



Policies and Procedures
Progressive Discipline

Effective Date of Policy:	Next Scheduled Review: 1/2/2018
Last Reviewed:	Policy Number: OCC-10 (2016)
Date Policy Last Revised:	Replaces Policy Number:
Approved:	Approval Date:

Reference: [74 O.S. § 840-6.1 et seq.](#), [OMES Classification Manual](#) and [Merit Rules](#).

A. Clarification Statement

The Commission shall apply the progressive discipline policy to CLASSIFIED employees. The Commission may, but shall not be obligated to, apply the progressive discipline policy to other employees (including unclassified, probationary classified, at-will, contract, seasonal and/or temporary employees.

Classified employees are all state employees and positions which are subject to rules of the Office of Personnel Management and the decisions of the Oklahoma Merit Protection Commission.

Unclassified employees are at-will employees that serve at the pleasure of the appointing authority. They may be removed from their position at any time, with or without cause, and have no right to appeal their termination to the Oklahoma Merit Protection Commission.

B. Progressive Discipline

The Commission's progressive discipline policy provides standards and guidelines for applying prompt, equitable and suitable discipline. The descriptive text provided below is informational in nature and neither expands or diminishes the rights or responsibilities of any party under the merit rules.

C. Definitions

"Discharge" means the act of terminating the employment relationship of a permanent classified employee who did not voluntarily resign or otherwise forfeit his or her position according to any other statutory provision. Discharge does not include separation due to reduction-in-force.

"Discipline" means informal or formal action to correct infractions of statute, rule, policy, practice or procedure regarding work performance or behavior.

"Involuntary Demotion" means the compulsory reclassification of a classified employee to a different job with a lower pay band assignment or to a lower level within the same job family.

D. Penalties

Progressive discipline is a system designed to ensure not only the consistency, impartiality and predictability of discipline, but also the flexibility to vary penalties if justified by aggravating or mitigating conditions. Typically, penalties range from verbal warning to discharge, with intermediate levels of a written warning, suspension, or demotion. Absent mitigating circumstances, repetition of an offense is accompanied by a generally automatic progression to the next higher level of discipline. Based on relevant circumstances, a single incident may justify a higher step of discipline without proceeding through lower steps. [OAC 455:10-11-4](#).

E. First Phase – Informal Discipline

The first phase of progressive discipline shall be informal discipline and may include steps of verbal warning, informal discussion, corrective interview, and oral reprimand. This phase shall serve to streamline the progressive discipline system and to bring potential problems to an employee's attention before they escalate. Documentation of informal discipline may be noted and maintained by the supervisor and employee.

Informal discipline may be given to correct infractions of statute, rule, policy, practice or procedure regarding work performance or behavior. In administering informal discipline, an employee shall be told, as a minimum, of the nature of the problem which is cause for the discipline and steps which must be taken to resolve the problem and the consequences of repeated infractions or continuing deficient performance or behavior. [OAC 455:10-11-10](#).

F. Second Phase – Formal Discipline

The second phase of progressive discipline shall be formal discipline and may include written reprimand, suspension without pay, involuntary demotion and discharge. An employee may receive formal discipline to correct violations of statute, rule, policy, practice or procedure regarding work performance or behavior. Absent aggravating conditions, formal discipline is normally administered after informal discipline has failed to produce acceptable results. Formal discipline documentation shall include a record of any other informal or formal discipline which was used in the decision to administer formal discipline. [OAC 455:10-11-11](#).

G. Written Reprimand

Supervisors may administer a written reprimand to correct violations of statute, rule, policy, practice or procedure regarding work performance or behavior. A written reprimand shall include, as a minimum, the date of the written reprimand; the statute, rule, policy, practice or procedure regarding work performance or behavior which was violated; a statement of the act or incident which is cause or reason for the written reprimand; steps which can be taken to resolve the problem; a citation of any other informal or formal discipline which was used in the decision to administer the written reprimand; and consequences of repeated infractions or continuing deficient performance or behavior.

The employee shall be provided an opportunity to respond in writing to the written reprimand. Any response shall be attached to the written reprimand. The written reprimand and any response shall be filed in the employee's agency personnel record. [OAC 455:10-11-13](#).

H. Causes for Discharge, Suspension without Pay, or Involuntary Demotion

Any employee of the Commission may be discharged, suspended without pay for a period not to exceed sixty (60) calendar days, or demoted for misconduct, insubordination, inefficiency, habitual drunkenness, inability to perform the duties of the position in which employed, willful violation of the Oklahoma Personnel Act or of the rules prescribed by the Office of Management and Enterprise Services (OMES), Human Capital Management (HCM) division or by the Merit Protection Commission, conduct unbecoming a public employee, conviction of a crime involving moral turpitude, or any other just cause. [OAC 455:10-11-14](#).

