

Disciplinary Action, Suspension and Dismissal

- I. POLICY** It is the intent of the State Personnel Commission in establishing this policy to provide for State employees and State government management a fair, clear and useful tool for correcting and improving performance problems, as well as to provide a process to assist management in handling cases of unacceptable personal conduct. Any disciplinary action taken in accordance with this policy must be for just cause under one of the two following bases:
- discipline imposed on the basis of unsatisfactory job performance including gross inefficiency; and
 - discipline imposed on the basis of unacceptable personal conduct.
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- II. COVERED EMPLOYEES** This policy applies to employees that have attained career status as defined by law.

Advisory Note: Employees not Covered:
While the policy does not apply to non-career State employees, it is advisable to follow the policy for all employees to ensure consistency and equity in treatment of employees and for documentation purposes.

- III. DEFINITIONS** For purposes of this policy, the terms below mean the following:

Term	Definition
Current Unresolved Incident	An act of unacceptable personal conduct, unsatisfactory job performance or grossly inefficient job performance for which no disciplinary action has previously been taken by the agency.
Disciplinary Demotion	A personnel action that: <ul style="list-style-type: none"> • lowers the salary of an employee within their current pay grade, or • places the employee in a position at a lower pay grade with or without lowering the employee's salary, and • the action was involuntary, and the action was taken to discipline the employee.

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III. DEFINITIONS (continued)

Term	Definition
Disciplinary Suspension Without Pay	the removal of an employee from work for disciplinary reasons without paying the employee.
Dismissal	the involuntary termination of the employment of an employee for disciplinary reasons or for failure to obtain or maintain necessary job related credentials.
Gross Inefficiency (Grossly Inefficient Job Performance)	<p>Failure to satisfactorily perform job requirements as set out in the job description, work plan, or as directed by the management of the work unit or agency; and, the act or failure to act causes or results in:</p> <ul style="list-style-type: none"> • death or serious bodily injury or creates conditions that increase the chance for death or serious bodily injury to an employee(s) or to members of the public or to a person(s) for whom the employee has responsibility; or, • the loss of or damage to state property or funds that results in a serious adverse impact on the State and/or work unit.
Inactive Disciplinary Action	<p>a disciplinary action taken after October 1, 1995 becomes inactive, i.e., cannot be counted towards the number of prior disciplinary actions that must be received before further disciplinary action can be taken for unsatisfactory job performance when:</p> <ul style="list-style-type: none"> • the manager or supervisor notes in the employee's personnel file that the reasons for the disciplinary action has been resolved or corrected; or • for performance-related disciplinary actions, the performance evaluation process documents a summary rating that reflects an acceptable level of performance overall and satisfactory performance in the area cited in the warning or other disciplinary action, or

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III. DEFINITIONS (continued)

Term	Definition
Inactive Disciplinary Action (continued)	<ul style="list-style-type: none"> • eighteen (18) months have passed since issuance of the warning or disciplinary action, the employee does not have another active warning or disciplinary action which occurred within the last 18 months
Insubordination	the willful failure or refusal to carry out a reasonable order from an authorized supervisor. Insubordination is unacceptable personal conduct for which any level of discipline, including dismissal, may be imposed without prior warning.
Unacceptable Personal Conduct	<p>an act that is:</p> <ul style="list-style-type: none"> • conduct for which no reasonable person should expect to receive prior warning; or • job-related conduct which constitutes a violation of State or federal law; or • conviction of a felony or an offense involving moral turpitude that is detrimental to or impacts the employee's service to the State; or • the willful violation of known or written work rules; or • conduct unbecoming a State employee that is detrimental to State service; or • the abuse of client(s), patient(s), student(s) or person(s) over whom the employee has charge or to whom the employee has a responsibility or of an animal owned by the State; or • absence from work after all authorized leave credits and benefits have been exhausted; or • falsification of a State application or in other employment documentation.

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Disciplinary Action, Suspension and Dismissal, Continued

III. DEFINITIONS (continued)

Unsatisfactory Job Performance	work-related performance that fails to satisfactorily meet job requirements as set out in the relevant job description, work plan, or as directed by the management of the work unit or agency.
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Advisory Note: Disciplinary actions issued for unsatisfactory job performance, including gross inefficiency, or for unacceptable personal conduct are all subject to becoming inactive for the purposes of counting towards the number of prior disciplinary actions needed for further disciplinary action after the expiration of an eighteen month period without additional disciplinary action, or if removed by the agency because of the determination that the issue addressed by the warning or other disciplinary action has been resolved.

