



**State of Oklahoma
Office of Management and Enterprise Services
Policies and Procedures**

Progressive Discipline

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Approved: Dana Webb, as Designee of OMES Director John Budd	Approval Date: 02/25/2019

Policy

The Office of Management and Enterprise Services fosters an environment where all employees work as a team to achieve excellence in customer services. We support communication of clear expectations where our employees can differentiate between acceptable and unacceptable behavior. Although disciplinary processes can be avoided by intensifying communication between leadership and employees, the leadership shall apply progressive discipline as required as a corrective action process to improve and prevent a recurrence of undesirable behavior and/or performance issues. The progressive discipline policy and procedure is designed to provide standards and guidelines for applying prompt, equitable and suitable discipline when necessary. This policy applies to classified employees. However, OMES may apply this policy in full or in part to at-will employees. Additionally, nothing in this policy shall prevent OMES from releasing probationary classified employees and unclassified employees at any time without implementing progressive discipline. This policy is not intended to provide any contractual obligations related to continued employment, compensation or employment contract.

Definitions

In addition to words and terms defined in the Merit System of Personnel Administration Rules, the following words and terms shall have the following meaning unless the text clearly indicates otherwise.

"Discharge" means the act of terminating the employment relationship of a permanent classified employee who did not voluntarily resign or otherwise forfeit his or her position according to any other statutory provision. Discharge does not include separation due to reduction-in-force.

"Discipline" means informal or formal action to correct infractions of statute, rule, policy, practice or procedure regarding work performance or behavior.

"Involuntary Demotion" means the reclassification of a permanent classified employee from his or her classification to a different classification which has a lower grade assigned, made without the consent of the employee.

"Commission" means the Oklahoma Merit Protection Commission.

"At-will Employment" means a doctrine of American Law that defines an employment relationship in which either party can break the relationship with no liability, provided there was no express contract for a definite term governing the employment relationship and that the employer does not belong to a collective bargaining group.

"Progressive Discipline" means a system designed to ensure not only the consistency, impartiality and predictability of discipline, but also the flexibility to vary penalties if justified by aggravating or mitigating conditions. Typically, penalties range from verbal warning to discharge, with intermediate levels of a written warning, suspension or demotion. Absent mitigating circumstances, repetition of an offense is accompanied by a generally automatic progression to the next higher level of discipline.

Based on relevant circumstances, a single incident may justify a higher step of discipline without proceeding through lower steps of discipline.

First phase – informal discipline

The first phase of progressive discipline shall be informal discipline and may include steps of verbal warning, informal discussion, corrective interview and oral reprimand, etc. This phase shall serve to streamline the progressive discipline system and to bring potential problems to an employee's attention before they escalate. Documentation of informal discipline may be noted and maintained by the supervisor and employee.

Informal discipline may be given to correct infractions of statute, rule, policy, practice or procedure regarding work performance or behavior. In administering informal discipline, an employee shall be told, as a minimum, of:

1. The nature of the problem which is cause for the discipline and steps which must be taken to resolve the problem; and
2. The consequences of repeated infractions or continuing deficient performance or behavior.

Second phase – formal discipline

The second phase of progressive discipline shall be formal discipline and may include written reprimand, suspension without pay, involuntary demotion and/or discharge. An employee may receive formal discipline to correct violations of statute, rule, policy, practice or procedure regarding work performance or behavior. Absent aggravating conditions, formal discipline is normally administered after informal discipline has failed to produce acceptable results. Formal discipline documentation shall include a citation of any other informal or formal discipline which was used in the decision to administer formal discipline.

Written reprimand

Supervisors may administer a written reprimand to correct violations of statute, rule, policy, practice or procedure regarding work performance or behavior. A written reprimand shall include, as a minimum:

1. The date of the written reprimand.
2. The statute, rule, policy, practice or procedure regarding work performance or behavior which was violated.
3. A statement of the act or incident which is cause or reason for the written reprimand.
4. Steps which can be taken to resolve the problem.
5. A citation of any other informal or formal discipline which was used in the decision to administer the written reprimand.
6. Consequences of repeated infractions or continuing deficient performance or behavior.

