

## DRAFT MITIGATING AND AGGRAVATING FACTORS

For Discussion Purposes Only

Alternative A (From LESC Staff with Karia edits)

MITIGATING FACTORS	AGGRAVATING FACTORS
Positive employment history.	Prior disciplinary history.
Self-reported the violation.	Delay in reporting.
Unintentional conduct .	Intentional conduct.
Limited impact upon the agency's mission, reputation, or relationship with the community.	Significant impact upon the agency's mission, reputation, or relationship with the community.
Limited nature and extent of property damage or harm.	Significant nature and extent of property damage or harm.
Attempt to ameliorate or correct the conduct or behavior.	Officer made efforts to conceal or cover up conduct or behavior
Officer promptly accepted responsibility.	Does not accept responsibility if misconduct is undisputed
Motivated by public interest or wellbeing of others.	Motivated by personal interest or gain
No repeated or other sustained misconduct	Failure to meet documented expectations
Role of the officer (subordinate to supervisor on scene).	Supervisory position.
Officer attempted to de-escalate the encounter	Failed or declined to attempt to de-escalate the encounter even though feasible to do so
Potential for Rehabilitation.	Low probability or limited potential for rehabilitation.
The nature of the event was unpredictable, volatile, or unfolded rapidly, not allowing time for deliberate action.	The nature of the event allowed time for deliberate reflection or action.
Extraordinary circumstances or hardships that may be relevant.	Victim's vulnerability
The lack of training or experience that is germane to the incident.	The presence of training or experience that is germane to the incident.
Other relevant factors (case-by-case basis)	Other relevant factors (case-by-case basis)

- An aggravating or mitigating factor will not be applied if already included in determining whether misconduct occurred (example: intentionality).
- The application of aggravating or mitigating factors must be explained in writing by the disciplinary body as part of its final disciplinary action. A disciplinary body may apply an objective points system to the application of the aggravating or mitigating factors.

Alternative B (Portland Model)

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<i>Note: The mitigating and aggravating factors are used only to alter a corrective action level within a specified category, and these factors do not alter the category of conduct. An aggravating or mitigating factor will not be considered if already considered in determining the category.</i>	<b>CALCULATION</b>
<b>Aggravating Factors - Add point/s</b>	Points
Intentional conduct	2
Significant impact on community member or City operations/mission	2
Significant property damage or serious physical injury	2
Does not accept responsibility if policy violation is undisputed	1
Delay in reporting	1
Attempt to cover up conduct or behavior	2
Motivated by personal interest	1
Failure to meet documented expectations	1
Supervisory Position	1
Other (specified on a case-by-case basis) (Only to be used by final decision maker)	1
<b>Total:</b>	
	<b>14</b>
<b>Mitigating Factors - Subtract point/s</b>	Points
Unintentional conduct	1
No impact on community member or City operations/mission	1
No property damage or physical injury	1
Self-reported the violation	1
Attempt to ameliorate or correct the error (but not done to hide the error)	2
Positive attitude; accepts responsibility	2
Motivated by public interest or wellbeing of others	2
Positive work history	1
No repeated or other sustained violations	2
Other (specified on a case-by-case basis) (Only to be used by final decision maker)	1
<b>Total:</b>	
<b>CALCULATION</b>	<b>14</b>
Each factor that applies receives a corresponding point value. Factors that do not apply receive no point value. Subtract mitigation total (green) from aggravation total (red). If the number is negative, corrective action is mitigated. If the number is positive, the violation is aggravated. If the number is 0, the violation is neither mitigated nor aggravated. Aggravating and mitigating factors apply to the totality of the conduct sustained. Note: An aggravating or mitigating factor will not be considered if already considered in determining the category.	<b>0</b>

## DRAFT MITIGATING AND AGGRAVATING FACTORS

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Alternative C (Portland factors without point system)

<b>Aggravating Factors</b>
Intentional conduct
Significant impact on community member or City operations/mission
Significant property damage or serious physical injury
Does not accept responsibility if policy violation is undisputed
Delay in reporting
Attempt to cover up conduct or behavior
Motivated by personal interest
Failure to meet documented expectations
Supervisory Position
Other (specified on a case-by-case basis) (Only to be used by final decision maker)

<b>Mitigating Factors</b>
Unintentional conduct
No impact on community member or City operations/mission
No property damage or physical injury
Self-reported the violation
Attempt to ameliorate or correct the error (but not done to hide the error)
Positive attitude; accepts responsibility
Motivated by public interest or wellbeing of others
Positive work history
No repeated or other sustained violations
Other (specified on a case-by-case basis) (Only to be used by final decision maker)

- An aggravating or mitigating factor will not be applied if already included in determining whether misconduct occurred (example: intentionality).
- The application of aggravating or mitigating factors must be explained in writing by the disciplinary body as part of its final disciplinary action. A disciplinary body may apply an objective points system to the application of the aggravating or mitigating factors.