



---

LABOUR RELATIONS POLICY

---

CEDERBERG MUNICIPALITY

JANUARY 1, 2013  
CEDERBERG MUNICIPALITY  
2A – Voortrekker Street – Clanwilliam - 8135

TABLE OF CONTENTS

1. OBJECTIVE.....3

2. KEY PERFORMANCE INDICATORS.....3

3. LEGAL MANDATE.....3

4. PRINCIPLES .....3

5. ACTS OF MISCONDUCT.....5

6. DISCIPLINARY PROCEDURE.....6

7. SUSPENSION .....7

8. DISMISSAL .....7

9. RETRENCHMENT .....8

10. GRIEVANCES.....8

11. APPEALS.....8

12. DISCIPLINARY CODES GUIDELINES .....9

13. SCOPE OF COVERAGE.....12

14. DEVIATION FROM THE PROVISION(S) OF THIS POLICY.....12

15. IMPLEMENTATION OF THE POLICY .....12

16. ADOPTION BY COUNCIL .....12

ANNEXURE 1 : NOTICE TO ATTEND A DISCIPLINARY ENQUIRY .....13

ANNEXURE 2: NOTICE TO ATTEND A SUSPENSION HEARING .....14

ANNEXURE 3: NOTICE TO ATTEND A GRIEVANCE HEARING.....15

ANNEXURE 4: FIRST WARNING.....16

ANNEXURE 5: FINAL WRITTEN WARNING.....17

ANNEXURE 6: SANCTION AND OUTCOME OF DISCIPLINARY HEARING .....18

ANNEXURE 7: SUSPENSION LETTER.....19

ANNEXURE 8: COMPULSORY FORM FOR APPEALS .....20

**PREAMBLE**

The Cederberg Municipality recognized the requirement to develop a Labour Relations policy to enhance the implementation of the regulatory framework in term of its workforce and provide guidelines for its staff and management to ensure sound and fair labour practices.

## **1. OBJECTIVE**

The purpose of this Labour Relations policy is to:

- 1.1 Create a spirit of industrial democracy, encourage labour peace and fair labour practice and to promote equity in the workplace.
- 1.2 Support conducive labour relations in the municipality.
- 1.3 Promote mutual respect between employees and between employees and employer
- 1.4 Ensure that managers and employees share a common understanding of misconduct and discipline
- 1.5 Promote acceptable conduct
- 1.6 Provide employees and the employer with a quick and easy reference for the application of discipline and resolution of conflict in the workplace

## **2. KEY PERFORMANCE INDICATORS**

- 2.1 Low rate of grievance and disciplinary hearings.
- 2.2 Early resolution of disputes.
- 2.3 Low absenteeism and labour turnover.
- 2.4 Low rate of strikes.
- 2.5 Disciplined workforce that abides by the rules.
- 2.6 High productivity.

## **3. LEGAL MANDATE**

In all its dealings regarding labour relations matters the CEDERBERG MUNICIPALITY shall be guided by the provisions of the:

- 3.1 Labour Relations Act
- 3.2 Basic Conditions of Employment Act and
- 3.3 Employment Equity Act.

## **4. PRINCIPLES**

In order to create a workplace that is free from any form of discrimination and to promote labour peace in the workplace, the Cederberg Municipality adopts the following principles:

