

# Pre-Disciplinary Conference

Policy 602.19

## 1 Introduction

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### 4.1 Pre-Disciplinary Conference

#### 4.1.1 Notice and Scheduling

4.1.1.1 Before dismissal of an employee, a supervisor must:

4.1.1.2 Schedule and conduct a pre-disciplinary conference. He or she must give advance written notice of the conference to the employee. The notice must tell the employee the type of disciplinary action being considered (dismissal), the conference time and location, and the facts that led to the recommendation. Advance notice should be as much as practical under the circumstances.

4.1.1.3 Give the employee a statement in writing outlining:

1. the acts or failures to act that are the reason for the dismissal
2. what the employee's appeal rights are, if applicable

4.1.1.4 The people who are a part of the conference are:

1. The supervisor or other person chosen by agency management to conduct the conference
2. The employee
3. If the agency chooses, a second person chosen by management
4. If the person conducting the conference chooses, security may be present
5. No attorney shall represent either side at the conference

#### 4.1.2 During the Conference

4.1.2.1 During the conference, the person conducting the conference must:

1. Give to the employee oral or written notice of the recommendation for dismissal including the specific reasons for the proposed dismissal and a summary of the facts supporting the dismissal recommendation.
2. Give the employee an opportunity to respond with information against the recommended dismissal, offer facts that are different from those offered by management and offer facts in support of the employee's case. This policy does not give an employee the right to have witnesses at the conference.

#### 4.1.3 Following the Conference

4.1.3.1 After the conference, management shall:

1. Review and consider the response of the employee and make a decision on the recommended dismissal
2. Not communicate the decision before the start of the next business day after the conference.

4.1.3.2 If management decides to dismiss, the employee shall receive a written letter of dismissal either in person or by certified mail with return receipt requested. The letter must include:

1. The reason for the dismissal
2. The effective date of the dismissal
3. The employee's right to appeal

4.1.3.3 The effective date of the dismissal shall be no sooner than the date of the written notice and no later than 14 calendar

days after the written notice. When dismissal is for unsatisfactory job performance, management may give an employee pay in lieu of the 14 day notice or any part of that notice.

#### **4.1.4 Failure to Follow Procedure**

4.1.4.1 Failure to give written reasons for the dismissal, written notice of appeal rights, or to conduct a pre-dismissal conference is a procedural violation. If an agency fails to follow procedure, the agency shall be subject to the rules of the Commission dealing with procedural violations.

4.1.4.2 The time for filing a grievance as a result of the dismissal does not start until the employee receives a written notice of any applicable appeal rights.

### **4.2 Special Provisions**

#### **4.2.1 Grandfather Provisions**

4.2.1.1 The following grandfather provisions establish the force and effect of disciplinary actions in existence upon the effective date of this policy:

1. Oral warnings - Any oral warning existing October 1, 1995, is deemed void and has no further force or effect upon the disciplinary status of any State employee.
2. All other disciplinary actions existing as of October 1, 1995, shall remain in full force and effect as if the warnings or other disciplinary actions had been imposed under this policy. No written warning or other disciplinary action imposed prior to October 1, 1995, shall be deemed inactive by operation of the provisions of this policy until more than 18 months after October 1, 1995, or until the disciplinary action is otherwise deemed inactive in accordance with the definition.
3. Extension of Disciplinary Actions - Any written warning or disciplinary action imposed prior to the adoption of this policy may be extended in accordance with the provisions of this policy as if the warning or disciplinary action had been imposed after the effective date of the policy. No unresolved written warning or disciplinary action issued under the prior policy shall become inactive if, within 18 months of the effective date of this policy, another disciplinary action or warning is imposed on the employee or management acts to extend the active status of a disciplinary action. Notice of the extension of the active status of a disciplinary action can be given at any time within 18 months of the effective date of the disciplinary action.
4. Resolution of disciplinary actions under prior agency/university procedure - Any warnings or disciplinary actions existing at the time that this policy is adopted shall be deemed inactive if it would have been resolved under the agency/university procedure existing at the time of the adoption of this policy.

#### **4.2.2 Investigatory Placement With Pay**

4.2.2.1 How do you place an employee on investigatory status? - Management must notify an employee in writing of the reasons for investigatory placement not later than the second scheduled workday after the beginning of the placement.

4.2.2.2 An investigatory placement with pay may last no more than thirty calendar days without written approval of extension by the agency/university head and the State Personnel Director. When an extension beyond the thirty day period is required, the agency/university must advise the employee in writing of the extension, the length of the extension, and the specific reasons for the extension.

4.2.2.3 If no action has been taken by an agency/university by the end of the thirty day period and no further extension has been granted, the agency/university must either take appropriate disciplinary action on the basis of the findings upon investigation or return the employee to active work status. Under no circumstances is it permissible to use placement on investigation status for the purpose of delaying an administrative decision on an employee's work status pending the resolution of a civil or criminal court matter involving the employee.

4.2.2.4 What are the reasons to place an employee on investigatory status with pay? - An employee may be placed on investigatory status with pay only:

1. To investigate allegations of performance or conduct deficiencies that would constitute just cause for disciplinary action
2. To provide time within which to schedule and conduct a pre-disciplinary conference
3. To avoid disruption of the work place and/or to protect the safety of persons or property.

## **5 Additional References**

## **6 Authority**

**7 Contact Information**

**8 Original Effective Date**

**9 Revision Dates**