IV. JUST CAUSE FOR DISCIPLINARY ACTION

A. GENERAL PROVISIONS

What is just cause? There are two reasons (just cause) for the discipline or dismissal of employees. These two reasons are:

- unsatisfactory job performance, including grossly inefficient job performance, and
- unacceptable personal conduct.

Some actions by an employee may fall under both reasons. No disciplinary action shall be invalid solely because the disciplinary action is labeled incorrectly.

When can disciplinary action be taken? When just cause exists, any career state employee, regardless of occupation, position or profession may be warned, demoted, suspended or dismissed by the appointing authority.

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Disciplinary Action, Suspension and Dismissal, Continued

What type of disciplinary action can be taken?	<p>The degree and type of action taken shall be based upon the sound and considered judgment of the employing agency according to this policy.</p> <p>When just cause exists, the disciplinary actions that can be taken are:</p> <ul style="list-style-type: none"> • written warning, • disciplinary suspension without pay, • demotion, and • dismissal.
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B. UNSATISFACTORY JOB PERFORMANCE

What is just cause for unsatisfactory job performance?	<p>Any work related performance problem may establish just cause to discipline an employee for unsatisfactory job performance. Just cause for a warning or other disciplinary action for unsatisfactory job performance occurs when an employee fails to satisfactorily meet job requirements.</p>
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Advisory Note: Factors recommended for consideration

The determination of unsatisfactory performance is generally made by the supervisor. The supervisor's determination should be reasonable, proper and factually supported. In determining whether an employee's performance is unsatisfactory job performance, a manager should consider any one or a combination of the factors set forth below:

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| <ul style="list-style-type: none"> • the quality of work • the quantity of work • work habits • promptness • the timely performance of work • related analysis, decisions, or judgment • the accuracy of the work | <ul style="list-style-type: none"> • the performance or work plan and the appraisal • absenteeism • ability to follow instructions, directions, or procedures • the appropriateness of work performed • any other factors that, in the opinion of the supervisor, are appropriate to determine whether an employee's performance constitutes unsatisfactory job performance |
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Disciplinary Action, Suspension and Dismissal, Continued

What is required before a disciplinary action for unsatisfactory job performance may be taken?

Before the disciplinary actions for unsatisfactory job performance may be taken, the following must occur:

Warning - before a warning for unsatisfactory job performance the employee must have:

- a current unresolved incident of unsatisfactory job performance.

Disciplinary Suspension Without Pay - before a disciplinary suspension without pay for unsatisfactory job performance the employee must have:

- a current unresolved incident of unsatisfactory job performance and
- at least one prior active warning or other disciplinary action for unsatisfactory job performance, or gross inefficiency, or unacceptable personal conduct and
- a pre-disciplinary conference

Demotion - before a demotion for unsatisfactory job performance the employee must have:

- a current unresolved incident of unsatisfactory job performance and
- at least one prior active warning or other disciplinary action for unsatisfactory job performance, or gross inefficiency, or unacceptable personal conduct and
- a pre-disciplinary conference

Dismissal - before a dismissal for unsatisfactory job performance the employee must have:

- a current unresolved incident of unsatisfactory job performance and
- at least two prior active warnings or other disciplinary actions for unsatisfactory job performance, or gross inefficiency, or unacceptable personal conduct and
- a pre-disciplinary conference

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Disciplinary Action, Suspension and Dismissal, Continued**DISCIPLINARY ACTIONS AVAILABLE FOR UNSATISFACTORY JOB PERFORMANCE**

Type of Disciplinary Action	Prior Incidents			
	Employee has: • a current unresolved incident of unsatisfactory job performance	Employee has: • at least one prior active warning (any type), <u>or</u> • other active disciplinary action (any type)	Employee has: • at least two active warnings (any type), <u>or</u> • two other active disciplinary actions (any type) <u>or</u> • one active warning and one other disciplinary action (any type)	Pre-disciplinary Conference
Warning	Required			
Disciplinary suspensions without pay	Required	Required		Required
Demotion	Required	Required		Required
Dismissal	Required		Required	Required

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Disciplinary Action, Suspension and Dismissal, Continued

C. GROSSLY INEFFICIENT JOB PERFORMANCE/UNACCEPTABLE PERSONAL CONDUCT

What is just cause for grossly inefficient job performance?

