otherwise to assist in the conduct of the election as directed by the County Board of Elections, or its duly authorized representative. Electioneering shall not be permitted within fifty (50) feet of the polling place. Also, there shall be no electioneering during the working hours of eligible voters.
- e. Where the names of two or more employee organizations are on the ballot and none of the choices receives votes from fifty percent (50%) plus one (1) of the total number of public employees eligible to vote in the election, a runoff election shall be held;

Section 5. Meeting and Conferring.

a. Whenever an employee organization has been certified pursuant to the provisions of this ordinance, administrators of the Lexington-Fayette Urban County Government and representatives of the employee organization shall meet at reasonable times and places and confer over employee benefits and working conditions, but it shall not require either party to agree to a proposal or require the making of a concession.

b. Matters of inherent managerial policy, which shall include but shall not be limited to such areas of discretion or policy as the functions and programs of the public employer, the standards of services, the overall budget, the utilization of technology, the determination of whether goods or services shall be made, provided or purchased, and the methods, means and number of personnel by which the employer's operations are to be conducted, shall not be the subject of meeting and conferring.

Section 6. Mediation. Where appropriate, the parties may jointly request the assistance of a mediator. The mediator's function shall be limited to assisting the parties and it shall not include the issuance of any formal reports or public recommendations.

Section 7. Severability. If any provision of this ordinance or the application of such provision should be rendered or declared invalid by any Court action, the remaining parts or portions of this ordinance shall remain in full force and effect.

provided that the total number of votes received by the two or more employee organizations on the ballot is at least fifty percent (50%) plus (1) of the total number of public employees eligible to vote in the election. The runoff election ballot shall contain the two (2) choices from the original ballot which received the largest number of votes.

f. The County Board of Elections, or its duly authorized representative, shall certify the results of the elections, and where an employee organization receives valid ballots from fifty percent (50%) plus one (1) of the total number of employees eligible to vote in the election, the County Board of Elections, or its duly designated representative, shall certify the organization as the representative of those public employees who are members of said employee organization in the defined appropriate unit for the purpose of meeting and conferring.

g. If the employer has a reasonable doubt as to an employee organization's majority status after said organization has been certified, or if a petition is submitted to the Chief Administrative Officer containing the signatures of thirty percent (30%) or more of the employees in an appropriate unit requesting that a decertification election be held, the Chief Administrative Officer shall order that a decertification election be conducted by secret ballot in accordance with the provisions set forth in this section.

h. No election shall be conducted in any unit or subdivision thereof in which a valid election has been held within the preceding twelve month period.

Section 8. Ordinance Takes Precedence. This ordinance shall take precedence over all conflicting ordinances and resolutions concerning this subject matter previously enacted by the Council of the Lexington-Fayette Urban County Government.

Section 9. Effective Date. This ordinance shall become effective after signed, published and recorded as required by law.

PASSED URBAN COUNTY COUNCIL: January 2, 1975



Mayor

ATTEST:


Clerk of Urban County Council

PUBLISHED: January 8, 1975-1t

TO:

FROM:

DATE:

SUBJECT: Technical Amendments to the Recognition Ordinance of
Employer Organizations

On Page 4 - Section 4 - Article d.

Strike out the last sentence beginning with "Others may.... and substitute the following sentence:

"Electioneering shall not be permitted within fifty (50) feet of the polling place. Also, there shall be no electioneering during the working hours of eligible voters, ~~or during the periods of shift changes.~~"

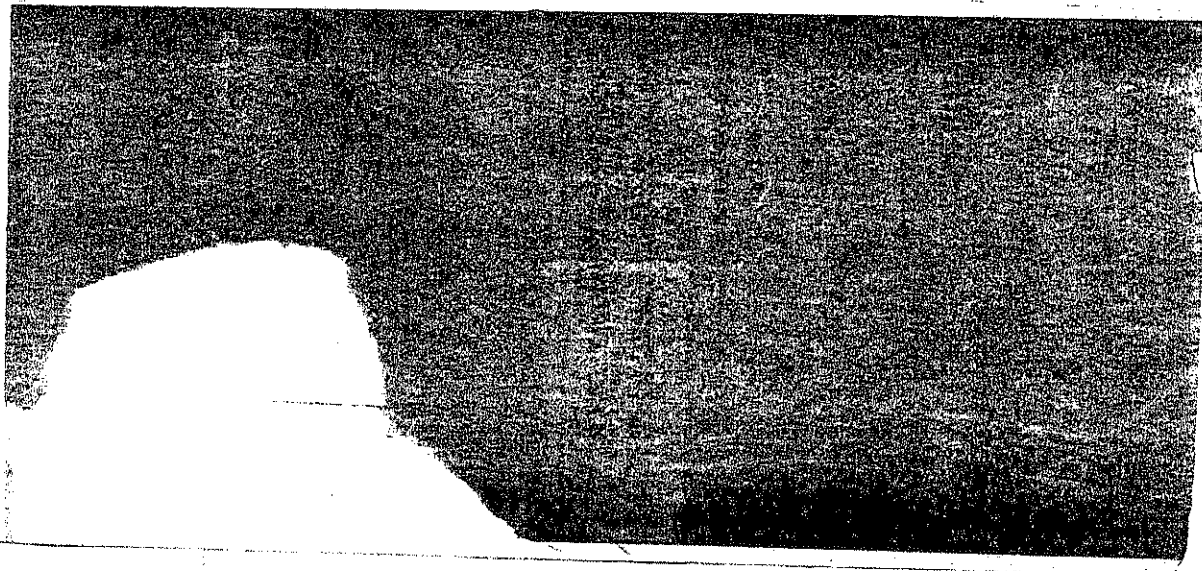
On Page 5 - Section 4 - Article f.

