



## Albany Police Department Discipline Matrix

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Effective Date: \_\_\_\_\_, 2023

**Purpose:** The Albany Police Department (APD) Discipline Matrix provides a framework for applying discipline in a fair and consistent manner. The APD Discipline Matrix outlines multiple levels of violations and a range of disciplinary actions that may be taken based on the severity of the violation and history of sustained<sup>1</sup> misconduct following a completed investigation by the Office of Professional Standards (OPS) and/or the Community Police Review Board (CPRB). In order to ensure clear expectations about the consequences of misconduct, discipline shall be imposed according to the below Discipline Matrix in response to an APD member's misconduct in violation of APD policies and relevant laws.

**Violation Levels:** The Discipline Matrix identifies four levels of violations (Levels I to IV) which range from minor to severe. Each level contains a description and example violations. Disciplinary action is not limited to the list of example violations provided. Any violation that meets the level of the descriptions included below are subject to the corresponding discipline. Multiple violations from the same incident will be considered separately for disciplinary purposes and may not be consolidated into one violation for purposes of assigning discipline from that incident.

**Determining the Number of Previous Incidents:** Any incident for which there was prior sustained misconduct at the same violation level as the incident for which discipline is being imposed counts as a prior violation for purposes of determining whether the incident for which discipline is being imposed is a 1<sup>st</sup>, 2<sup>nd</sup>, or 3<sup>rd</sup> violation. The prior incident shall count as one incident regardless of whether there were multiple counts of sustained misconduct from that incident.

**Discipline:** Each violation level corresponds with discipline categories (Minor, Moderate, Major, or Severe). The discipline categories follow a progressive trajectory based on the number of incidents and the severity of the misconduct on a scale from minor to severe. In the matrix below, discipline can take the form of punitive, non-punitive, or education-based discipline. Punitive options include oral or written reprimands, loss of leave credit,<sup>2</sup> suspension,<sup>3</sup> demotion, or discharge. Non-punitive options include counseling or training to correct the underlying problem. In some cases, the APD can offer the option of education-based discipline as an alternative to suspension or loss of leave credit. If the member consents to the alternative, they would complete training courses. Education-based discipline is a formal disciplinary measure and would remain in the member's disciplinary record, including the hours spent in training and the topics covered by the training.

The discipline category and subsequent disciplinary action shall be assigned based on several factors, including:

- Intent, including whether the act was committed willfully, for personal gain, or for a retaliatory purpose;
- Past performance, including the member's length of service to APD or complimentary work history;
- Degree of culpability or responsibility, including whether a superior issued a command to perform the act;
- Disciplinary history, including prior violations and non-disciplinary corrective action;
- Truthfulness/untruthfulness;
- Severity of conduct/action;
- Acceptance of responsibility and willingness to be accountable for the conduct;
- Liability or the effect on APD's operations;
- Jeopardy to public safety;
- Degree to which the act caused or could have caused harm or risk to persons or property;
- Impact on the relationship between APD and the community; and/or
- Multiple violations of the General Orders.

Three or more sustained violations within one category from the incident for which the discipline is to be imposed will result in discipline corresponding to the higher category noted in the Discipline Matrix. For example, three or more sustained violations in the Level I category from the same incident will result in discipline which corresponds to the Level II category. Some violations can fall under different levels depending on the severity of the member's conduct (e.g. insubordination, harassment, or theft) which may carry more or less severe penalties depending on which category most accurately describes the conduct. Multiple acts of misconduct may result in discharge even though the corresponding category may not recommend discharge. Multiple acts may take place during a single event or multiple events. Prior incidents of misconduct will be considered. The APD Chief of Police shall determine which violation level is appropriate for incidents that occurred prior to the adoption of this matrix.

**Implementation:** The CPRB and/or OPS will recommend disciplinary measures from the matrix based on their investigative findings and the factors listed above. The OPS and CPRB may recommend training, transfer, and/or demotion in addition to discipline listed below. The APD Chief of Police is responsible for imposing the discipline. Discipline is intended to be corrective in nature and to impress upon APD members the necessity of proper conduct and performance. In cases where misconduct cannot be corrected by discipline or immediately makes the individual unsuitable for continued employment, discharge must be considered. The APD Chief of Police will make final decisions about discipline and communicate such decisions, including a description of factors which were considered in the decision-making process, in writing. In the event of departures from the CPRB-recommended discipline in the Discipline Matrix, the APD Chief of Police shall provide justification in writing.