Causes for discharge, suspension without pay, or involuntary demotion, include, but are not limited to the following:

1. Unacceptable job performance including, but not limited to,
 - a. failure to meet the established standards in one or more critical tasks of the employee's job,
 - b. violation of policies, rules, regulations or specific directives,
 - c. failure or inability to perform duties due to inefficiency, error, or neglect, or
 - d. failure to devote full time, attention, and effort to the duties and responsibilities of the position during assigned hours of duty.
2. Unexplained absenteeism or tardiness;
3. Willful or wanton indifference to or neglect of duties including, but not limited to,
 - a. absence from an assigned duty station without proper authorization,
 - b. failure to perform an assigned task, or
 - c. neglect of assigned duties;
4. Failure to complete examinations, forms, or reports required as condition of employment;
5. Actions or omissions that place the health, life, or property of self or others in jeopardy;
6. Disobedience or insubordination including, but not limited to,
 - a. the disregard of supervisory directives or refusal to comply with supervisory directives,
 - b. conduct evidencing disrespect, disdain, or contempt for Commission administrators, supervisory personnel, or proper authorities,
 - c. refusal to cooperate with investigations in matters of official interest,
 - d. refusal to carry out any proper order from a supervisor having responsibility over the employee's work, or
 - e. failure or delay in executing orders from a supervisor;
7. Dishonesty including, but not limited to,
 - a. fraud committed in securing an appointment, promotion, or other advantage in employment,
 - b. making false reports and/or claims,
 - c. falsifying official forms or other documents,
 - d. criminal acts,
 - e. knowingly withholding information of official interest, or
 - f. fraud committed in securing any service or benefit from any program administered by the Commission;
8. Discourteous treatment of clients, other employees, or the general public;

9. Conduct unbecoming a public employee including, but not limited to, improper behavior that discredits the Commission either during or outside work hours;
10. Burglaries and thefts;
11. Violations of state law including, but not limited to, conviction of a crime involving moral turpitude;
12. Violations of rules or policies adopted by the Commission;
13. Use or possession of unauthorized alcohol, controlled substances, or tobacco on state property or being under the influence of alcohol or controlled substances during work hours;
14. Discrimination, harassment, and workplace violence;
15. Unauthorized disclosure of confidential information including, but not limited to, securing or attempting to secure access to confidential information without proper authorization;
16. Misuse of state property including, but not limited to, theft, destruction, abuse, careless or reckless use of property, misplacement of property, or waste of property;
17. Financial conflicts or conflicts of interest as described in the [Oklahoma Ethics Law Compilation \(pages 31-69\)](#); or
18. Any other just cause.

I. Suspension without Pay

A full time employee may be suspended without pay for any of the reasons set forth in [OAC 455:10-11-14](#). The employee shall be provided notice of the proposed suspension without pay, by personal service or certified or registered mail. Pending completion of the notice and response opportunity, an employee may be suspended with pay. The notice shall include, as a minimum, the statute, rule, policy, practice or procedure regarding work performance or behavior which was violated and cause for the proposed suspension without pay; the specific acts or omissions which are cause or reason for the proposed suspension without pay; an explanation of the evidence which justifies the proposed suspension without pay; and an opportunity, either in writing or orally, to present reasons why the proposed suspension without pay is improper.

Within ten (10) working days after the employee has had opportunity to respond to the proposed suspension without pay, they shall be provided written notice of the final action by personal service or certified or registered mail. If the supervisor(s) decide that suspension without pay is appropriate, the written notice to the employee shall include, as a minimum, the statute, rule, policy, practice or procedure regarding work performance or behavior which was violated and cause for the suspension without pay; grounds for the action; a citation or the law or rule under which the action is being taken; effective date and inclusive dates of the suspension without pay; a citation of any other informal or formal discipline which was used in the decision to administer the suspension without pay; a statement of the employee's right to file an appeal with the Merit Protection Commission, the twenty (20) calendar day time limit for the Merit Protection Commission's receipt of the appeal and the address of the Merit Protection Commission; and a copy of the Merit Protection Commission's petition for appeal form. [OAC 455:10-11-15](#).

J. Involuntary Demotion

Where applicable, a full time employee may be involuntarily demoted for any of the reasons set forth in [OAC 455:10-11-14](#). The employee shall be provided notice of the proposed involuntary demotion by personal service or certified or registered mail. Pending completion of the notice and

response opportunity, an employee may be suspended with pay. The notice shall include, as a minimum, the statute, rule, policy, practice or procedure regarding work performance or behavior which was violated and cause for the proposed involuntary demotion; the specific acts or omissions which are cause or reason for the proposed involuntary demotion; an explanation of the evidence which justifies the proposed involuntary demotion; and an opportunity, either in writing or orally, to present reasons why the proposed involuntary demotion is improper.