7th line down after "representative," strike out remaining sentence and substitute the following:

"shall certify the organization as the representative of those public employees who are members of said employee organization in the defined appropriate unit for the purpose of meeting and conferring.

Dean D. Hunter, Jr.
Chief Administrative Officer

DDH:RAW/jz



Chapter 17. Uniform Disciplinary Code [Section 21-45(h)]

The LFUCG has established the Uniform Disciplinary Code to provide consistent rules governing performance and work behavior expected from employees at all levels. The Uniform Disciplinary Code outlines the penalties and remedial administrative action for various types of work deficiencies and undesirable behavior.

The following pages contain a copy of the Uniform Disciplinary Code. *It is your responsibility to read and become familiar with its contents.* Contact your immediate supervisor or the Division of Human Resources if you have questions about the Uniform Disciplinary Code.

The following pages reflect the Code as revised on 11/23/83, 02/07/84, 09/23/88, 01/02/91, 11/11/93, and 01/01/2003.

UNIFORM DISCIPLINARY CODE GUIDELINES FOR URBAN COUNTY GOVERNMENT EMPLOYEES

Introduction

These Guidelines outline standard ranges of penalties for work deficiencies and undesirable conduct on the part of LFUCG employees. Commissioners and directors periodically should review compliance with these Guidelines to ensure that all supervisors are being consistent in taking disciplinary action and that you are aware of the Uniform Disciplinary Code. Directors are to furnish a copy of these Guidelines to each employee and supervisor. Questions that are not answered in the Guidelines or by your supervisor should be directed to the Division of Human Resources.

The Uniform Disciplinary Code applies to every LFUCG employee at all levels, including administrators, managers and supervisors. It does not apply to probationary or other at-will employees hired by the Mayor or Council. (Supervisors may consult these Guidelines to discipline employees not covered by the Code but they are not required to do so.) There are additional operational rules outlined in General Order 73-2/E for the Division of Police and in Sections 23-41 through 23-44 of the Code of Ordinances for the Division of Police and the Division of Fire & Emergency Services, which, under specific circumstances, may prevail over these Guidelines. The Disciplinary Code, these Guidelines and the operational rules cited above should be applied in each situation. In the event any section of the Guidelines conflicts with the provisions of KRS 95.450 or KRS 15.520, the statutes shall prevail. Additionally, penalties imposed on exempt employees must be adjusted so as not to violate the Fair Labor Standards Act.

General Guidelines

It is difficult for the Code and Guidelines to be all inclusive or to assign an appropriate penalty to every offense or work deficiency. For example, "Leaving the work station without authorization" may be a short or a lengthy absence from the workstation. A short absence in one division could be catastrophic, while in another division it would be an annoyance. In each case, supervisors must rely on their judgment as experienced administrators to arrive at the proper disciplinary action. The guidelines also provide more severe penalties for multiple offenses, which if considered alone, would result only in lesser penalties. Finally, at management's discretion, a pattern of offenses over a period of time which resulted in oral warnings or written reprimands for each offense when considered alone may support a suspension or dismissal when considered together. However, reprimands or suspensions that are five (5) years old or older should not be used in imposing current disciplinary action.

Rules regarding call-in, absenteeism, emergency leave, and similar division policies should be established by the Division Director and applied consistently to each employee within the division. Division policies, with periodic updates, are to be submitted to the Division of Human Resources for review prior to implementation to ensure general compliance with the Disciplinary Code and Guidelines. It is not necessary for division policies to be the same for each division.

Workload and other factors vary from division to division or even within a division, and these factors should be considered when divisional policies are established. For example, emergency leave may be more limited within one division than in another because of the type and nature of services provided and the availability of staff. Policies within a division must be applied similarly for employees in similar situations. Penalties recommended in these guidelines must be applied similarly to employees with similar violations.

The recommended discipline is to be used as a guide and is not intended to be mandatory or all inclusive. The appropriate disciplinary action will be determined after the supervisors have carefully considered the circumstances of each case. The immediate supervisor or superior manager in the employee's immediate chain of command should initiate disciplinary action. If a supervisor has a complaint against an employee outside of his chain of command, the supervisor should submit this complaint to the Division Director for whom the employee works. If that Division Director takes no action, then the supervisor who initiated the complaint may request an investigation by the Division of Human Resources. The Division of Human Resources will investigate the complaint and consult the Division Director to whom the employee is assigned before making any recommendation for discipline. Additionally, Pursuant to KRS 67A.280 and KRS 95.450, anyone may file charges against any civil service employee with the Civil Service Commission or against any sworn personnel (Police or Fire) with the Urban County Council.