- 4.1 Collective bargaining is an acceptable means of resolving disputes of mutual interest and it is encouraged.
- 4.2 The Cederberg Municipality shall encourage and provide means to reach collective agreements.
- 4.3 Strikes and lockouts are an integral part of the process of collective bargaining.
- 4.4 The Cederberg Municipality shall seek ways of resolving disputes in a more efficient and simpler ways that would avoid strikes and lockouts. Where a strike or lockout is unavoidable, the Cederberg Municipality shall resort to legal remedies available in order to resolve the strike and/or continue its operations.
- 4.5 Absence from work as a result of strike and/or lockouts shall be treated on the basis of no-work no-pay.
- 4.6 In a way of avoiding conflict in the workplace the Cederberg Municipality shall disclose any relevant information to employees or representative trade union. The Cederberg Municipality has however the right not to reveal any secrets the disclosure of which may be to the detriment of its objectives.
- 4.7 No employee may be victimized or unfairly discriminated against only because he is a member of a trade union.
- 4.8 Trade Union representatives will be allowed to access the workplace and are entitled to request the employer to make membership deductions from members' salaries and also to have access to information that the union requires to bargain properly.
- 4.9 The Cederberg Municipality shall afford employees who are union representatives leave as may be agreed upon to attend to training Courses, Workshops and Conferences that will improve their knowledge, skills and attitude towards labour relations.
- 4.10 The Cederberg Municipality recognizes as its right to terminate any employee's contract of employment for reasons of misconduct, inability of a person to do his/her work and for operational requirements which lead to retrenchments and/or redundancy
- 4.11 Discipline is a corrective measure and not a punitive act.
- 4.12 Discipline must be applied in a prompt, fair, consistent and progressive manner.
- 4.13 Discipline is a management function.
- 4.14 All employees are entitled to have a fair hearing in a formal or informal setting.
- 4.15 Employees should be timeously informed of allegations of misconduct made against them:
- 4.16 Disciplinary procedures shall take place in the place of work and be understandable to all employees.

4.14 If an employee commits misconduct that is also a criminal offence, the criminal procedure and the disciplinary procedure will continue as separate and different procedures.

4.15 Disciplinary proceedings do not replace or seek to initiate court proceedings nor do they depend on the criminal or court procedures.

## 5. ACTS OF MISCONDUCT

An employee will be guilty of misconduct if she or he among other things:

- 5.1 Fails to comply or contravenes an Act or regulation or legal obligation.
- 5.2 Willfully or negligently mismanages affairs of the municipality.
- 5.3 Possesses or wrongfully uses the asset or property of the municipality, another employee or visitor without permission.
- 5.4 Damages and or misuses the asset or property of the municipality willfully, intentionally or negligently.
- 5.4 Endangers the lives of others, self or others by disregarding safety rules or regulations.
- 5.5 Prejudices the administration, discipline or efficiency of an office or institution of the Municipality.
- 5.6 Misuses his or her position in the municipality to promote or prejudice the interest of any political party.
- 5.7 Steals, bribes or commits fraud.
- 5.8 Accepts any compensation in cash or otherwise from a member of the public or another employee for performing her or his duties without written approval from the municipality.
- 5.9 Fails to carry out a lawful order or instruction without just or reasonable reason.
- 5.10 Absents or repeatedly absents himself/herself from work without reason or permission.
- 5.11 Commits an act of sexual harassment.
- 5.12 Discriminates against others on the basis of race, gender, disability, sexuality or other grounds outlawed by the Constitution.
- 5.13 Performs work for compensation in a private capacity for another person or organisation either during or outside working hours written approval from the municipality.
- 5.14 Sleeps on duty without authorisation.
- 5.15 Is under the influence of an intoxicating, illegal, unauthorized drug while on duty.

- 5.16 Conducts herself or himself in an improper or disgraceful and unacceptable manner.
- 5.17 Contravenes any prescribed Code of Conduct for me municipality.
- 5.18 Assaults, or attempts or threatens to assault other employees or person while on duty .
- 5.19 Incites other personnel to un procedural and unlawful conduct.
- 5.20 Displays disrespect towards others in the workplace.
- 5.21 Demonstrates abusive or insolent behaviour.
- 5.22 Intimidates or victimises fellow employees.
- 5.23 Prevents other employees from belonging to any trade union of their choice.
- 5.24 Operates any money lending scheme for employees for own benefit during working hours or from the premises of the municipality.
- 5.25 Carries or keeps firearms or other dangerous weapons on municipal premises, without the written authorisation of the employer.
- 5.26 Refuses to obey security regulations.
- 5.27 Gives false municipality documents or evidence in the execution of his or her duties.
- 5.28 Falsifies records or any other documentation.
- 5.29 Participates in un procedural, unprotected and/or unlawful industrial action.
- 5.30 Commits a common law or statutory offence while-on municipal premises.