Just cause to warn or take other disciplinary action for grossly inefficient job performance exists when job performance is so unsatisfactory that it causes or results in death or serious injury to employees, members of the public or to persons for whom the employees have responsibility.

Just Cause to warn or take other disciplinary action for grossly inefficient job performance is also created when job performance is so unsatisfactory that it causes or results in a serious loss of or damage to state property or funds adversely impacting the state, agency and/or the work unit.

What is just cause for unacceptable personal conduct?

Just cause to warn or take other disciplinary action for unacceptable personal conduct may be created by intentional or unintentional acts. The conduct may be job related or off duty so long as there is a sufficient connection between the conduct and the employee's job. Insubordination is a type of unacceptable personal conduct.

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Disciplinary Action, Suspension and Dismissal, Continued

What is required before a disciplinary action for gross inefficiency or unacceptable personal conduct may be taken?

Before a disciplinary action for gross inefficiency or unacceptable personal conduct may be taken:

Warning - before a warning for grossly inefficient job performance or unacceptable personal conduct the employee must have:

- a current unresolved incident of grossly inefficient job performance or unacceptable personal conduct.

Disciplinary Suspension Without Pay - before a disciplinary suspension without pay for grossly inefficient job performance or unacceptable personal conduct the employee must have:

- a current unresolved incident of grossly inefficient job performance or unacceptable personal conduct and
- a pre-disciplinary conference

Demotion - before a demotion for grossly inefficient job performance or unacceptable personal conduct the employee must have:

- a current unresolved incident of grossly inefficient job performance or unacceptable personal conduct and
- a pre-disciplinary conference

Dismissal - before a dismissal for grossly inefficient job performance or unacceptable personal conduct the employee must have:

- a current unresolved incident of grossly inefficient job performance or unacceptable personal conduct and
- a pre-disciplinary conference

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Disciplinary Action, Suspension and Dismissal, Continued

Advisory Note: When a pre-disciplinary conference is conducted for a recommended type of disciplinary action, but after the conference the agency decides to take disciplinary action of a lesser degree of seriousness than the one for which the conference was held, it is not required that the agency conduct an additional pre-disciplinary conference as long as the employee was notified and had the opportunity to be heard with respect to the less serious disciplinary action. However, it is permissible for the agency to conduct such an additional pre-disciplinary conference if the agency determines that it would be appropriate under the circumstances, or if the employee requests the additional opportunity to be heard. For example, if a pre-dismissal conference is conducted and the agency decides to demote rather than dismiss, it would not be necessary to conduct a predemotion conference, unless the agency or employee believes that there are relevant issues that could not have been addressed or were not addressed in the previous pre-dismissal conference or the employee was not notified of the possibility of a lesser degree of disciplinary action..

DISCIPLINARY ACTIONS AVAILABLE FOR UNACCEPTABLE PERSONAL CONDUCT OR GROSSLY INEFFICIENT JOB PERFORMANCE

Type of Disciplinary Action	Prior Incidents			
	Employee has: <ul style="list-style-type: none"> a current unresolved incident of unacceptable personal conduct or gross inefficiency 	Employee has: <ul style="list-style-type: none"> at least one prior active warning (any type), or an active disciplinary action (any type) 	Employee has: <ul style="list-style-type: none"> at least two active warnings (any type), or two active disciplinary actions (any type) or one active warning and one disciplinary action (any type) 	Pre-disciplinary Conference
Warning	Required			
Disciplinary suspensions without pay	Required			Required
Demotion	Required			Required
Dismissal	Required			Required

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Disciplinary Action, Suspension and Dismissal, Continued

V. DISCIPLINARY PROCEDURES

A. GENERAL PROVISIONS

Supervisor's Role in Discipline The supervisor has the duty to review and encourage satisfactory job performance by employees of their work unit. A supervisor also has the duty to address cases of unacceptable personal conduct.

Advisory Note: When a supervisor determines that an employee has violated this policy the supervisor should examine a number of factors to decide the appropriate type of disciplinary action. Among the factors are:

- Whether the supervisor should recommend disciplinary action based on the facts
- Whether more investigation is needed to make a recommendation
- The type and degree of disciplinary action to be taken
- The employee's work history
- The disciplinary actions received by other employees within the agency/work unit for comparable performance or behaviors
- Other relevant factors

Supervisor's Role in Warnings In cases of unsatisfactory job performance, a written warning is the first type of disciplinary action that an employee may receive. After the first unsatisfactory job performance warning, a supervisor may give additional written warnings or a higher level of disciplinary action.