Definition of Disciplinary Actions

The degree of discipline administered in any given situation depends on the severity of the infraction. Each Division Director should evaluate the circumstances and facts of the offense and select the most suitable form of discipline. The levels of progressive discipline are:

Oral Warning

- An oral warning should be used for relatively minor offenses. Supervisors should inform the employee in private that they are administering an oral warning and that the employee is being given an opportunity to correct identified work or behavioral problems.
- All conversations with employees about their work performance do not have to be conducted as oral warning sessions. It may be appropriate to hold coaching and counseling sessions with employees to review job expectations and standards, when new programs are started, or when existing programs are reorganized. Coaching and Counseling sessions should not be viewed as disciplinary in nature.

Written Reprimand

- Written reprimands are imposed when the employee disregards an oral warning or for more severe first offenses.
- A classified civil service employee may not be reprimanded more than two (2) times within twelve (12) months unless charges are filed with the Civil Service Commission.

Suspension Without Pay

- A suspension is imposed for severe infractions of rules or standards or for violations occurring after the employee has received oral warnings or written reprimands and has failed to correct the error or to improve his behavior. This discipline should be applied after a thorough evaluation of the circumstances by the supervisor and those in the employee's chain of command.
- All suspensions are without pay.
- The supervisor shall notify the Division of Human Resources before issuing any suspension and shall coordinate suspensions of exempt employees with the Division of Human Resources.
- The guidelines impose suspensions in terms of "hours" in order to address workdays longer than eight (8) hours.
- A classified civil service employee may not be suspended for more than 160 consecutive work hours or 240 non-consecutive work hours within twelve (12) months unless charges are filed with the Civil Service Commission.
- The supervisor should attempt to make the employee's return to the job after a suspension as dignified as possible.

Dismissal

A dismissal is reserved for the most severe violations of the Uniform Disciplinary Code or other Urban County Government policies, for cases in which an employee refuses to correct behavior despite prior disciplinary action or for cases where an employee commits more than one type of serious infraction. This punishment represents the supervisor's judgment that the employee cannot be rehabilitated into a productive employee. It also has the most serious repercussions for the employee in terms of future employment.

Disciplinary Procedures

Classified Civil Service Employees – Divisions Without Discipline Review Boards

Oral Warning

- After discussing the oral warning with the employee in private, the supervisor and the employee should sign the written record of the oral warning. Copies of the oral warning should be given to the employee and the Commissioner of the Department. The original should be placed in the oral warning file in the Division of Human Resources, where it will remain for 12 months. It will then be destroyed if no further infractions have been committed. There is no appeal to the Civil Service Commission for an oral warning. The oral warning file in the Division of Human Resources is separate from the employee's personnel file and is the official record of such disciplinary records. The oral warning file can be used if the employee files a formal grievance or complaint about the oral warning. If the circumstance causing the oral warning is not corrected, the employee will be subject to more severe disciplinary measures.

Written Reprimand

- The supervisor should prepare a written reprimand form explaining the occurrence. The supervisor should then present the facts of the incident and his recommendation for discipline to his superior in the chain of command. The reviewing superior may agree or disagree with the recommendation. In all cases, the facts of the offense and the recommended discipline should be presented to the division director before any discipline is imposed. The supervisor should discuss the offense with the employee and should consider the employee's explanation of the event before any final action is taken. The written reprimand form, which is to be signed by the Commissioner and Division Director, should be presented to and signed by the employee. A copy of the written reprimand form is to be given to the employee and the Commissioner and the original form is to be sent to the Division of Human Resources and placed in the employee's personnel file. Written reprimands may be appealed to the Civil Service Commission. Unless reversed by the Commission, they remain permanent records in an employee's file.

Suspension Without Pay

- Before issuing a suspension, the supervisor should assemble the facts supporting the suspension and discuss the events with the employee. The supervisor should then review the action with his superiors (as outlined above in the written reprimand section) and determine the length of the suspension. The supervisor should then inform the employee of the disciplinary action, making certain that the employee is aware of the reasons for the action. The original disciplinary action form, signed by the Commissioner and Division Director, is to be sent to the Division of Human Resources and placed in the employee's personnel file. A copy is to be given to the employee. Suspensions may be appealed to the Civil Service Commission. Unless reversed by the Commission, they remain permanent records in an employee's file.

Dismissal

- Before recommending the dismissal of an employee, the supervisor must discuss the action with appropriate superior officials. Specific charges for dismissal are to be prepared by the Department of Law in consultation with the supervisor or his superior. Except in unusual circumstances, an employee should be given the option to resign rather than face charges. If the employee refuses to resign, the supervisor should commence action by filing the charges with the Mayor and placing the employee on suspension without pay. Except in situations where a threat to supervisors or other employees exists, the employee may not be suspended from duty until charges are filed.