## **6. DISCIPLINARY PROCEDURE**

In order to reach a decision from a disciplinary procedure, the various types of misconduct shall be classified according to their severity and seriousness.

### **6.1 Less Serious misconduct**

Less serious misconduct may result in verbal warning, written warning, final written warning or dismissal with notice. Such misconduct may be:

- a) Absence from work without leave or authorisation.
- b) Using abusive language.
- c) Negligence in the performance of duties.
- d) Late for work.
- e) Failure to meet deadlines.

## 6.2 Serious misconduct

Serious misconduct may result in written warning, final written warning, dismissal with or without notice. Any of the foregoing decisions may be arrived at, irrespective of whether the misconduct is repeated or not.

Examples of Serious Misconduct are:

- a) Theft
- b) Dishonesty
- c) Willful damage to property
- d) Willful endangering of the safety of other people
- e) Physical assault
- f) Insubordination and/or refusal to carry out lawful instructions
- g) Harassment
- h) Any conduct which makes the continued employment relationship intolerable.

## 7. SUSPENSION

The MUNICIPALITY may suspend an employee on full pay or transfer the employee if:

- 7.1 The employee is alleged to have committed a serious offence; and the employer believes that the presence of an employee at the workplace might jeopardise any investigation into the alleged misconduct or endanger the well being or safety of any person or municipality property.
- 7.2 A suspension of this kind is a precautionary measure that does not constitute a judgment, and must be on full pay.
- 7.3 If an employee is suspended or transferred as a precautionary measure, the employer must hold a disciplinary hearing within a month. The chairperson of the hearing must then decide on any further postponement

## 8. DISMISSAL

- 8.1 When deciding whether or not to dismiss an employee, the CEDERBERG MUNICIPALITY shall consider other mitigating circumstances such as length of service, previous disciplinary record and personal circumstances.
- 8.2 Dismissal due to incapacity due to ill health or injury shall occur after the extent of the injury or ill health has been investigated.
- 8.3 Dismissal may occur if :
  - a) The employee is incapable of doing his/her work.
  - b) The employees' work circumstances or duties cannot be adaptable.
  - c) There is no alternative work available which would be more suitable to the employee.
  - d) Participating in an unprotected strike may constitute a fair reason for dismissal. In determining whether or not the dismissal is fair, the code of good practise shall be taken into account.



## 9. RETRENCHMENT

- 9.1 Dismissal for operational requirements or retrainments may be embarked upon after consultation with the trade union or affected employees in order to:
- a) Find ways to avoid or reduce retrainments.
  - b) Find ways to reduce the number of employees who will be retrainched.
  - c) Reduce the harsh effects of retrainchment.
  - d) Agree on the method for selecting the employees to be retrainched. The Cederberg Municipality shall use the principle of Last-in-first-out.
  - e) Agree on the severance payment.
- 9.2 The Cederberg Municipality shall carry out the consultation in good faith and disclose the following information:
- a) Reasons for the retrainchment.
  - b) Alternative to be considered by the Cederberg Municipality.
  - c) The number of employees to be affected, and the job categories to be affected.
  - d) The method of selection of employees to be retrainched.
  - e) The timing of the proposed retrainchment.
  - f) The proposed severance package.
  - g) Any assistance which the Cederberg Municipality proposes to offer e.g retraining.
  - h) The possibility of a future re-employment of retrainchees. The Cederberg Municipality shall first offer employment to suitable retrainched workers before offering opportunities to any new recruits.

## 10. GRIEVANCES

A grievance is an occurrence, situation or condition that justifies an individual to lodge a complaint.

- 10.1 Each employee that is aggrieved by a fellow worker or supervisor has the right to lodge a complaint against such a person.
- 10.2 A grievance procedure may not be lodged in response to a disciplinary procedure.
- 10.3 Management must accept the responsibility for, and also take the initiative to settle grievances.
- 10.4 Management must be timeous, fair, just and practice equity in dealing with grievances.

