R477-11. Discipline.
R477-11-1. Disciplinary Action.

(1) Agency management may discipline any employee for any of the following causes or reasons:
(a) noncompliance with these rules, agency or other applicable policies, including but not limited to safety policies, agency professional standards, standards of conduct, and workplace policies;
(b) work performance that is inefficient or incompetent;
(c) failure to maintain skills and adequate performance levels;
(d) insubordination or disloyalty to the orders of a superior;
(e) misfeasance, malfeasance, or nonfeasance;
(f) any incident involving intimidation, physical harm, or threats of physical harm against co-workers, management, or the public;
(g) the employee no longer meets the requirements of the position;
(h) conduct, on or off duty, which creates a conflict of interest with the employee's public responsibilities or impacts that employee's ability to perform job assignments;
(i) failure to advance the good of the public service, including conduct on or off duty which demeans or harms the effectiveness or ability of the agency to fulfill its mission;
(j) dishonesty; or
(k) misconduct.

(2) Agency management shall consult with DHRM prior to disciplining an employee.

(3) Disciplinary actions for career service employees are governed by principles of due process and Section 63A-17-306. When administering a disciplinary action, management shall:
(a) notify the employee in writing of the proposed discipline, the reasons supporting the proposed action, and the right to reply within five working days.
(b) grant the employee at least five working days to reply;
(c) consider any timely reply before imposing discipline; and
(d) impose any discipline in accordance with these rules.

(4) After complying with Subsection (3) for a career service employee or for any career service exempt employee not subject to the same procedural rights, management may impose:
(a) a written reprimand;
(b) a suspension without pay up to 30 calendar days per incident requiring discipline;
(c) a demotion as defined in Rule R477-1 and in accordance with Section R477-11-2; or
(d) a dismissal in accordance with Section R477-11-2.

(5) Management shall notify the employee in writing of the discipline, the reasons for the discipline, the effective date and length of the discipline when the discipline is imposed.

R477-11-2. Dismissal or Demotion.

Management may dismiss or demote an employee for cause under Subsection R477-10-2(2)(e) and Section R477-11-1, and through the process outlined in this rule.

(1) Management may dismiss or demote a probationary employee or career service exempt employee for any or for no reason without right of appeal, except under Sections 67-21-3.5 and 67-19a-402.5.

(2) An agency head may not dismiss or demote a career service employee from a career service position unless:
(a) the agency head or designee notifies the employee in writing of the specific reasons for the proposed dismissal or demotion;
(b) the agency head or designee grants the employee up to five working days to reply;
(c) the agency head considers any reply submitted by the employee before imposing discipline; and
(d) the agency head provides the employee an opportunity to be heard by the agency head or designee;
(i) This meeting is limited to the specific reasons raised in the notice of intent to demote or dismiss.
(ii) At the meeting, the employee may present, either in person, in writing, or with a representative, comments or reasons as to why the proposed disciplinary action should not be taken. The agency head or designee is not required to receive or allow other witnesses on behalf of the employee.
(iii) The employee may present documents, affidavits, or other written materials at the meeting. However, the employee is not entitled to present or discover documents within the possession or control of the department or agency that are private, protected, or controlled under Section 63G-2-3.

(3) After complying with Subsection (2), the agency head may dismiss or demote the employee upon a finding of adequate cause or reason. The agency head notifies the employee in writing of the decision and the reasons for the decision.


When deciding the specific type and severity of agency action, the agency head or representative may consider the following factors:
(1) consistent application of rules and standards;
(a) the agency head or representative need only consider those cases decided under the administration of the current agency head because decisions in cases prior to the administration of the current agency head are not binding upon the current agency head and are not relevant in determining consistent application of rules and standards;
(b) in determining consistent application of rules and standards, the disciplinary actions imposed by one agency may not be binding upon any other agency and may not be used for comparison purposes in hearings wherein the consistent application of rules and standards is at issue;
(2) prior knowledge of rules and standards;
(3) the severity of the infraction;
(4) the repeated nature of violations;
(5) prior disciplinary or corrective actions;
(6) previous oral warnings, written warnings, and discussions;
(7) the employee's past work record;
(8) the potential of the violations for causing damage to persons or property;
(9) the strength of the evidence of conduct;
(10) dishonesty or failing to disclose relevant information;
(11) the effect on agency operations, including:
(a) how the wrongdoing relates to the employee's job duties;
(b) the potential of the conduct to adversely affect public confidence in the agency;
(c) the potential of the conduct to adversely affect morale and effectiveness of the agency;
(12) willful or intentional conduct; or
(13) likelihood of recurrence.

KEY: discipline of employees, dismissal of employees, grievances, government hearings
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