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1 Administrative Officer.] Division heads may issue reprimands and suspend an  
2 employee for five days or less after informing the department head. An  
3 employee's immediate supervisor may issue a reprimand after informing the  
4 division head or department head.

5 (3) Prior to passage of any year-end appropriation clean-up bill, the  
6 Chief Administrative Officer shall review expenditures of each City program  
7 strategy and determine which program strategies overspent their annual  
8 appropriations in excess of five percent or \$100,000, whichever is lower, prior  
9 to Council appropriation of the amount overspent. This level of over-  
10 expenditure constitutes a violation of §§ [2-11-12](#) and [2-11-16](#) ROA  
11 1994. Because management of program finances to conform to City  
12 ordinances is a primary responsibility of all City program directors, the Chief  
13 Administrative Officer shall place a written reprimand in the personnel file of  
14 any program director whose program is overspent by five percent or \$100,000,  
15 whichever is lower, prior to Council appropriation. A program director who  
16 receives three reprimands for overspending his or her budget prior to the  
17 passage of any year-end appropriation clean-up bill by the Council during a  
18 five-year period demonstrates a lack of financial management skills critical to  
19 fulfilling the duties of a program director and, therefore, shall be demoted one  
20 grade and transferred to a position without financial management  
21 responsibility.

22 (4) As a requirement of assuming office, each department director shall  
23 execute an employment contract with the City, one of the provisions of which  
24 shall be that he or she will not allow their department to overspend their  
25 appropriated budget nor allow any program strategy to overspend its  
26 appropriated budget prior to the passage of any year-end appropriation clean-  
27 up bill by the Council. Department directors responsible for departments that  
28 overspend their budget prior to the passage of any year-end appropriation  
29 clean-up bill in two years during a period of four years shall be  
30 terminated. The Chief Administrative Officer shall place a written reprimand in  
31 the personnel file of any department directors in the event that a program in  
32 the department under the responsibility of the director similarly overspends  
33 its budget appropriation.

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1 (B) No person except the Chief Administrative Officer shall discipline  
2 heads of departments. Only the Accountability in Government Committee may  
3 discipline the Director of the Office of Internal Audit and Investigations. In  
4 addition, only the Director of Council Services may discipline other employees  
5 of the Department of Council Services, and only the Director of the Office of  
6 Internal Audit and Investigations may discipline other employees of the Office  
7 of Internal Audit and Investigations.

8 (C) Before discipline is imposed, the employee shall be notified of the  
9 reasons for which discipline is contemplated, a summary of the evidence  
10 against the employee, and the employee's right to respond to the proposed  
11 action. After giving the employee the notice of contemplated action and  
12 before the employee makes any written or oral response, the supervisor  
13 contemplating the discipline shall request review by the City Employee  
14 Mediation Program Coordinator of the circumstances on which the  
15 contemplated action is based in an effort to avoid the discipline. Mediation  
16 shall occur if it is deemed appropriate by the Coordinator. After this review or  
17 if mediation is unsuccessful, the supervisor may continue with the  
18 contemplated disciplinary procedure by giving the employee the right to  
19 respond to the notice of contemplated action.

20 (D) Suspensions shall not exceed 90 calendar days for any offense. The  
21 Chief Administrative Officer or department head has the option on a  
22 suspension of five days or less to prohibit the employee from attending the  
23 work place or to allow the employee to work through the suspension with  
24 pay. Suspensions may be held in abeyance for a stated period of no longer  
25 than six months.

26 (E) The Chief Administrative Officer shall promulgate rules of procedure  
27 concerning disciplinary actions.

28 (F) Any disciplinary action shall be noted in the employee's personnel  
29 file.

30 SECTION 2. COMPILATION. Section 1 of this ordinance shall amend, be  
31 incorporated in, and made part of the Revised Ordinances of Albuquerque,  
32 New Mexico, 1994.

1 SECTION 3. EFFECTIVE DATE. This ordinance shall take effect five (5) days  
2 after publication by title and general summary.

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# CITY OF ALBUQUERQUE

Albuquerque, New Mexico  
Office of the Mayor

Timothy M. Keller, Mayor

**INTER-OFFICE MEMORANDUM**

**DATE: August 27, 2020**

**TO:** Patrick Davis, President, City Council

**FROM:** Timothy M. Keller, Mayor

A handwritten signature in black ink, appearing to be 'TK', is written over the name 'Timothy M. Keller, Mayor'.