Classified Civil Service Employees – Divisions With Discipline Review Boards

- Each department may create a Discipline Review Board pursuant to the guidelines established in the appropriate CAO Policy. When a supervisor believes that an employee has committed a violation of the Uniform Disciplinary Code, the supervisor shall submit a request for discipline to the Review Board on a form supplied by the Board. The Board will hear cases involving written reprimands and suspensions of 160 hours or less. Supervisors may issue oral warnings in the manner described above. Requests for dismissal shall not be heard by the Board and will be sent to the Department of Law.
- The request for discipline form submitted to the Discipline Review Board shall include: Nature of the alleged violation; Date and time of the alleged violation; Identity of the alleged violator; Evidence to support the accusation; and Identity of the complainant.
- The Discipline Review Board will hear testimony from the supervisor, the employee and other witnesses, if necessary, and review written or other evidence. The supervisor and the employee shall speak for themselves and shall not be allowed any other representative.
- After hearing the evidence, the Discipline Review Board will make a recommendation to the supervisor on whether the employee should be disciplined and, if so, the appropriate level of discipline. This recommendation is not binding on the supervisor. If the supervisor imposes discipline, the employee may appeal it to the Civil Service Commission. The recommendation of the Discipline Review Board may be placed in evidence before the Civil Service Commission.

Division of Fire & Emergency Services and Division of Police

The procedures outlined in the above section apply to sworn employees of the Division of Fire & Emergency Services and the Division of Police. Disciplinary action shall be imposed, however, only pursuant to KRS 95.450 (Police and Fire) and KRS 15.520 (Police).

Disciplinary Actions

1a. Driving An Urban County Government Vehicle While Under The Influence Of Alcohol; After Ingesting Illegal Drugs; Or While Using Prescription Or Non-Prescription Drugs That Impair Efficient Operation Of The Vehicle:

Definition: This offense prohibits driving a vehicle or operating equipment owned by the Urban County Government while under the influence of alcohol, after ingesting illegal drugs, or while using prescription or non-prescription (over-the-counter) drugs that impair the efficient operation of the vehicle or equipment.

Comment: The supervisor should follow the procedures and impose the penalties adopted in the Drug and Alcohol Free Workplace Policy.

1b. Failure To Report A Suspended Or Revoked Driver's License:

Definition: This offense occurs when an employee who may be required at any time to drive an Urban County Government vehicle fails to notify his supervisor within twenty-four (24) hours of the employee losing his driving privileges for any reason.

1c. Driving An Urban County Government Vehicle With A Suspended Or Revoked Driver's License:

Definition: This offense occurs when an employee operates an Urban County Government vehicle while his driver's license is suspended or revoked. Driving under these circumstances is illegal and exposes the Urban County Government and the employee to additional liability in the event the employee is involved in an accident.

Comment: This rule should be explained to any employee who may be called upon to drive an Urban County Government vehicle.

2. Stealing Or Theft:

Definition: Employee shall use Urban County Government property only for its intended purposes in accordance with established government or divisional procedures and shall not take any Urban County Government equipment or property for personal use or sale. Evidence of theft will be turned over to the Division of Police for investigation, and prosecution will be pursued.

Comment: Supervisors should notify the police immediately in case of theft or suspected theft.

3. Intentional Or Deliberate Destruction Or Unauthorized Use of Urban County Government Property:

Definition: Employees shall utilize Urban County Government property only for its intended purpose in accordance with established government or divisional procedures and shall not intentionally abuse, damage or lose through negligence any Urban County Government equipment or property.

4. Use Of, Possession Of, Or Positive Test For Illegal Drugs While On The Job; Reporting To Work After Ingesting Illegal Drugs; Or Conviction For Possession Of, Or Trafficking In Illegal Drugs:

Definition: This offense deals with use or possession of illegal drugs on the job or behavior by an employee which gives a supervisor reasonable cause to believe that an illegal drug is present in an employee's system. This rule does not include medications prescribed to and properly taken by an employee because of a medical condition if the use of the prescribed medication has been properly reported to a supervisor. If the prescribed medication has a negative side effect, it is the employee's responsibility to tell a supervisor before the employee is assigned any duties.

Comment: If the employee's behavior indicates that the employee has ingested drugs, the supervisor should follow the procedures and impose the penalties adopted in the Alcohol and Drug Free Workplace Policy. Employees who leave their workstation to consume drugs shall be subject to the severest discipline.

5. Use Of, Possession Of, Or Positive Test For Alcohol While On The Job:

Definition: This offense deals with drinking on the job or behavior by an employee which gives supervisors reasonable cause to believe that the employee has been drinking alcoholic substances during or before reporting to work. This rule does not include medications containing alcohol which are prescribed to and properly taken by an employee because of a medical condition if the use of the prescribed medication has been properly reported to a supervisor. If a prescribed medication has a negative side effect, it is the employee's responsibility to tell a supervisor before the employee is assigned any duties.

Comment: Dismissal will be recommended for employees who are sentenced to serve jail time for offenses attributable to intoxicating substances (including alcohol or public intoxication, or driving under the influence). Supervisors should follow the procedures and impose the penalties adopted in the Alcohol and Drug Free Workplace Policy. Employees who leave their workstation to consume alcohol shall be subject to the severest discipline.