The employee shall be provided an opportunity to respond in writing to the written reprimand. Any response shall be attached to the written reprimand.

The written reprimand and any response shall be filed in the employee's agency personnel record.

Causes for discharge, suspension without pay or involuntary demotion

Any employee in the classified service may be discharged, suspended without pay not to exceed 60 calendar days, or demoted for misconduct, insubordination, inefficiency, habitual drunkenness, inability to perform the duties of the position in which employed, willful violation of the Oklahoma Personnel Act or of the rules prescribed by OMES and by the Oklahoma Merit Protection Commission, conduct unbecoming a public employee, conviction of a crime involving moral turpitude, or any other just cause.

Suspension without pay

The employee shall be provided notice of the proposed suspension without pay, by personal service or certified or registered mail. Pending completion of the notice and response opportunity, an employee may be suspended with pay in accordance with rules adopted by the administrator of OMES Human Capital Management (HCM). The notice shall include, as a minimum:

1. The statute, rule, policy, practice or procedure regarding work performance or behavior which was violated and cause for the proposed suspension without pay.
2. The specific acts or omissions which are cause or reason for the proposed suspension without pay.
3. An explanation of the evidence which justifies the proposed suspension without pay. And
4. An opportunity, either in writing or orally, to present reasons why the proposed suspension without pay is improper.

Final action for suspension without pay

Within 10 working days after the employee has had opportunity to respond to the proposed suspension without pay, he or she shall be provided written notice of the final action by personal service or certified or registered mail. If the decision made is to proceed with the suspension without pay, the written notice to the employee shall include as a minimum:

1. The statute, rule, policy, practice or procedure regarding work performance or behavior which was violated and cause for the suspension without pay.
2. Grounds for the action.
3. A citation or the law or rule under which the action is being taken.
4. Effective date and inclusive dates of the suspension without pay.
5. A citation of any other informal or formal discipline which was used in the decision to administer the suspension without pay.
6. A statement of the employee's right to file an appeal with the Commission, the 20 calendar day time limit for the Commission's receipt of the appeal and the address of the Commission.
7. A copy of the Commission's petition for appeal form.

Involuntary demotion

The employee shall be provided notice of the proposed involuntary demotion, by personal service or certified or registered mail. Pending completion of the notice and response opportunity, an employee may be suspended with pay in accordance with rules adopted by the administrator of OMES HCM. The notice shall include, as a minimum:

1. The statute, rule, policy, practice or procedure regarding work performance or behavior which was violated and cause for the proposed involuntary demotion.
2. The specific acts or omissions which are cause or reason for the proposed involuntary demotion.
3. An explanation of the evidence which justifies the proposed involuntary demotion.
4. An opportunity, either in writing or orally, to present reasons why the proposed involuntary demotion is improper.

Final action for involuntary demotion

Within 10 working days after the employee has had opportunity to respond to the proposed involuntary demotion, he or she shall be provided written notice of the final action by personal service or certified or registered mail. If the decision made is to proceed with the involuntary demotion, the written notice to the employee shall include, as a minimum:

1. The statute, rule, policy, practice or procedure regarding work performance or behavior which was violated and cause for the involuntary demotion.
2. Grounds for the action.
3. A citation or the law or rule under which the action is being taken.
4. Effective date of the involuntary demotion and the classification and grade to which demoted.
5. A citation of any other informal or formal discipline which was used in the decision to administer the involuntary demotion.
6. A statement of the employee's right to file an appeal with the Commission, the 20 calendar day time limit for the Commission's receipt of the appeal and the address of the Commission.
7. A copy of the Commission's petition for appeal form.

Discharge

Pre-termination hearing

Before any permanent classified employee may be terminated, the employee shall be afforded a pre-termination hearing to be held before the appointing authority or his or her designee. A pre-termination hearing shall not be required if the employee is being terminated as part of a reduction-in-force as provided for in Title 74 O.S., Section 840-2.27A et seq.