**SUBJECT:** Amended Chapter 3, Article 1, Section 23 ROA 1994


The Mayor's Office recommends amendment of the Merit System Ordinance to expand the number of individuals able to issue high level disciplinary action.

The current version of the ordinance only allows the Chief Administrative Officer, Deputy Chief Administrative Officer, and Department Director to take certain disciplinary actions. From a practical standpoint, this excludes other members of the executive team from being able to take disciplinary action when warranted, even if the employee is within their chain of command, and they carry a similar level of responsibility to the Deputy Chief Administrative Officer. For example, the Chief Operations Officers is, under the current ordinance unable to issue disciplinary action for the departments he oversees.


Additionally, the amendment allows Directors, with the approval of the Chief Administrative Officer, to delegate disciplinary decisions to a Deputy Director. This will allow larger departments with frequent disciplinary issues to more efficiently address these issues.

Subject: Amended Chapter 3, Article 1, Section 23 ROA 1994

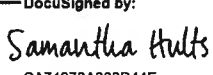
Approved:

  
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Sarita Nair, JD, MCRP                      8/26/20                      Date  
Chief Administrative Officer

Approved as to Legal Form:

DocuSigned by:  
  
\_\_\_\_\_  
Samantha Hults                      8/27/2020 | 5:24 PM MDT  
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Esteban A. Aguilar, Jr.                      Date  
City Attorney

Recommended:

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Samantha Hults                      8/27/2020 | 5:24 PM MDT  
CA74973A333D44E...  
Director, Esteban A. Aguilar, Jr.                      Date

## **Cover Analysis**

### **1. What is it?**

*An Amendment to the Merit System Ordinance*

### **2. What will this piece of legislation do?**

*This will allow the Chief Administrative Officer and Department Directors to delegate disciplinary decisions to other members of the Mayor's Office or to Deputy Directors.*

### **3. Why is this legislation needed?**

*This amendment will allow for more efficient disciplinary decision making in larger departments with more frequent disciplinary actions. This will provide for quicker resolution in disciplinary actions. It will also alleviate the burden for some Directors to participate in person during disciplinary appeal proceedings.*

### **4. How much will it cost and what is the funding source?**

*There is no associated cost.*

### **5. What will happen if the amendment is not approved?**

*Disciplinary decisions will continue to rest solely with the Director and Chief Administrative Officer.*

**FISCAL IMPACT ANALYSIS**

TITLE: **Amendment to Merit System Ordinance** R: O:  
 FUND: 110  
 DEPT: Legal

- No measurable fiscal impact is anticipated, i.e., no impact on fund balance over and above existing appropriations.
- (If Applicable) The estimated fiscal impact (defined as impact over and above existing appropriations) of this legislation is as follows:

	Fiscal Years			
	2020	2021	2022	Total
Base Salary/Wages				-
Fringe Benefits at	-	-	-	-
Subtotal Personnel	-	-	-	-
Operating Expenses	-	-	-	-
Property	-	-	-	-
Indirect Costs	-	-	-	-
Total Expenses	\$ -	\$ -	\$ -	\$ -
[ ] Estimated revenues not affected				
[x ] Estimated revenue impact				
Amount of Grant	-	-	-	-
City Cash Match	-	-	-	-
City Inkind Match	-	-	-	-
City IDOH	-	-	-	-
Total Revenue	\$ -	\$ -	\$ -	\$ -

These estimates do not include any adjustment for inflation.

\* Range if not easily quantifiable.

Number of Positions created

**COMMENTS: There is no anticipated fiscal impact in the amendment to the Merit System Ordinance**

**COMMENTS ON NON-MONETARY IMPACTS TO COMMUNITY/CITY GOVERNMENT:**

PREPARED BY:

DocuSigned by:  
*Kristle Hernandez* 8/27/2020 | 3:50 PM MDT  
 \_\_\_\_\_  
 FISCAL MANAGER

APPROVED:

DocuSigned by:  
*Samantha Huitt* 8/27/2020 | 5:24 PM MDT  
 \_\_\_\_\_  
 DIRECTOR (date)

REVIEWED BY:

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 EXECUTIVE BUDGET ANALYST

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 BUDGET OFFICER (date)

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 \_\_\_\_\_  
 CITY ECONOMIST