6a. Violent Behavior, Throwing Objects Toward Or At Others, Verbal Threats, Or Fighting On The Job (With Weapon):

Definition: A “weapon” is an instrument or anything that can be used to injure or harm a person, whether or not the instrument or thing was designed to be used for that purpose. This offense includes, but is not limited to:

1. Fighting with a weapon;
2. On duty possession of a weapon;
3. On duty possession of an object which could be used as a weapon, which has no relationship to the employee’s duties, and which is unnecessary on the work site, or is unnecessary for the effective and efficient performance of the job (for example, a baseball bat, brass knuckles, taser unit);
4. Using objects or equipment that are necessary for the performance of the job as a weapon (for example, using a crowbar or tire iron as a weapon rather than as a tool);
5. Making verbal threats while in possession of a weapon; or
6. Throwing objects at or in the direction of others.

Comment: The supervisor shall take immediate action in the event of a fight without endangering himself or others. In serious cases, the Division of Police should be called to assist the supervisor.

6b. Violent Behavior Or Fighting On The Job (Without Weapons):

Definition: This offense includes, but is not limited to:

1. Fist fights or similar physical conduct;
2. Horse play which causes or has the potential of causing injury; or
3. Any intentional pushing, shoving, hitting, or bumping;

with or without verbal threats, which could or does result in harm to another employee or which disrupts the effectiveness and efficiency of the workplace.

Comment: In addition to disciplinary action, the employees involved will submit to an evaluation by the L.F.U.C.G. EAP counselors. After the EAP evaluation, the counselor will provide the Human Resources director with a statement certifying that the employee has been evaluated and is fit to return to work. The employee will attend such additional EAP sessions as are recommended by the Counselor. All parties involved in violent behavior may be subject to the same discipline depending on the circumstances.

6c. Verbal Threats Or Harassing Statements:

Definition: This offense includes, but is not limited to:

1. Statements, including written or e-mail statements, that seriously alarm, annoy, intimidate or harass a person or which could cause a reasonable person to suffer mental distress; or
2. Oral threats to commit any act likely to result in substantial damage to property.

Comments: “Joking” references to shooting others, “going postal” or “blowing people away” will be taken very seriously and will result in disciplinary action. The supervisor will take immediate action when situations of this type develop. In addition to disciplinary action, the employee will be required to be evaluated by EAP counselors. After the sessions, the EAP counselor will provide the Human Resources Director with a statement certifying that the employee has been counseled and understands appropriate workplace behavior.

7. Leaving Assigned Work Station Without Authorization:

Definition: This offense occurs when an employee leaves the workstation without permission. It includes leaving the workstation to conduct personal business, but does not include absence due to a valid emergency if the employee ensures that his duties will be covered and notifies a supervisor.

Comment: Emergency situations may arise, such as an accident or sudden illness in the employee’s immediate family. If the employee’s immediate supervisor is not available, the employee must notify the next ranking superior. In all emergency cases, leave should be granted unless there is evidence of prior abuse. Where a follow up leave slip is required by the supervisor, the employee should be so notified in writing within three (3) days of the absence.

8a. Insubordination:

Definition: This offense involves behavior or statements, which reflect an employee’s refusal to be supervised including, but not limited to, direct refusal to obey a supervisor’s work related order or failure to follow directions and instructions. This rule also includes failure to follow instructions which have been adequately explained; repeated occurrences of poor decision making which lead to the redoing of work; consistent failure to meet assignment deadlines; or a pattern of incorrect work that results in disruption of the operation of the unit or impairment of its effectiveness and efficiency.

Comment: Supervisors should be sensitive to the difference between a “bad attitude”, insubordination and inefficient work. Inefficiency, when not corrected after being brought to the employee’s attention, may become insubordination.

8b. Malicious Behavior Or Deliberate Behavior Which Affects The Efficient And Effective Performance Of The Job:

Definition: This offense includes any malicious behavior, regardless of its effect on the efficiency or effectiveness of the workplace, or any deliberate behavior that disrupts the workplace. It can include, but is not limited to, malicious practical jokes; knowingly spreading false rumors; sabotaging projects or other employees’ work; or constant teasing of another employee.

Comment: Supervisors should establish and maintain a professional level of behavior for each work unit.

8c. Misconduct:

Definition: This offense is general in nature and applies when the actions of an employee do not fit within any other specific category. It may be used alone or in conjunction with other infractions. It should be used when an established Government, department or division policy or procedure does not contain a specific penalty.

Comment: Supervisors should educate employees to realize that they may be disciplined for their actions even if every possible improper act or infraction is not separately listed in the Uniform Disciplinary Code.