## 11. APPEALS

- 11.1 An employee may appeal a finding or sanction if she/he is not satisfied with substantive or procedural fairness of a disciplinary or grievance hearing.
- 11.2 The employee who wishes to appeal must within five working days of the receiving notice of the final outcome of a hearing or other disciplinary procedure, submit an appeal to her or his executing authority, or to her or his manager, who shall then forward it to the appeal authority.

11.3 The appeal authority shall be different and higher in status than the disciplinary authority.

11.4 The appeal authority may uphold the appeal, and/or reduce the sanction, or confirm the outcome of the disciplinary proceedings.

11.5 The employer shall immediately implement the decision of appeal authority .

11.6 The employee retains the right to utilise any dispute settlement mechanisms provided under the Labour Relations Act.

**12. DISCIPLINARY CODES GUIDELINES**

**CATEGORY: TIMEKEEPING OFFENCES**

NATURE OF OFFENCE	FIRST	SECOND	THIRD	FOURTH
Late for work or leaving without permission	Verbal	Written	Final	Dismissal
Absence from place of work without permission	Verbal	Written	Final	Dismissal
Absent from work for three consecutive days without permission.	Dismissal			
Fraudulent timekeeping	Dismissal			
Failure to clock in or out	Final			
Unauthorized absence from work for more than 1 day without contacting the office	Final			

**CATEGORY: WORK OUTPUT OFFENCES**

Sleeping on duty	Final	Dismissal
Refusal to obey a lawful & reasonable work instruction	Final	Dismissal
Poor quality of work	Final	Dismissal

Failing to work according to standard		Dismissal
Attending to private work during company time	Final	Dismissal
Using company property for a purpose other than Intended	Written	Dismissal

**CATEGORY: SOCIAL OFFENCES DURING WORKING HOURS**

Under the influence of alcohol or drugs		Dismissal
Unauthorised consumption of alcohol during working Hours		Dismissal
Threat of assault, assault, fighting		Dismissal
Unauthorised possession of weapons		Dismissal
Intimidation or incitement to violence		Dismissal
Committing unsanitary acts	Final	Dismissal
Smoking in prohibited areas using insulting or abusive Language	Final	Dismissal
Sexual harassment	Counseling	Dismissal
	Written	

**CATEGORY: ATTITUDINAL OFFENCES**

Insubordination; disrespect		Dismissal
Failure to observe security and safety Regulation		Dismissal
Gross negligence		Dismissal
Gross incompetence		Dismissal

**CATEGORY: OTHER OFFENCES**

Theft		Dismissal
Unauthorised possession of municipality, client or employee property		Dismissal
Divulgence of confidential information		Dismissal
Fraud		Dismissal
Supplying incorrect or falsified information		Dismissal
Attempting or causing to bring the municipality into disrepute		Dismissal
Failure to follow municipality policies, procedures and Rules	Final	Dismissal
Failing to act in the best interests of the municipality		Dismissal

Any act which interferes with the normal operations of the municipality	Dismissal
Victimisation	Dismissal
Giving of a false identity	Dismissal
Unprotected industrial action	Dismissal
Failure to treat others and or their property with Respect	Dismissal
Threatening violence	Dismissal
Sexual harassment	Dismissal
Competing with the employer	Final Dismissal

**NOTE:** Nothing in this disciplinary code shall affect the employer's right to summarily terminate an employee's contract of employment on grounds recognised by law as sufficient after holding a disciplinary enquiry.

#### **POLICY FOR INDIVIDUAL/GROUP PROBLEM SOLVING / GRIEVANCE**

##### **OBJECTIVE**

The objective of this policy is give guidance for the handling of employees'grievances. These guidelines apply to all members of the employees of the Municipality excluding the Municipal Manager.

##### **MEANING OF GRIEVANCE**

A grievance, for the purposes of this policy, means any individual or group workrelated grievance concerning the conduct of a person in authority, a fellow employee or the implementation of a policy of the Municipality. It does not include grievances in respect of which the Municipality has already published policy guidelines. For example grievances in respect of disciplinary action must be dealt with in terms of that policy.