### Albany Police Department Discipline Matrix

Levels of Violations	Number of Incidents	Minor	Moderate	Major
<b>Level I:</b> Minor policy violation, or a violation that has minimal impact on the operations of the department or on the professional image of the APD.  Example violations: <ul style="list-style-type: none"> <li>• Clothing or uniform violations<sup>4</sup></li> <li>• Improper call handling<sup>5</sup></li> <li>• Discourteous conduct with the public<sup>6</sup></li> <li>• Dereliction of duty<sup>7</sup></li> <li>• Insubordination<sup>8</sup></li> <li>• Unsatisfactory performance<sup>9</sup></li> <li>• Failure to handle complaints properly<sup>10</sup></li> </ul>	1st Violation	Oral Reprimand/ Warning	Written Reprimand/ Warning	Loss of Leave Credit (up to 1 work day) <b>or</b> Education-Based Discipline
	2nd Violation	Written Reprimand/ Warning	Loss of Leave Credit (up to 1 work day)	Suspension <b>or</b> Loss of Leave Credit (up to 3 work days)
	3rd Violation	Loss of Leave Credit (3 work days)	Suspension <b>or</b> Loss of Leave Credit (3 to 5 work days)	Suspension <b>or</b> Loss of Leave Credit (5 work days)
<b>Level II:</b> Moderate policy violation or conduct involving a risk to public safety. Conduct with a more than minimal negative impact on the APD's image or operations, affecting relationships with the community.  Example violations: <ul style="list-style-type: none"> <li>• Repeated violations from Level I</li> <li>• Violation of Conduct Standards<sup>11</sup></li> <li>• Untruthful statement<sup>12</sup></li> </ul>	1st Violation	Suspension <b>or</b> Loss of Leave Credit (3 to 5 work days) <b>or</b> Education-Based Discipline	Suspension <b>or</b> Loss of Leave Credit (5 to 10 work days) <b>or</b> Education-Based Discipline	Suspension <b>or</b> Loss of Leave Credit (up to 10 work days) <b>and</b> Training
	2nd Violation	Suspension <b>or</b> Loss of Leave Credit (5 to 10 work days)	Suspension <b>or</b> Loss of Leave Credit (up to 10 work days)	Suspension <b>or</b> Loss of Leave Credit (up to 15 work days)

<ul style="list-style-type: none"> <li>• Failure to properly utilize body camera and/or dashboard camera equipment (unintentional)</li> <li>• Improper use of less lethal weapons (e.g., taser, sprays, batons)<sup>13</sup></li> <li>• Failure to identify (e.g., badge)<sup>14</sup></li> <li>• Violation of Code of Ethics<sup>15</sup></li> </ul>	3rd Violation	Suspension <u>or</u> Loss of Leave Credit (up to 10 work days)	Suspension <u>or</u> Loss of Leave Credit (up to 15 work days)	Suspension <u>or</u> Loss of Leave Credit (up to 30 work days)
<p><b>Level III</b> Major policy violation or conduct involving a risk to public safety. Conduct that may have a pronounced negative effect on the professional image of the APD and/or on the relationships with the community.</p> <p>Example violations:</p> <ul style="list-style-type: none"> <li>• Repeated violations from Level II</li> <li>• Abuse of position<sup>16</sup></li> <li>• Abuse of authority and procedure</li> <li>• Lying under oath or perjury</li> <li>• Immoral conduct<sup>17</sup></li> <li>• Improper excessive force<sup>18</sup></li> <li>• Failure to intervene<sup>19</sup></li> <li>• Failure to properly utilize body camera and/or dashboard camera equipment (intentional)</li> <li>• Improper evidence &amp; property handling<sup>20</sup></li> <li>• Failure to cooperate with misconduct investigation</li> </ul>	1st Violation	Suspension <u>or</u> Loss of Leave Credit (up to 30 work days)	Suspension <u>or</u> Loss of Leave Credit (up to 60 work days)	Demotion <u>or</u> Discharge
	2nd Violation	Suspension <u>or</u> Loss of Leave Credit (up to 60 work days)	Demotion <u>or</u> Discharge	Discharge
<p><b>Level IV: Severe</b> policy violation or conduct involving a risk to public safety. Conduct that has a pronounced negative effect on the professional image of the APD and/or on the relationships with the community.</p> <p>Example violations:</p> <ul style="list-style-type: none"> <li>• Repeated violations from Level III</li> <li>• Violation of civil rights<sup>21</sup> (unfair treatments, hate crimes<sup>22</sup>)</li> <li>• Improper use of lethal weapon<sup>23</sup></li> <li>• Criminal conduct<sup>24</sup></li> <li>• Harassment of or discrimination against a protected class member<sup>25</sup></li> <li>• Use of racial or ethnic slurs while on duty<sup>26</sup></li> <li>• Bias-based policing<sup>27</sup></li> <li>• Improper excessive force<sup>28</sup></li> </ul>	<b>Severe</b>			
	1st Violation	Discharge/Termination, unless other factors are present which may warrant Suspension		