8d. Inefficiency:

Definition: This offense involves the failure, neglect or inability of the employee to perform his assigned duties or the performance of his assigned duties in an inappropriate, inadequate or unsuitable manner. This would include spending their time in excessive personal conversations, either on the phone or with others; taking excessive breaks; pushing work assignments off on others; or engaging in any other activity that could cause them to neglect or be inattentive to their duties. As with insubordination, this rule also includes failure to follow instructions which have been adequately explained; repeated occurrences of poor decision making which lead to the redoing of work; consistent failure to produce work that is error free; the use of poor judgment; lack of timeliness and failure to meet assignment deadlines; or a pattern of incorrect work that results in disruption of the operation of the unit or impairment of its effectiveness and efficiency.

Comment: Although insubordination and inefficiency are similar in some respects they have an important distinction. An insubordinate employee is one who intentionally refuses to obey or comply with an order of a superior. An inefficient employee is one who is not able (rather than unwilling) to obey or comply with the orders of a supervisor or to otherwise perform his assigned duties.

9. Sleeping On The Job:

Definition: An employee must remain alert at all times, especially while operating equipment. Sleeping during duty hours (except for sworn Fire & Emergency Services personnel assigned to a fire station) is strictly forbidden.

10a. Vehicle Or Equipment Accidents Involving More Than \$1,000 Damage Where Employees Are At Fault Due To Negligence Or Carelessness:

Definition: Employees are required to operate Urban County Government vehicles and equipment in a safe, prudent and responsible manner consistent with all local and state laws and all relevant Government, department or division policies. An employee who fails to operate a vehicle or equipment safely, legally or consistent with government, department or division policies and incurs more than \$1,000 damage is subject to disciplinary action. Any employee involved in a vehicle

accident where the property damage exceeds the amounts established in the Alcohol and Drug Free Workplace Policy shall be subject to a post critical incident drug test.

Comment: The employee must ensure the safe operation of all vehicles and equipment to which he is assigned. Employees not familiar with proper vehicle or equipment operating procedures must inform their supervisor and ask for training and supervision. The supervisor should provide training when the employee is first assigned to a vehicle or equipment and again as needed. If the vehicle or equipment is not operating properly, the employee should inform his supervisor so that proper measures can be taken to avoid an accident. Restitution shall be based on fair market value of necessary repairs or replacements.

10b. Minor Traffic Violations In Urban County Government Vehicles Or Any Vehicle Or Equipment Accidents Involving Less Than \$1, 000 In Property Damage Where Employees Are At Fault Due To Negligence Or Carelessness:

Definitions: These violations may include, but are not limited to, speeding, driving left of the centerline, failing to yield the right-of- way, or accidents, which result in less than \$1,000 damage to vehicles or equipment. Careless use of vehicles or equipment, such as power tools or grounds – keeping equipment, which results in damage to the vehicle or equipment or other property, is also covered by this rule. Restitution shall be based on fair market value of necessary repairs or replacements.

11. Absent Without Approved Leave:

Definition: The offense occurs when an employee fails to report for duty, to call-in as required by Government, department or division policy, or does not have sufficient leave to cover an absence. The difference between being Absent Without Approved Leave (“AWOL”) and being tardy is discussed in Item E. 14. **[Note: Once all approved leave is exhausted, the employee shall be marked AWOL. There is no approved payroll designation of “absent no pay.”]**

Comment: Each situation should be handled on an individual basis and division directors are responsible for establishing call-in and emergency leave procedures for their divisions. After review and approval by the Division of Human Resources, a copy of the division call-in and emergency leave procedures should be given to each employee.

An employee who is reported AWOL shall not accrue vacation and sick time for the entire calendar month. Each AWOL on each “work day” is a separate occurrence. A supervisor should investigate each situation prior to marking an employee AWOL.

Non-exempt employees do not receive pay for time they are AWOL and may be subject to disciplinary action. Exempt employees may also be subject to disciplinary action under this policy.

Employees held in jail may request administrative leave under Sections 21-33 and 21-37 of the Code of Ordinances, which may or may not be granted depending upon Government, department

and division policies and the circumstances. Employees who exhaust all administrative leave under Sections 21-37 will be AWOL and subject to dismissal.

11b. Absent Without Approved Leave for 2 or More Days in a Row:

Definition: This offense covers those situations where an employee fails to report to work for 2 or more days in a row.

Comment: Employees who are AWOL 2 or more days in a row are subject to more severe discipline.

12. Excessive Use Of Sick Leave:

Definition: This offense occurs when an employee fails to provide a medical doctor's excuse for excessive use of sick leave. Excessive use of sick leave includes:

- a. Consistent use of sick leave on the first or last day of the employee's work week;
- b. Consistent use of more sick leave than is earned in a pay period or use of sick leave on a sporadic basis especially on the first and last day of the employee's work week;
- c. Depleting sick time balances requesting leave without pay for sickness when no chronic ailment has been diagnosed.

Comment: One warning sign of abuse of sick leave is low sick leave balances maintained by long-term employees. Sick leave is not a vested right like vacation and holiday leave and its use is limited to its intended purpose. If a pattern of abuse is detected, a supervisor may require the employee to present a medical doctor's excuse for all sick leave requests (Section 21-34 of the Code of Ordinances). There are legitimate situations, however, where an employee may use all sick leave because of a chronic illness and must apply for leave without pay. If it is determined that a low sick leave balance is justified and the employee is performing in a satisfactory manner, the supervisor should examine the situation carefully before taking any disciplinary action. Additionally, a supervisor may request that the employee be examined by an Urban County Government selected physician if questions exist as to the employee's ability to perform the duties of his job. The Director of Human Resources should be contacted to arrange for a medical examination.