The supervisor may give a written warning for grossly inefficient job performance or unacceptable personal conduct. However, this Policy does not require a written warning before management takes other disciplinary action in these types of cases.

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B. WRITTEN WARNING

Contents of a Warning

All warnings shall:

- Be in writing and state that it is a warning.
- Tell the specific conduct or performance that is the reason for the warning
- Tell the specific performance or conduct improvements that must be made.
- Tell the time within which the employee must show improved performance or conduct. If the Warning does not include an improvement or correction time frame, the time frame is 60 days for unacceptable job performance and immediately for grossly inefficient job performance or unacceptable personal conduct.
- Tell the consequences of failing to make the required improvements/corrections
- Tell the employee of any appeal rights provided by agency policy or state law.

Advisory Note

Generally, employees cannot appeal warnings to the State Personnel Commission. Agency policies differ on whether an employee may appeal a warning within the agency. All warnings should tell an employee whether they are given appeal rights within the agency procedure.

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C. DISCIPLINARY SUSPENSION WITHOUT PAY

When can an employee be placed upon disciplinary suspension without pay?

An employee may be suspended without pay for disciplinary reasons for a current incident of unsatisfactory job performance after the receipt of at least one prior disciplinary action or without prior warning or disciplinary action for any form of unacceptable personal conduct or grossly inefficient job performance.

Length of Time for Disciplinary Suspension

A disciplinary suspension without pay for an employee who is subject to the overtime compensation provisions of the Fair Labor Standards Act (FLSA) must be for at least one full work day, but may not be for more than two work weeks. The length of a disciplinary suspension without pay for an employee who is exempt from the overtime compensation provisions of the FLSA must be for at least one full work week, but may not be for more than two full work weeks.

An agency or university has the option of imposing the same periods of disciplinary suspension without pay upon all employees as long as the period is the same as that for employees exempt from the overtime provisions of the FLSA.

APPROPRIATE TIME LIMITS FOR PERIODS OF DISCIPLINARY SUSPENSION

Type of Employee	Minimum Period of Disciplinary Suspension	Maximum Period of Disciplinary Suspension	Minimum Time Block
Subject to the Overtime Compensation Provisions of the Fair Labor Standards Act	1 day	2 work weeks	Disciplined employee shall be suspended for at least 1 day
Exempt from the Overtime Compensation Provisions Fair Labor Standards Act	1 work week	2 work weeks	Disciplined employee may be suspended for a period of 1 or 2 work weeks but no portions of a full work week

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Disciplinary Action, Suspension and Dismissal, Continued

Procedure for a Disciplinary Suspension Without Pay

Before an employee is placed on disciplinary suspension without pay, a supervisor must:

- Schedule and conduct a pre-disciplinary conference. The supervisor must give advance oral or written notice of the conference to the employee. The notice must tell the employee the type of disciplinary action (disciplinary suspension) being considered, the conference time and location, and the facts that led to the recommendation. Advance notice should be as much as practical under the circumstances.
- Give the employee a statement in writing telling the acts or failure to act that are the reason for the suspension and telling the employee of their appeal rights.

Advisory Note

This policy only applies to employees with career status. Career Status employees who are suspended, demoted, or dismissed have appeal rights to The State Personnel Commission.

We recommend the use of this policy in handling matters regarding non-career status employees for consistency and documentation purposes. By law, non-career status employees have no appeal rights outside the agency. However, agency policies differ on whether a non-career status employee may appeal a disciplinary suspension within the agency. Any disciplinary suspension notice should state whether an employee has appeal rights within the agency.

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D. DEMOTION

When can an employee receive a demotion? Any employee may be demoted as a disciplinary measure. Demotion may be made on the basis of either unsatisfactory or grossly inefficient job performance or unacceptable personal conduct. Before the decision to demote an employee for disciplinary reasons, a management representative must conduct a pre-disciplinary conference with the employee in accordance with the procedural requirements of this Policy.

Unsatisfactory Job Performance An employee may be demoted for a current incident of unsatisfactory job performance after the employee has received at least one prior warning or disciplinary action.

Grossly Inefficient Job Performance An employee may be demoted for grossly inefficient job performance without any prior warning or disciplinary action.

Personal Conduct An employee may be demoted for unacceptable personal conduct without any prior warning or disciplinary action.