##### **PRINCIPLES**

The employee must be granted the opportunity to use the following procedures:

- a) The aggrieved employee shall verbally inform their immediate supervisor about the complaint, if the complaint involves or relates to the immediate supervisor the employee shall refer the issue to the next higher level of management. If the grievance is resolved it shall be recorded.
- b) If the grievance involves a third party the grievance shall be put down in writing and (union representation shop steward may be utilised) and shall be forwarded to higher level management. Three copies are made one is kept by the employee, one

is sent to the HR Officer responsible for handling such cases and the third copy is given to management. If the grievance is still not resolved step three will follow

c) A grievance investigation shall be conducted by an impartial grievance committee. This Committee will normally consist of a labour relations expert, employee representatives, management and any other expert who may be of particular value.

Management at the various levels must give careful consideration to every grievance lodged and make genuine attempts to resolve it.

Grievances must, whenever possible, be handled by line management at the lowest possible level. Other employees, in an advisory capacity, may help in facilitating a resolution to the problem. No employee may be victimised for lodging or pursuing a grievance in terms of this policy.

**13. SCOPE OF COVERAGE**

This policy will apply equally to all employees of the Cederberg Municipality.

**14. DEVIATION FROM THE PROVISION(S) OF THIS POLICY**

The Municipal Manager or his/her delegated assignee(s), may, deviate from the provision(s) of this policy, where there is an existence of bona fide organizational or operational requirements.

**15. IMPLEMENTATION OF THE POLICY**

The policy shall be implemented after adoption by council.

**16. ADOPTION BY COUNCIL**

The Cederberg Municipality council resolved on ...../...../2013 to adopt this Policy in a properly constituted council meeting.

Signed at ..... on this .....day of .....

.....  
CHAIRPERSON

**ANNEXURE 1 : NOTICE TO ATTEND A DISCIPLINARY ENQUIRY**

To: \_\_\_\_\_  
\_\_\_\_\_

**NOTICE TO ATTEND A DISCIPLINARY ENQUIRY**

You are hereby notified of a disciplinary enquiry which will be held against you.

1. Charge/s: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Venue: \_\_\_\_\_

Date: \_\_\_\_\_

Time: \_\_\_\_\_

3. You have the right to:
- 3.1. Be represented by a co-worker.
  - 3.2. Have an interpreter
  - 3.3. Hear evidence against you and to cross examine witnesses
  - 3.4. To state your case and call witnesses.

\_\_\_\_\_  
**MUNICIPAL MANAGER**

**ANNEXURE 2: NOTICE TO ATTEND A SUSPENSION HEARING**

To: \_\_\_\_\_  
\_\_\_\_\_

**NOTICE TO ATTEND A SUSPENSION HEARING**

You are hereby notified of a suspension hearing which will be held against you.

1. Charge/s: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Venue: \_\_\_\_\_

Date: \_\_\_\_\_

Time: \_\_\_\_\_

3. You have the right to:
- 3.1. Be represented by a co-worker or you union representative.
  - 3.2. Have an interpreter
  - 3.3. Hear evidence against you and to cross examine witnesses
  - 3.4. To state your case and call witnesses.

\_\_\_\_\_  
**MUNICIPAL MANAGER**

**ANNEXURE 3: NOTICE TO ATTEND A GRIEVANCE HEARING**

To: \_\_\_\_\_  
\_\_\_\_\_

**NOTICE TO ATTEND A GRIEVANCE HEARING**

You are invited to attend a grievance hearing which will be held as follows:

1. Grievance: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Agrieved Party: \_\_\_\_\_

2. Venue: \_\_\_\_\_

Date: \_\_\_\_\_

Time: \_\_\_\_\_

3. You have the right to:
  - 3.1. Be represented by a co-worker.
  - 3.2. Have an interpreter
  - 3.3. Hear evidence and cross examine witnesses
  - 3.4. State your case and call your witnesses.

