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City of Austin

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Human Resources Dept



MEMORANDUM

**Austin Police Department
*Office of the Chief of Police***

TO: Joya Hayes, Interim Director of Civil Service
FROM: Art Acevedo, Chief of Police
DATE: December 28, 2015
SUBJECT: Temporary Suspension of Police Officer James Ayers #6755
Internal Affairs Control Number 2015-0738

Pursuant to the provisions of Chapter 143 of the Texas Local Government Code, Section 143.052, and Rule 10, Rules of Procedure for the Firefighter's and Police Officers' Civil Service Commission, I have temporarily suspended Police Officer James Ayers #6755 from duty as a City of Austin, Texas police officer for a period of FOUR (4) days. The temporary suspension is effective beginning on FRIDAY, JANUARY 1ST, 2015, and continuing through MONDAY, JANUARY 4TH, ~~2015~~ 2016.

I took this action because Officer Ayers violated Civil Service Commission Rule 10.03, which sets forth the grounds for disciplinary suspensions of employees in the classified service, and states:

No employee of the classified service of the City of Austin shall engage in, or be involved in, any of the following acts or conduct, and the same shall constitute cause for suspension of an employee from the classified service of the City:

- L. Violation of any of the rules and regulations of the Fire Department or Police Department or of special orders, as applicable.

The following are the specific acts committed by Officer Ayers in violation of Rule 10:

Officer James Ayers arrived late to work on several occasions from approximately March 2015 until this particular incident on August 18, 2015. He was orally counseled and then subsequently counseled through an APD Conduct Counseling Memo on July 1, 2015. On August 18, 2015, Officer James Ayers arrived late for work. Subsequently, Sergeant Brendon Hanly and Corporal Joseph Vega met with Officer Ayers to discuss and document his continued tardiness. During this meeting, Officer Ayers admittedly used profanity while providing excuses for being late. Officer Ayers was admittedly insubordinate when directed to write a memorandum.

By these actions, Officer Ayers violated Rule 10.03(L) of the Civil Service Rules by violating the following rules and regulations of the Austin Police Department.

➤ **Austin Police Department Policy 110.4.4: Organizational Structure and Responsibility: Insubordination**

110.4.4 Insubordination

Employees will not be insubordinate. The willful disobedience of, or deliberate refusal to obey any lawful order of a supervisor is insubordination. Defying the authority of any supervisor by obvious disrespect, arrogant or disrespectful conduct, ridicule, or challenge to orders issued is considered insubordination whether done in or out of the supervisor's presence

➤ **Austin Police Department Policy 955.2: Attendance and Leave: General Attendance Guidelines**

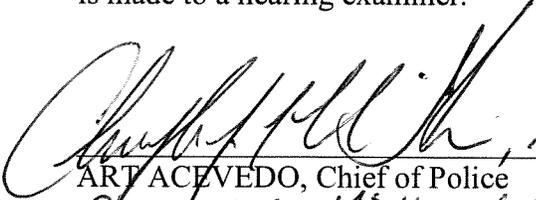
955.2 General Attendance Guidelines

- (a) Employees will not be absent from work without prior approval from an immediate supervisor.
 1. Unless a different notification is required by a Unit SOP, employees have the responsibility of notifying an immediate supervisor at least one (1) hour prior to the scheduled work start time if they are going to be absent.
 2. Employees who fail to report to work at the assigned place and time, or who leave work or an assignment without proper authorization will be subject to disciplinary action.
 3. Employees may not work in excess of 76 hours of any combination of regular duty, department overtime or LERE assignments within a work week without the approval of a Lieutenant or above.

4. Employees may not work any more than 16 hours of any combination of regular duty, department overtime, or LERE assignments within a consecutive 24 hour period without approval of a Lieutenant or above.
5. Employees will advise their immediate supervisor when they will exceed or have reason to believe they will exceed 16 hours in a workday no later than 2 hours prior to reaching the end of the 16th hour.

By copy of this memo, Officer Ayers is hereby advised of this temporary suspension and that the suspension may be appealed to the Civil Service Commission by filing with the Director of Civil Service, within ten (10) days after receipt of a copy of this memo, a proper notice of appeal in accordance with Section 143.010 of the Texas Local Government Code.

By copy of this memo and as required by Section 143.057 of the Texas Local Government Code, Officer Ayers is hereby advised that such section and the Agreement Between the City of Austin and the Austin Police Association provide for an appeal to an independent third party hearing examiner, in accordance with the provisions of such Agreement. If appeal is made to a hearing examiner, all rights of appeal to a District Court are waived, except as provided by Subsection (j) of Section 143.057 of the Texas Local Government Code. That section states that the State District Court may hear appeals of an award of a hearing examiner only on the grounds that the arbitration panel was without jurisdiction or exceeded its jurisdiction, or that the order was procured by fraud, collusion or other unlawful means. In order to appeal to a hearing examiner, the original notice of appeal submitted to the Director of Civil Service must state that appeal is made to a hearing examiner.


ART ACEVEDO, Chief of Police
CHRISTOPHER McINERNEY, 2652
12/28/15
Date

TO WHOM IT MAY CONCERN:

I hereby acknowledge receipt of the above and foregoing memorandum of temporary suspension and I have been advised that if I desire to appeal that I have ten (10) days

from the date of this receipt to file written notice of appeal with the Director of Civil Service in accordance with the provisions of Chapter 143 of the Texas Local Government Code.


Police Officer James Ayers #6755

12/23/2015
Date