Disciplinary demotions may be accomplished by any of the three methods below:

METHODS FOR IMPLEMENTING A DISCIPLINARY DEMOTION

Grade Change	Pay Change	Restrictions on Changes
Lowering the grade	Retaining the salary	Salary shall not exceed the maximum of the salary schedule for the new lower grade.
Lowering the grade	Lowering the salary	Same as above
Retaining the grade	Lowering the salary	The salary shall not be less than the minimum of the salary schedule for that grade or the special entry rate if in effect.

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Disciplinary Action, Suspension and Dismissal, Continued

Procedure for a Demotion Before demotion of an employee, a supervisor must:

- Schedule and conduct a pre-disciplinary conference. They must give advance oral or written notice of the conference to the employee. The notice must tell the employee the type of disciplinary action (demotion) being considered, the conference time and location, and the facts that led to the recommendation. Advance notice should be as much as practical under the circumstances;
 - Tell the employee if the demotion will change the employee's salary rate and/or pay grade and if so what change will occur in the salary rate and/or pay grade;
 - Give the employee a statement in writing telling the acts or failures to act that are the reason for the demotion and telling the employee of their appeal rights.
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Advisory Note: While this policy authorizes advance oral or written notice of a demotion or a suspension without pay, the better practice is to give the notice in writing so that if there is a dispute about the notice, both the employee and the agency will have documentation of the fact that the notice was given and that the other policy requirements were met.

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Disciplinary Action, Suspension and Dismissal, Continued

E. DISMISSAL

When can an employee be dismissed?

Any employee may be dismissed. Dismissal may be a result of unsatisfactory or grossly inefficient job performance or unacceptable personal conduct. Before the decision to dismiss for disciplinary reasons is made, a management representative must conduct a pre-disciplinary (dismissal) conference with the employee. The conference must be handled according to this Policy.

Unsatisfactory Job Performance - An employee must have at least two prior warnings or other disciplinary actions or one of each before dismissal for a current incident of unsatisfactory job performance.

Grossly Inefficient Job Performance - An employee may be dismissed for a current incident of grossly inefficient job performance without any prior disciplinary actions

Unacceptable Personal Conduct - An employee may be dismissed for a current incident of unacceptable personal conduct without any prior disciplinary actions

Required Consultation

The supervisor recommending dismissal must discuss the recommendation with appropriate agency management. Upon approval by agency management, a pre-disciplinary conference shall be held with the employee.

Person Conducting the Pre-disciplinary Conference

The person conducting the pre-disciplinary conference must have the authority to recommend or decide what, if any, disciplinary action should be imposed on employee.

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Disciplinary Action, Suspension and Dismissal, Continued

F. PROCEDURE FOR PRE-DISCIPLINARY CONFERENCE

Procedure for Dismissal

Before dismissal of an employee, a supervisor must:

- Schedule and conduct a pre-disciplinary conference. They 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;
- The people that are a part of the conference are:
 - The Supervisor or other person chosen by agency management to conduct the conference;
 - A second management representative may be present at management's discretion;
 - The employee;
 - If the person conducting the conference chooses, security may be present;
 - No attorney shall represent either side at the conference.

Advisory Note: In addition to the participants in the conference noted above, agency/university policies may provide for one additional neutral party, if the employee and management agree.

During the Conference

During the conference, the person conducting the conference must:

- 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
- 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.

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Following the Conference

After the conference, management shall :

- Review and consider the response of the employee and make a decision on the recommended dismissal.
- Not communicate the decision before the start of the next business day after the conference or after the end of the second business day following the completion of the conference.
- 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

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.

Failure to Follow Procedure

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.

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.

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VI. SPECIAL PROVISIONS

A. INVESTIGATORY PLACEMENT WITH PAY

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. 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. 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 circumstance 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.

What are the reasons to place an employee on investigatory status with pay?

An employee may be placed on investigatory status with pay only:

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

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B. CREDENTIALS

By statute, regulation, and administrative rule, some duties assigned to positions in the State service may be performed only by persons who are duly licensed, registered or certified as required by the relevant law or policy. All such requirements and restrictions are specified in the statement of essential qualifications or recruitment standards for classifications established by the State Personnel Commission.

Obtaining and Maintaining Credentials

Employees in such classifications are responsible for obtaining and maintaining current, valid credentials as required by law, rule or regulation. Failure to obtain or maintain the legally required credentials constitutes a basis for immediate dismissal without prior warning, consistent with dismissal for unacceptable personal conduct or grossly inefficient job performance. An employee who fails to obtain or maintain legally required credentials may be dismissed without prior warning following a pre-disciplinary conference. An employee dismissed on this basis shall be given a written letter of dismissal with the specific reason for the dismissal and written notice of the right of appeal.

