



Legislation Details (With Text)

**File #:** O-20-35  
**Type:** Ordinance      **Status:** Withdrawn  
**File created:** 9/9/2020      **In control:** City Council  
**Final action:** 10/5/2020  
**Enactment date:**      **Enactment #:**

**Effective date:**

**Title:** Amending Chapter 3, Article 1 Of The Revised Ordinances Of Albuquerque, New Mexico, 1994, The Merit System Ordinance, To Expand The Assignment Of Persons Who May Issue Disciplinary Actions And Decisions Against Employees (Harris)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. O-35

Date	Ver.	Action By	Action	Result
10/5/2020	1	City Council	Withdrawn	Pass
9/14/2020	1	Finance & Government Operations Committee	Postponed	Pass
9/9/2020	1	City Council	Introduced and Referred	
9/9/2020	1	President	Referred	

**CITY of ALBUQUERQUE**  
**TWENTY FOURTH COUNCIL**

COUNCIL BILL NO. O-20-35      ENACTMENT NO. \_\_\_\_\_

SPONSORED BY: Don Harris

ORDINANCE

Amending Chapter 3, Article 1 Of The Revised Ordinances Of Albuquerque, New Mexico, 1994, The Merit System Ordinance, To Expand The Assignment Of Persons Who May Issue Disciplinary Actions And Decisions Against Employees (Harris)

BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF ALBUQUERQUE:

SECTION 1: Chapter 3, Article 1, Section 23 is hereby amended as follows:

“§ 3-1-23 DISCIPLINARY ACTIONS

(A) (1) Employees may be disciplined by written reprimand, suspension, demotion or dismissal. Just cause for discipline is any behavior significant or substantial in nature relating to the employee's work that is inconsistent with the employee's obligation to the city. Just cause shall also include prohibited retaliation as defined in the Whistleblower Ordinance and the Accountability in Government Ordinance and the filing of frivolous complaints or complaints based on false or confidential information pursuant to the Whistleblower Ordinance and the Accountability in Government Ordinance. The Chief Administrative Officer may enumerate in Personnel Rules and Regulations examples of behaviors that constitute just cause.

(2) The Chief Administrative Officer, a Deputy Chief Administrative Officer, [any member of the mayor's executive staff who is in the employee's chain of command,] a department director or an acting department director may impose any discipline. [A member of the mayor's executive staff may delegate this duty and authority to any other member of the mayor's executive staff. A department director or acting department director may delegate this duty and authority to a deputy director, assistant director, deputy chief, or assistant chief within their department with approval from the Chief Administrative Officer.] Division heads may issue reprimands and suspend an employee for five days or less after informing the department head. An employee's immediate supervisor may issue a reprimand after informing the division head or department head.

(3) Prior to passage of any year-end appropriation clean-up bill, the Chief Administrative Officer shall review expenditures of each City program strategy and determine which program strategies overspent their annual appropriations in excess of five percent or \$100,000, whichever is lower, prior to Council appropriation of the amount overspent. This level of over-expenditure constitutes a violation of §§2-11-12 and 2-11-16 ROA 1994. Because management of program finances to conform to City ordinances is a primary responsibility of all City program directors, the Chief Administrative Officer shall place a written reprimand in the personnel file of any program director whose program is overspent by five percent or \$100,000, whichever is lower, prior to Council appropriation. A program director who receives three reprimands for overspending his or her budget prior to the passage of any year-end appropriation clean-up bill by the Council during a five-year period demonstrates a lack of financial management skills critical to fulfilling the duties of a program director and, therefore, shall be demoted one grade and transferred to

a position without financial management responsibility.

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

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

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

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

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

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

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

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

