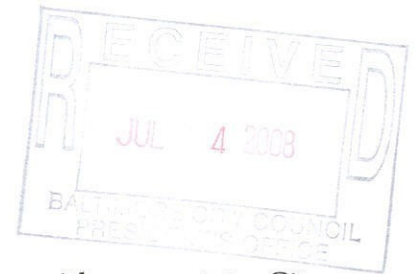


FROM	NAME & TITLE	Deborah F. Moore-Carter, Labor Commissioner <i>DFMC</i>	CITY of BALTIMORE MEMO 396-4365	
	AGENCY NAME & ADDRESS	Office of the Labor Commissioner 417 East Fayette, Suite 1405		
	SUBJECT	Council Bill - 08-0053R – Informational Hearing Suspension Practices of City Agency Supervisors		

DATE: July 14, 2008

TO The Honorable President
Stephanie Rawlings-Blake and
Members of the Baltimore City Council
Room, 406 City Hall
100 N. Holiday Street
Baltimore, Maryland 21202



Recommended Position

The Office of the Labor Commissioner has a neutral position with respect to City Council Bill 08-0053R.

Comments and Analysis

City Council Bill 08-0053R provides for a hearing regarding the discipline practices of certain supervisors in City agencies. The Personnel Manual (PM) 350 provides guidance for supervisors if and when disciplinary action is required. However, based on the nature and severity of the offenses, supervisors are not required to follow the steps of the discipline procedure. For example, a supervisor does not start with a written reprimand if an employee is charged with a serious offense meriting stronger discipline.

Currently there are city policies in existence which include specific discipline that differs from the steps outlined in PM 350. These policies include Workplace Violence, Attendance Standards and the Substance Abuse Control Policy. Because the City prohibits workplace violence in any form, the Workplace Violence Policy mandates a five-day suspension for the first offense and termination for the second. The discipline under this policy is strict because workplace violence is a serious issue.

The Attendance Standards Policy (ASP) includes a discipline process which was negotiated with the City Union of Baltimore (CUB) and AFSCME Local 44. The steps of the policy include oral caution at the 3rd unscheduled absence, counseling and a written reprimand at the 4th unscheduled absence, a 3-day suspension at the 5th unscheduled absence, a five-day suspension at the 6th unscheduled absence and termination at the 7th unscheduled absence in a rolling year. As stated in the overview, "Attendance Standards Policy is intended to help employees work toward identifying causes of excessive absenteeism and to assist in correcting possible reasons for unplanned absences through counseling. The Attendance Standards Policy is aimed at changing an employee's behavior so that his or her attendance improves before major disciplinary action must be taken."

It is a major goal of the City of Baltimore to have a safe and drug free workplace. To that end, there is a Substance Abuse Control Policy (SACP). The SACP includes an

entire section on disciplinary actions to cover violations of the SACP. A few examples include:

1. A probationary employee who receives a confirmed positive test result, or who intentionally tampers with a sample provided for drug screening, or who falsifies identification or test results, shall be terminated during probation, and shall be denied the opportunity to apply for City employment for a period of one year.
2. Any employee who fails to comply with any portion of a Performance Improvement Plan, including successful completion of required rehabilitation on or before the deadline, shall be recommended for discipline up to and including termination.
3. First Refusal to Consent to testing shall result in a 5-day unpaid suspension and placement on a Performance Improvement Plan. The employee must submit to a drug and/or alcohol test before returning to duty following a suspension or shall be recommended for termination.
4. Any employee in a sensitive class arrested for a DUI or DWI (on or off duty) shall be referred to the EAP and subject to a Performance Improvement Plan to the extent recommended by the EAP.

Any employee in a sensitive class convicted of a DUI or DWI (on or off duty) shall be considered to have a positive alcohol test result under this Policy.

There are also other levels of discipline in accordance with the SACP.

The three policies highlighted above do not follow the guidelines of PM 350. Therefore, if an employee violates one of these policies the discipline action taken would be different.

DFMC/lwmcn

cc: Gladys B. Gaskins