

GRIEVANCE PROCEDURE: DISCIPLINE AND DISCHARGE

Description and Scope - Grievance procedures are available to ensure that no permanent employee in the classified service shall be subjected to disciplinary action, reprimand, discharge, suspension without pay or reduction in pay or position (demoted) except for just cause. This administrative procedure is for employees that are not represented by a collective bargaining agreement, unless otherwise stated in this procedure. Specific disciplinary actions include the disciplinary grievance as one of several different types of grievances which may arise in administering the state personnel system. Other types are:

- Disputes concerning the interpretation and application of Rules of the Department of Employee Relations. Procedures for resolving these disputes are provided in Rules.
- Disputes concerning the interpretation and application of Administrative Procedures of the Department of Employee Relations. Procedures for resolving these disputes are provided in the Administrative Procedures or in references to statutes contained in the Administrative Procedure.
- Disputes concerning the interpretation and application of the Commissioner's Plan. Procedures for resolving these disputes are provided in Article XII, Grievance and Appeal Procedures of the Commissioner's Plan
- Disputes concerning interpretation and application of collective bargaining agreements. Procedures for resolving these disputes are provided in the respective collective bargaining agreement.

Objective - To develop and maintain a coordinated and consistent approach for administration and review of disciplinary actions for permanent employees in the classified service not covered by collective bargaining agreements.

Responsibilities -

A. Appointing Authorities:

- Attempt to resolve disputes informally prior to initiating disciplinary action.
- Conduct fair and objective investigations of employee actions which lead to disciplinary actions.
- Establish and document evidence or proof prior to administering disciplinary action.
- Administer consistent, fair, non-discriminatory and reasonable disciplinary actions.
- Ensure due process is afforded affected employees.

- Obtain prior advice and approval from the appropriate agency before proposing resolution of a dispute by an action beyond the authority of an appointing authority or when the issues have broad implication.

B. Department of Employee Relations:

- Decide whether the appointing authority shall settle the dispute prior to hearing under 43A.33, Subd. 3a.

C. Office of Administrative Hearings:

- Assign a hearing examiner to hear the appeal.
- Conduct the hearing.
- Make the final determination on the grievance. May uphold the appointing authority, reinstate the employee (with full, partial or no pay), or modify the appointing authority's action.

Provisions –

A. Discharge, suspension without pay, reduction in pay or position (demotion):

1. Appointing authority gives written notice to employee. Notice includes:
 - a) Nature of disciplinary action.
 - b) Specific reasons for the disciplinary action.
 - c) Effective date of the disciplinary action.
 - d) Statement informing employee of right to reply.
 - e) Statement on employee's right to appeal to the office of Administrative Hearings.
2. Employee may reply in writing or in person to appointing authority within 5 working days.
3. Appointing authority submits to DOER a copy of notice and any written employee reply within 10 days of effective date of disciplinary action.
4. If appointing authority does not respond to employee's reply within 30 days, the decision is deemed unfavorable to the employee.
5. Employee may appeal directly to the office of Administrative Hearings within 30 days of the effective date of the disciplinary action or 10 working days after receipt of appointing authority's response to the employee's reply.

B. Probationary employees not covered by a collective bargaining agreement may use the procedure established in the Commissioner's or Managerial/CES Plan for discharge, suspension or reduction in pay during the original probationary period or non-certification in any subsequent probationary period. The grievance procedure can be pursued through the 3rd step.

- C. Permanent employees covered by a collective bargaining agreement may use this procedure only if the collective bargaining agreement provides that option. Under no circumstances may an employee pursue a grievance through more than one grievance procedure.
- D. Settlements of grievances are encouraged at any time during the process. Agreements signed by all parties and submitted to the Administrative Hearings examiner are final and binding.

Other Relevant Laws, Rules, Contracts and Administrative Procedures:

- A. Commissioner's Plan, Chapter XII - Grievance and Appeal Procedures.
- B. Managerial Plan, Chapter XI - Grievance and Appeal Procedures.
- C. Collective Bargaining Agreements.