Falsification of Credentials

Falsification of employment credentials or other documentation in connection with securing employment constitutes just cause for disciplinary action. When credential or work history falsification is discovered after employment with a State agency/university, disciplinary action shall be administered as follows:

1. If an employee was determined to be qualified and was selected for a position based on falsified work experience, education, registration, licensure or certification information that was a requirement of the position, the employee may be dismissed without prior warning following a pre-disciplinary conference. An employee dismissed on this basis shall be given a written letter of dismissal with the specific reason for the dismissal and written notice of the right of appeal.

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2. In all other cases of post-hiring discovery of false or misleading information, disciplinary action will be taken, but the severity of the disciplinary action shall be at the discretion of the agency/university head.
 3. When credential or work history falsification is discovered before employment with a State agency/university, the applicant shall be disqualified from consideration for the position in question.
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C. RIGHT OF APPEAL

Every disciplinary action shall include notification to the employee in writing of any applicable appeal rights.

Grievances

Warnings, and periods of placement on investigation, and placement on investigation with pay are not grievable unless an agency/university specifically provides for such a grievance in its grievance policy. Absent an allegation of a violation of G.S.126-25, warnings are not appealable to the State Personnel Commission.

An agency/university shall furnish to the employee, as an attachment to the written documentation of any grievable disciplinary action, a copy of the agency/university grievance procedure.

Waiver of Appeal Rights

If a warning or disciplinary action is grievable within the agency/university or to the State Personnel Commission, and the employee fails to timely grieve the warning or disciplinary action, the employee is deemed to have waived the right to contest the validity of a warning or disciplinary action.

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D. TRANSFER OF DISCIPLINARY ACTION

When an employee transfers to another department or unit, any active written warnings or disciplinary actions will transfer with the personnel file of the employee and will remain in full force at the new work unit until removed by the new employer or made inactive by operation of this policy.

VII. POLICY RESPONSIBILITIES

**A. AGENCY/
UNIVERSITY** The agency/university shall through the supervisor:

1. Assure the satisfactory performance of work assigned by an employee of the work unit. The supervisor's determination is presumed to be reasonable and factually supported.
2. Maintain acceptable personal conduct of each employee.
3. Impose a disciplinary action when in the judgment of the supervisor the employee has engaged in conduct or performance prohibited by this policy.

By September 1, 1996, each agency/university shall adopt and submit for approval by the Commission an internal policy that shall:

4. Be consistent with the policy of the STATE PERSONNEL COMMISSION.
5. Set forth the manner and mechanism to be used to reasonably inform the employees of the internal policy or changes in internal policy and the STATE PERSONNEL COMMISSION policy.
6. Provide and insure the administration of disciplinary actions in a manner that is equitable and free of unlawful discrimination throughout the agency/university.
7. Set out the policy or practice on use of and applicable agency established time periods for disciplinary suspensions without pay; the retention of warnings and disciplinary actions within a personnel file; and how an employee may access the employee's personnel file.

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**AGENCY/
UNIVERSITY
(CONTINUED)**

The agency/university shall also:

8. Maintain records and provide to the Office of State Personnel information and statistics on the discipline and dismissal process commencing in January of 1996 and every year thereafter in a form prescribed by the Office of State Personnel.
 9. Have personnel trained in the administration of this policy.
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**B. OFFICE OF
STATE
PERSONNEL**

The Office of State Personnel shall:

1. Review the internal grievance/discipline/dismissal policies of agencies/universities.
 2. Provide for training in administration of State Personnel Commission grievance/discipline/dismissal policy.
 3. Provide technical assistance and advice to agencies and universities.
 4. Review agency/university compliance.
 5. Establish reasonable benchmarks for program performance.
 6. Report and make recommendations to the State Personnel Commission on the discipline and dismissal process.
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**C. STATE
PERSONNEL
COMMISSION**

The STATE PERSONNEL COMMISSION shall:

1. Review the report and recommendation of OSP on the status of discipline and dismissal process, and
 2. Prescribe corrective measures or impose sanctions on any agency/university that:
 - Fails to comply with this policy, or
 - Fails to report in a format prescribed by the Office of State Personnel, or
 - Fails to administer the discipline and dismissal process in a manner that is fair to all parties, equitable, free of unlawful discrimination, and maintains discipline.
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