Within ten (10) working days after the employee has had opportunity to respond to the proposed involuntary demotion, they shall be provided written notice of the final action by personal service or certified or registered mail. If the supervisor(s) decide to proceed with the involuntary demotion, the written notice to the employee shall include, as a minimum, the statute, rule, policy, practice or procedure regarding work performance or behavior which was violated and cause for the involuntary demotion; grounds for the action; a citation of the law or rule under which the action is being taken; effective date of the involuntary demotion and the job family level and pay band to which demoted; a citation of any other informal or formal discipline which was used in the decision to administer the involuntary demotion.

K. Classified Employee Discharge Process

A permanent classified employee may be discharged for any of the reasons set forth in [OAC 455:10-11-14](#). Before any permanent classified employee may be terminated, the employee shall be afforded a pre-termination hearing to be held before the appointing authority or his or her designee. A pre-termination hearing shall not be required if the classified employee is being terminated as part of a reduction-in-force as provided for in [74 O.S. § 840-2.27C](#).

The purpose of a pre-termination hearing is to provide the Commission with information from which a determination may be made as to whether or not reasonable grounds exist to believe that the charges against the employee are true and whether or not the grounds support the proposed termination. Notice of the pre-termination hearing shall be provided to the employee by personal service or certified or registered mail at least seven (7) calendar days before the scheduled pre-termination hearing. Pending completion of this notice and the pre-termination hearing, an employee may be suspended with pay. The notice shall include, as a minimum, the statute, rule, policy, practice or procedure of work performance or behavior which was violated and cause for the proposed action; all grounds for the proposed action; a summary of evidence or physical evidence to support each of the stated grounds for the proposed action; a statement of the employee's right to be represented by an attorney or other person of his or her choice at the pre-termination hearing; and date, time and location of the pre-termination hearing.

At least seventy-two (72) hours before each pre-termination hearing, the Commission shall place a certificate in the employee's personnel file stating what disciplinary actions have been taken to comply with progressive discipline prior to the pre-termination hearing. The certificate shall be included in the record and shall provide details about the proposed termination and certify that all mandatory progressive discipline actions as required by statute or rule have been taken before pre-termination hearing. A certificate shall not be required if the cause for proposed termination is a criminal offense or involves acts of moral turpitude.

The pre-termination hearing need not be a full evidentiary hearing and formal rules of evidence shall not apply. The pre-termination hearing shall be recorded in its entirety. The employee shall be provided a copy of the recording, at no cost, if the employee appeals to the Merit Protection Commission and requests a copy. A copy shall be provided as soon as possible but no later than fourteen (14) calendar days after the request is made.

Following the pre-termination hearing, if recommendation for termination is made, recordings of the pre-termination hearing and all evidence in support thereof shall be reviewed for legal sufficiency by the Commission before termination is final. Within ten (10) working days after the pre-termination hearing the employee shall be provided written notice of the final action, by personal service or certified or registered mail. If the decision is made to proceed with the termination, the notice shall include, as a minimum:

1. the statute, rule, policy, practice or procedure regarding work performance or behavior which was violated and cause for the termination;
2. all grounds for the termination;
3. a citation of the law or rule under which the termination is being taken;
4. effective date of the termination; a citation of any other informal or formal discipline which was used in the decision to administer the termination; a statement of the employee's right to file an appeal with the Merit Protection Commission, the twenty (20) calendar day time limit for the Merit Protection Commission's receipt of the appeal and the address of the Merit Protection Commission; and a copy of the Merit Protection Commission's petition for appeal form. [OAC 455:10-11-17](#).

L. Responsibilities of Parties

1. Commission Responsibility

The Commission shall use the progressive discipline phases for classified employees outlined in this policy and may adopt other progressive discipline steps which address specific needs. The Commission is committed to the consistency, evenhandedness and predictability of discipline; and shall ensure the flexibility to vary penalties if justified. [OAC 455:10-11-5](#).

2. Supervisor Responsibility

Each supervisor shall inform classified employees of the agency's progressive discipline policy; apply discipline when necessary that is corrective, progressive in nature, appropriate for the offense and equitable; consider relevant circumstances when determining the proper disciplinary action; and use prompt, positive action to avoid more serious disciplinary actions. [OAC 455:10-11-6](#).

Supervisor Notes

3. Employee Responsibility

Each employee has a duty and responsibility to comply with the Commission's progressive discipline policy. [OAC 455:10-11-7](#).

M. Records

The Commission shall maintain documentation of formal discipline in the employee's agency personnel record consistent with the General Records Schedule of the Oklahoma Department of Libraries, Office of Archives and Records. An employee shall be given a copy of any formal disciplinary document when it is placed in their agency personnel record. [51 O.S. § 24A.1 et seq.](#) shall govern access to disciplinary documents. An employee shall have a right to review disciplinary documents in their agency personnel record. The Merit Protection Commission, because of statutory responsibility, shall have a right of access to disciplinary documents. The Commission may specify procedures in the agency's progressive discipline policy for the review and removal of disciplinary documents from the employee's agency personnel record. Any such procedures shall be applied consistently and uniformly. [OAC 455:10-11-8.](#)