## Notes

1. "Sustained" misconduct means that either OPS or the CPRB has found that there was sufficient facts and evidence to prove that misconduct occurred.
2. Leave credit includes paid vacation leave and other applicable time off work.
3. Suspension is unpaid for the first thirty days. Per union contract, the APD member must be included on the payroll after thirty days.
4. Rules of Conduct, City of Albany Police Department General Order (hereafter GO) 2.2.00 (I)(A)(30). The General Orders are publicly available at <https://www.albanyny.gov/869/General-Orders>.
5. Agency Property, GO 3.1.10; Communications: Telephone Procedures, GO 6.1.15.
6. Rules of Conduct, GO 2.2.00 (I)(A)(24).
7. Office of Professional Standards: Duties and Responsibilities, GO 2.4.00 (I)(B)(6).
8. Rules of Conduct, GO 2.2.00 (I)(A)(17).
9. Rules of Conduct, GO 2.2.00 (I)(A)(11).
10. Rules of Conduct, GO 2.2.00 (I)(A)(23).
11. Rules of Conduct, GO 2.2.00.
12. Rules of Conduct, GO, 2.2.00 (I)(A)(46).
13. Use of Force – Less Lethal Weapons, GO 1.3.00.
14. Rules of Conduct, GO 2.2.00 (I)(A)(22).
15. Code of Ethics, GO, 1.1.10.
16. Rules of Conduct, GO 2.2.00 (I)(A)(20).
17. "Immoral conduct" can include harassment and, specifically, sexual harassment. Harassment in the Workplace, GO 2.2.15; City of Albany Policy & Procedure Manual, § 12.1 (2019).
18. Rules of Conduct, GO 2.200 (I)(A)(51)(a).
19. Rules of Conduct, GO 2.2.00 (11)(c)(iv).
20. Asset Seizure and Forfeiture Procedures, GO 2.6.15.
21. Bias-Free Policing, GO 5.1.20 (I)(A)(1); Harassment in the Workplace, GO 2.2.15; City of Albany Policy & Procedure Manual, § 12.1 (2019).
22. Bias Motivated Incidents, GO 3.1.60; Bias-Free Policing, GO 5.1.20 (I)(A)(1).
23. Use of Force – Less Lethal Weapons, GO 1.3.05.
24. "Criminal Conduct" means that the officer has been convicted of a felony or misdemeanor. It does not matter whether the criminal conduct was committed off-duty or on-duty.
25. Bias Motivated Incidents, GO 3.1.60; Bias-Free Policing, GO 5.1.20; City of Albany Policy & Procedure Manual, § 12.1 (2019).
26. Bias Motivated Incidents, GO 3.1.60; Bias-Free Policing GO 5.1.20; City of Albany Policy & Procedure Manual, § 12.1 (2019).
27. Bias Motivated Incidents, GO 3.1.60; Bias-Free Policing, GO 5.1.20; City of Albany Policy & Procedure Manual, § 12.1 (2019).
28. Rules of Conduct, GO 2.200 (I)(A)(51)(a).