\_\_\_\_\_  
**MUNICIPAL MANAGER**



**ANNEXURE 4: FIRST WARNING**

To: \_\_\_\_\_  
\_\_\_\_\_

**FIRST WARNING**

You were invited to a meeting in your supervisors' office and the following was resolved are invited to attend a grievance hearing which will be held as follows:

1. Description of transgression:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Appropriate Sanction agreed between the parties  
Verbal first warning  
\_\_\_\_\_

3. You have been represented by:  

3.1. Be represented by a co-worker:
-------------------------------------

  

3.2. Union Representative
---------------------------

  

3.3. Have decided to be unrepresented
---------------------------------------

4. Duly undersigned by the parties  
Signature \_\_\_\_\_ Date \_\_\_\_\_ Place \_\_\_\_\_

\_\_\_\_\_  
**MUNICIPAL MANAGER**

**ANNEXURE 5: FINAL WRITTEN WARNING**

To: \_\_\_\_\_  
\_\_\_\_\_

**FINAL WRITTEN WARNING**

You were invited to a meeting in your supervisors' office and the following was resolved are invited to attend a grievance hearing which will be held as follows:

1. Description of transgression:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Appropriate Sanction agreed between the parties  
Verbal first warning  
\_\_\_\_\_

3. You have been represented by:  

3.1. Be represented by a co-worker.
3.2. Union Representative
3.3. Have decided to be unrepresented

4. Duly undersigned by the parties  
Signature Date Place

\_\_\_\_\_  
**MUNICIPAL MANAGER**

**ANNEXURE 6: SANCTION AND OUTCOME OF DISCIPLINARY HEARING**

To: \_\_\_\_\_  
\_\_\_\_\_

**LETTER WITH SANCTION AND OUTCOME OF DISCIPLINARY HEARING**

You were invited to a meeting in your supervisors' office and the following was resolved are invited to attend a grievance hearing which will be held as follows:

1. Description of transgression:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Appropriate Sanction agreed between the parties  
Verbal first warning  
\_\_\_\_\_

3. You have been represented by:  

3.1. Be represented by a co-worker.
3.2. Union Representative
3.3. Have decided to be unrepresented

4. Duly undersigned by the parties  
Signature \_\_\_\_\_ Date \_\_\_\_\_ Place \_\_\_\_\_

\_\_\_\_\_  
**MUNICIPAL MANAGER**

**ANNEXURE 7: SUSPENSION LETTER**

To: \_\_\_\_\_  
\_\_\_\_\_

**SUSPENSION LETTER**

You were invited to a suspension hearing on

Date

Venue

Time

meeting in your supervisors' office and the following was resolved are invited to attend a grievance hearing which will be held as follows:

1. Description of transgression:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Appropriate Sanction agreed between the parties  
Verbal first warning

\_\_\_\_\_

3. You have been represented by:

- 3.1. Be represented by a co-worker. \_\_\_\_\_
- 3.2. Union Representative \_\_\_\_\_
- 3.3. Have decided to be unrepresented \_\_\_\_\_

4. Duly undersigned by the parties  
Signature Date Place

\_\_\_\_\_  
**MUNICIPAL MANAGER**

**ANNEXURE 8: COMPULSORY FORM FOR APPEALS**

To: \_\_\_\_\_  
\_\_\_\_\_

**COMPULSORY FORM FOR APPEALS**

You were invited to a meeting in your supervisors' office and the following was resolved are invited to attend a grievance hearing which will be held as follows:

1. Description of transgression:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Appropriate Sanction agreed between the parties  
Verbal first warning  
\_\_\_\_\_

3. You have been represented by:
  - 3.1. Be represented by a co-worker. \_\_\_\_\_
  - 3.2. Union Representative \_\_\_\_\_
  - 3.3. Have decided to be unrepresented \_\_\_\_\_

4. Duly undersigned by the parties

Signature                      Date                      Place

\_\_\_\_\_  
**MUNICIPAL MANAGER**