

DEFINITIONS

Aggravating circumstances: Facts that indicate a greater level of discipline is appropriate.

At-will employees: Serve at the pleasure of the appointing authority and may be dismissed, demoted or disciplined for any reason that does not contravene public policy.

Counseling: A discussion with an employee concerning an event which is significant enough to require documentation. A counseling is not discipline, but may serve as notice that failure to correct the performance or repetition of the misconduct may result in disciplinary action. Counselings should be filed in a supervisor's fact file pending completion of the next annual performance appraisal report.

Demotion: A demotion can be a disciplinary action. Disciplinary demotions will change an employee from his/her current classification to a classification with a lower maximum salary rate as defined in IC 4-15-2.2-35(d). Demotions may be imposed for incidents of misconduct which indicate the employee is unfit for his/her current level of responsibility or authority, but can still be effective in a lower level position.

Dismissal: A dismissal terminates employment. It is used where the employee's actions were thought to be conducive to rehabilitation, but corrective measures have not achieved conformance with established standards of performance or conduct. Dismissal may be the first disciplinary action taken in those instances where the actions of the employee make continued employment in state government unacceptable.

Eligible employees: Classified employees in the state civil service who have successfully completed the required working test period (1) for initial appointment to a classification in the state classified service and have not left the classified service since that appointment or (2) subsequent to reemployment or rehire.

Mitigating circumstances: Facts that indicate a lesser level of discipline is appropriate.

Predeprivation process: Prior to imposing a suspension, demotion or dismissal, the state must provide a classified employee in the state civil service with notice of the nature of the charges and evidence and an opportunity to respond to the allegations.

Public Policy exception: Is narrowly construed to protect an employee from being dismissed, demoted or disciplined solely for exercising a right conferred by statute or for fulfillment of a statutory duty.

Reasonable suspicion: Observations that an employee manifests physical, behavioral, speech or performance symptoms or reactions commonly attributed to the use of controlled substances or alcohol.

Reprimand: A reprimand is a written disciplinary action used to provide notice of the need to alter conduct.

Reprimand in lieu of suspension: A reprimand in lieu of a suspension without pay is a written disciplinary action that carries the same weight or consequence as a suspension but does not

remove the employee from the work place or discontinue an employee's salary. It is used in situations where it is in the state's best interest, for example, when the cause for the discipline is related to attendance or punctuality or where operational needs require staffing at the time the discipline is imposed.

Suspension: A suspension is a written disciplinary action that removes an employee from the work place and ceases compensation. It is used to illustrate that continued employment is in jeopardy.

RESPONSIBILITIES

Employees are responsible for:

- performing their duties and conducting themselves in a professional, respectful, effective and efficient manner; and
- cooperating in any administrative investigations into allegations of misconduct.

Supervisors are responsible for:

- consistently implementing and enforcing all workplace rules and standardized policies;
- monitoring the performance and behavior of subordinates;
- conducting or cooperating in any administrative investigations into allegations of misconduct;
- recommending or imposing discipline in accordance with laws, rules and policies; and
- recommending predeprivation proceedings to the appointing authority or designee or conducting predeprivation proceedings (if this authority is delegated to the supervisor by the appointing authority) in accordance with laws, rules and policies.

PROCEDURES

The state shall impose discipline in a timely manner consistent with the following guidelines.

1. Eligible employees are entitled to predeprivation proceedings prior to the imposition of a suspension, demotion or dismissal. Such proceedings include (1) notice of the charges/allegations against the employee, (2) a brief explanation of the evidence being considered as the basis of possible disciplinary action, and (3) an opportunity for the employee to respond to those allegations before a decision on disciplinary action is made. There are no requirements for a specific amount of notice in advance of the predeprivation meeting. Employees may have a fellow employee present at a predeprivation meeting. If the employee is unavailable for an in-person meeting, predeprivation proceedings can be conducted by telephone or in writing.
2. Aggravating and/or mitigating circumstances can influence the appropriate action for incidents of misconduct.
3. If an employee commits multiple acts of misconduct, the state shall use its discretion in determining the appropriate level of discipline.
4. Where the first incident of misconduct does not require termination progressive discipline may be used as a corrective measure. Employees shall be advised that further misconduct may result in disciplinary action up to and including dismissal.

5. Upon reasonable suspicion, employees may be required to submit to controlled substance and/or alcohol testing.
6. All investigations and disciplinary actions must be consistent with applicable administrative policies, rules and statutes.
7. An emergency suspension may be imposed where the continued presence of the employee is a disruption or interferes with an investigation or other operational need. Should the investigation result in a finding that the employee has not committed misconduct, s/he shall be reinstated with back-pay for any salary lost during the emergency suspension.
8. An employee may be suspended without pay pending the results of an internal and/or external investigation or disposition of charges. If misconduct which warrants discipline is not substantiated by that investigation or disposition of the charges is favorable to the employee, the employee shall be reinstated with full back pay and benefits, less any wages he/she may have earned during the suspension period.
9. The state reserves the right to impose a reprimand in lieu of a suspension. The action shall be considered the equivalent consequence to a suspension without pay.
10. Employees shall not be suspended from duty with pay.
11. All discipline shall be documented with a copy provided to the employee, and a copy placed in the employee's personnel and fact files. Copies of all suspensions, demotions and dismissals shall be forwarded to the State Personnel Department in the form designated by the director.
12. Problems in job performance resulting from an inability to perform, and not related to misconduct, may be addressed through the performance appraisal process. Problems in job performance resulting from an apparent unwillingness to perform or related to misconduct may be addressed through discipline.

REFERENCES

IC 4-15-2.2-20
IC 4-15-2.2-21
IC 4-15-2.2-23
IC 4-15-2.2-34
IC 4-15-2.2-37
IC 4-2-6
40 IAC 2
42 IAC 1
IC 35-44-2-4
Executive Order 90-5