13a. Failure To Observe Safety Procedures; Failure To Wear Protective Clothing – (Class A – Serious – Life Threatening):

13b. Failure To Observe Safety Procedures; Failure To Wear Protective Clothing – (Class B – Less Serious Non – Life Threatening):

Definition: These violations include, but are not limited to, removal or destruction of safety devices; failure to keep equipment and work areas clean; failure to report unsafe working

conditions; or failure to wear safety clothing (for example, hard hats, safety glasses, steel – toe shoes, seat belts).

Comment: Each division should have safety rules or procedures identifying Class A (serious) and Class B (less serious) rules. Safety rules should be approved by the safety coordinator in the Division of Risk Management and explained to employees. Employees should receive a copy of the division's safety rules. The division should require employees to sign a form stating that they have received a copy of the safety rules issued by Risk Management and a list of the division's safety rules. The division may periodically update its rules and have employees acknowledge in writing that they understand the safety rules and regulations.

14. Excessive Tardiness:

Definition: This offense includes a pattern of tardiness that interferes with the operation of the unit. Generally, a first offense occurs when an employee is late two (2) or more times in any one pay period. However, in some divisions less frequent tardiness may justify disciplinary action (for example, divisions running 24-hour coverage or those where work crews leave a central location). A tardy employee whose actions result in overtime payments to other employees may receive more severe discipline, depending on the circumstances.

Comment: Employees who call – in and are excused for legitimate emergencies should not be considered tardy. Each division should establish a call – in and tardiness policy and copies of the policy should be given to each employee. The policy should be submitted to the Division of Human Resources for review and approval prior to issuance.

Discipline should not be imposed until the existence of a tardiness problem is identified. In most cases a single tardy arrival should not result in discipline. Each division is responsible for establishing a time frame for being tardy rather than AWOL; however, if an employee is absent for more than thirty (30) minutes, then he is AWOL rather than tardy.

15. Failure To Submit Required Or Completed Reports Or Forms:

Definition: Forms and reports that are part of an employee's job duties must be submitted in accordance with established Government, department or division procedures.

16. Gambling On The Job:

Definition: The offense of gambling defined as staking or risking something of value upon the outcome of a contest, game, gaming scheme, or gaming device which is based upon an element of chance, in accord with an agreement or understanding that someone will receive something of value in the event of a certain outcome. A contest or game in which eligibility to participate is determined by chance or the ultimate winner is determined by skill shall not be considered gambling. Gambling is a prohibited non-work related activity. Personnel in the Division of Community Corrections shall be subject to dismissal for a first offense of gambling.

UNIFORM DISCIPLINARY CODE

1a	Occurrence	Driving an Urban County Government vehicle while under the influence of alcohol; after ingesting illegal drugs; or while using prescription or non-prescription drugs that impair efficient operation of vehicle.
	1 st Occurrence	See the Alcohol and Drug Free Workplace Policy.
1b	Occurrence	Failure to report a suspended or revoked driver's license.
	1 st	Written reprimand (employees must report suspended or revoked driver's license to supervisor within 24 hours).
	2 nd	80—160 hours suspension, depending on circumstances.
1c	Occurrence	Driving an Urban County Government vehicle with a suspended or revoked license.
	1 st Occurrence	80—160 hours suspension.
	2 nd Occurrence	Dismissal.
2	Occurrence	Stealing or theft.
	1 st Occurrence	80—160 hours suspension.
	2 nd Occurrence	Dismissal.
3	Occurrence	Intentional or deliberate destruction or unauthorized use of Urban County Government property.
	1 st Occurrence	Restitution and 80—160 hours suspension or dismissal.
	2 nd Occurrence	Dismissal.
4	Occurrence	Use of, possession of, or positive test for illegal drugs while on the job; reporting to work after ingesting illegal drugs; or conviction for possession of or trafficking in illegal drugs.
	1 st Occurrence	See the Alcohol and Drug Free Workplace Policy.
5	Occurrence	Use of, possession, or positive test for alcohol while on the job.
	1 st Occurrence	See the Alcohol and Drug Free Workplace Policy.
6a	Occurrence	Violent behavior, throwing objects toward or at others, verbal threats or fighting on the job (with weapon).
	1 st Occurrence	Dismissal.