Purpose

The purpose of a pre-termination hearing is to provide the appointing authority or his or her designee with information from which a determination may be made as to whether or not reasonable grounds exist to believe that the charges against the employee are true and whether or not the grounds support the proposed termination.

Notice

Notice of the pre-termination hearing shall be provided to the employee by personal service or certified or registered mail at least seven calendar days before the scheduled pre-termination hearing. Pending completion of this notice and the pre-termination hearing, an employee may be suspended with pay in accordance with rules adopted by the administrator of OMES HCM. The notice shall include, as a minimum:

1. The statute, rule, policy, practice or procedure of work performance or behavior which was violated and cause for the proposed action.
2. All grounds for the proposed action.
3. A summary of evidence or physical evidence to support each of the stated grounds for the proposed action.
4. A statement of the employee's right to be represented, by an attorney or other person of his or her choice, at the pre-termination hearing.
5. Date, time and location of the pre-termination hearing.

Disciplinary certificate

The appointing authority shall file in the employee's official personnel file at least 72 hours before each pre-termination hearing, a certificate to be included in the record stating what disciplinary actions have been taken to comply with progressive discipline prior to the pre-termination hearing and proposed termination and further certifying that all mandatory progressive discipline actions as required by statute or rule have been taken before pre-termination hearing; provided, said certificate shall not be required where grounds for

proposed termination are for commission of a criminal offense and/or acts involving moral turpitude [74:840-6.4].

Hearing

The pre-termination hearing need not be a full evidentiary hearing and formal rules of evidence shall not apply. The pre-termination hearing shall be recorded by audio tape in its entirety. The employee shall be provided a copy of the tape, at no cost, if the employee appeals to the Commission and requests a copy. A copy of the tape shall be provided as soon as possible but no later than 14 calendar days after the request is made.

Legal review

Following the pre-termination hearing, if recommendation for termination is made, recordings of the pre-termination hearing and all evidence in support thereof, shall be reviewed for legal sufficiency by the appointing agency director or his or her designee before termination is final [74:840-6.4].

Final action following the pre-termination hearing

Within 10 working days after the pre-termination hearing the employee shall be provided written notice of the final action, by personal service or certified or registered mail. If the decision is made to proceed with the termination, the notice shall include, as a minimum:

1. The statute, rule, policy, practice or procedure regarding work performance or behavior which was violated and cause for the termination.
2. All grounds for the termination.
3. A citation of the law or rule under which the termination is being taken.
4. Effective date of the termination.
5. A citation of any other informal or formal discipline which was used in the decision to administer the termination. and
6. A statement of the employee's right to file an appeal with the Commission, the 20 calendar day time limit for the Commission's receipt of the appeal and the address of the Commission.
7. A copy of the Commission's petition for appeal form.

Supervisor responsibility:

Each supervisor shall:

1. Inform employees of the agency's progressive discipline policy.

2. Apply discipline when necessary that is corrective, progressive in nature, appropriate for the offense and equitable.
3. Consider relevant circumstances when determining the proper disciplinary action.
4. Use prompt, positive action to avoid more serious disciplinary actions.
5. Consult with the Human Capital Management division prior to imposing formal discipline.

Human Resources responsibilities

Maintain documentation of formal discipline in the employee's agency personnel record consistent with the General Records Schedule of the Oklahoma Department of Libraries, Office of Archives and Records, and give a copy of any formal disciplinary document when it is placed in the employee's personnel record.

Timing of Discipline

Discipline under this policy shall be initiated and forwarded to OMES Human Capital Management within 20 calendar days of the event for which an employee is being disciplined, or when the supervisor should have known about the event, unless an investigation of the event is required.

Discipline shall be administered within 20 calendar days after all required documentation has been submitted to Human Resources. This does not include hearings that may occur during the disciplinary process.

Violations of the timing requirements of this policy shall not result in the discipline not being issued; however, they may lead to discipline, up to and including, discharge for the supervisor who failed to adhere to the timing requirement of this policy.