

25 NCAC 01J .0613 PROCEDURAL REQUIREMENTS

The following procedural requirements shall be followed to issue disciplinary action under this Section:

- (1) **WRITTEN WARNING** - to issue a written warning to an employee, a supervisor shall issue the employee a written warning, detailing the matters referenced in Rule .0610(a)(1) - (5) of this Section and including any applicable appeal rights.
- (2) **DISCIPLINARY SUSPENSION WITHOUT PAY** - to place an employee on disciplinary suspension without pay, a supervisor shall comply with the following procedural requirements:
 - (a) In matters of unsatisfactory job performance, insure that the employee has received at least one prior disciplinary action. In matters of grossly inefficient job performance or unacceptable personal conduct there are no pre-conditions so an employee may be suspended without pay for a current incident of grossly inefficient performance or unacceptable misconduct;
 - (b) Schedule and conduct a pre-suspension conference. Advance oral or written notice of the appropriate pre-disciplinary conference shall be given to the employee of the time, location, and the issue for which discipline has been recommended. The amount of advance notice shall be as much as is practical under the circumstances;
 - (c) Furnish the employee a statement in writing setting forth the specific acts or omissions that are the reasons for the suspension;
 - (d) Advise the employee of any applicable appeal rights in the document effecting the suspension.
- (3) **DEMOTION** - to demote an employee, a supervisor shall comply with the following procedural requirements:
 - (a) In matters of unsatisfactory job performance, insure that the employee has received at least one prior disciplinary action;
 - (b) In matters of grossly inefficient job performance or unacceptable personal conduct, there is no requirement for previous disciplinary action, so an employee may be demoted for a current incident of grossly inefficient job performance or unacceptable personal conduct without any prior disciplinary action;
 - (c) Advance oral or written notice of the appropriate pre-disciplinary conference shall be given to the employee of the time, location, and the issue for which discipline has been recommended. The amount of advance notice shall be as much as is practical under the circumstances;
 - (d) An employee who is demoted shall receive written notice of the specific acts or omissions that are the reasons for the demotion;
 - (e) An employee shall be advised of how and to what extent the demotion will affect the employee's salary rate or pay grade; and
 - (f) The employee shall also be advised of any applicable appeal rights in the document effecting the demotion.
- (4) **DISMISSAL** - Before an employee may be dismissed, a supervisor shall comply with the following procedural requirements:
 - (a) The Supervisor recommending dismissal shall discuss the recommendation with appropriate agency management and receive management's authorization to hold a pre-dismissal conference with the employee. The person conducting the pre-dismissal conference shall have the authority to recommend or to decide what, if any disciplinary action shall be imposed on the employee;
 - (b) The Supervisor or designated management representative shall schedule a pre-dismissal conference with the employee;
 - (c) Advance written notice of the pre-dismissal conference shall be given to the employee of the time, location, and the issue for which dismissal has been recommended. The amount of advance notice shall be as much as is practical under the circumstances;
 - (d) The Supervisor or designated management representative shall conduct a pre-dismissal conference with the employee, limiting attendance to the employee and the person conducting the conference; a second management representative may be present at management's discretion. The purpose of the pre-dismissal conference shall be to review the recommendation for dismissal with the affected employee and to listen to and to consider any

information put forth by the employee, in order to insure that a dismissal decision is sound and not based on misinformation or mistake. Security personnel may be present when, in the discretion of the person conducting the conference, a need for security exists. No attorneys representing either side may attend the conference;

- (e) In the conference, the Supervisor shall give the employee oral or written notice of the recommendation for dismissal, including specific reasons for the proposed dismissal and a summary of the information supporting that recommendation. The employee shall have an opportunity to respond to the proposed dismissal, to refute information supporting the recommended dismissal action and to offer information or arguments in support of the employee's position. Every effort shall be made by the Supervisor or the designated management representative to assure that the employee has had a full opportunity to set forth any available information in opposition to the recommendation to dismiss prior to the end of the conference. This opportunity shall not include the right to present witnesses;
- (f) Following the conference, management shall review and consider the response of the employee and reach a decision on the proposed recommendation. If management's decision is to dismiss the employee, a written letter of dismissal containing the specific reasons for dismissal, the effective date of the dismissal and the employee's appeal rights shall be issued to the employee in person or by certified mail, return receipt requested, to the last known address of the employee. To minimize the risk of dismissal upon erroneous information, and to allow time following the conference for management to review all necessary information, the decision to dismiss should not be communicated to the employee in accordance with this Paragraph, prior to the beginning of the next business day following the conclusion of the pre-dismissal conference or after the end of the second business day following the completion of the pre-dismissal conference;
- (g) The effective date of a dismissal for unsatisfactory job performance shall be determined by management. A career employee who is dismissed for unsatisfactory job performance may, at management's discretion, be given up to two weeks' working notice of his dismissal. Instead of providing up to two weeks' working notice and at the discretion of management, an employee may be given up to two weeks' pay in lieu of the working notice. Such working notice or pay in lieu of notice is applicable only to dismissals for unsatisfactory job performance. The effective date of the dismissal shall not be earlier than the letter of dismissal nor more than 14 calendar days after the notice of dismissal; and
- (h) If an employee is dismissed and appeals his dismissal through the agency grievance procedure, the final agency decision shall set forth the specific acts or omissions that are the basis of the employee's dismissal. In addition, the employee shall be informed in the final agency decision letter that the final agency decision letter is a public record and that the agency is required by law to release it pursuant to any public record requests.

*History Note: Authority G.S. 126-4; 126-35;
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Temporary Amendment Expired November 26, 1996;
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