6b	Occurrence	Violent behavior or fighting on the job (without weapon).
	1 st Occurrence	40—160 hours suspension, plus sessions with EAP Counselors and a statement indicating the employee has been counseled and is fit to return to work, or dismissal depending on circumstances or threat.
	2 nd Occurrence	Dismissal.
6c	Occurrence	Verbal threats or harassing statements.
	1 st Occurrence	Written reprimand or 8—120 hours suspension, plus sessions with EAP counselors and a statement indicating the employee has been counseled and is fit to return to work, or dismissal depending on circumstances or threat.
	2 nd Occurrence	128—160 hours suspension, plus sessions with EAP counselors and a statement indicating the employee has been counseled and is fit to return to work, or dismissal depending on circumstances or threat.
	3 rd Occurrence	Dismissal.
7	Occurrence	Leaving assigned work area without authorization.
	1 st Occurrence	Written reprimand or 40—120 hours suspension, depending on circumstances.
	2 nd Occurrence	128—160 hours suspension or dismissal.
	3 rd Occurrence	Dismissal.
8a	Occurrence	Insubordination.
	1 st Occurrence	Oral warning, written reprimand or 8—120 hours suspension, depending on circumstances.
	2 nd Occurrence	128—160 hours suspension or dismissal, depending on circumstances.
	3 rd Occurrence	Dismissal.
8b	Occurrence	Malicious behavior or deliberate behavior, which affects the efficient and effective performance of the job.
	1 st Occurrence	Oral warning, written reprimand or 8—120 hours suspension, depending on circumstances.
	2 nd Occurrence	128—160 hours suspension or dismissal, depending on circumstances.
	3 rd Occurrence	Dismissal.

8c	Occurrence	Misconduct
	1 st Occurrence	Oral warning, written reprimand or 8—120 hours suspension, depending on circumstances.
	2 nd Occurrence	128—160 hours suspension or dismissal, depending on circumstances.
	3 rd Occurrence	Dismissal.
8d	Occurrence	Inefficiency
	1 st Occurrence	Oral warning, written reprimand or 8—120 hours suspension, depending on circumstances.
	2 nd Occurrence	128—160 hours suspension or dismissal, depending on circumstances.
	3 rd Occurrence	Dismissal.
9	Occurrence	Sleeping on the job
	1 st Occurrence	Written reprimand or 40—80 hours suspension, depending on circumstances.
	2 nd Occurrence	88—160 hours suspension or dismissal, depending on circumstances.
	3 rd Occurrence	Dismissal.
10a	Occurrence	Vehicle or equipment accidents involving more than \$1,000 where employees are at fault (due to negligence or carelessness).
	1 st Occurrence	Oral warning, written reprimand, 40—120 hours suspension or dismissal, depending on circumstances, and restitution up to \$1,000.
	2 nd Occurrence	128—160 hours suspension or dismissal, depending on circumstances, and restitution up to \$1,000.
	3 rd Occurrence	Dismissal.
10b	Occurrence	Minor traffic violation in Urban County Government vehicle during any calendar year or any vehicle or equipment accident involving less than \$1,000 in property damage where employees are at fault (due to negligence or carelessness).
	1 st Occurrence	Oral warning or written reprimand, depending on circumstances, and restitution up to \$1,000.
	2 nd Occurrence	48—120 hours suspension and restitution up to \$1,000.
	3 rd Occurrence	Dismissal.

11a	Occurrence	Absent without approved leave.
	1 st Occurrence	Written reprimand or 24—40 hours suspension.
	2 nd Occurrence	48—160 hours suspension.
	3 rd Occurrence	Dismissal.
11b	Occurrence	Absent without approved leave for more than two days.
	1 st Occurrence	48—160 hours suspension.
	2 nd Occurrence	Dismissal.
12	Occurrence	Excessive Use of sick leave.
	1 st Occurrence	Written reprimand or 8—40 hours suspension.
	2 nd Occurrence	48—120 hours suspension.
	3 rd Occurrence	Dismissal.
13a	Occurrence	Failure to observe safety procedures or to wear protective clothing (Class A serious – life threatening).
	1 st Occurrence	8—40 hours suspension.
	2 nd Occurrence	48—120 hours suspension.
	3 rd Occurrence	Dismissal.
13b	Occurrence	Failure to observe safety procedures or to wear protective clothing (Class B less serious – non-life threatening).
	1 st Occurrence	Written reprimand.
	2 nd Occurrence	8—40 hours suspension.
	3 rd Occurrence	48—120 hours suspension.
	4 th Occurrence	Dismissal.
14	Occurrence	Excessive tardiness.
	1 st Occurrence	Oral warning or written reprimand, depending on circumstances.
	2 nd Occurrence	Written reprimand or 8—40 hours suspension, depending on circumstances.
	3 rd Occurrence	48—120 hours suspension, depending on circumstances.
	4 th Occurrence	Dismissal.

15	Occurrence	Failure to submit required or completed reports or forms.
	1 st Occurrence	Oral warning or written reprimand, depending on circumstances.
	2 nd Occurrence	Written reprimand or 24—40 hours suspension, depending on circumstances.
	3 rd Occurrence	48—120 hours suspension, depending on circumstances.
	4 th Occurrence	Dismissal.
16	Occurrence	Gambling on the job.
	1 st Occurrence	Oral warning, written reprimand or 24—80 hours suspension, depending on circumstances. Sworn employees of the Division of Community Corrections shall be dismissed.
	2 nd Occurrence	88—160 hours suspension or dismissal.
	3 rd Occurrence	Dismissal.