



PROGRESSIVE DISCIPLINE

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Reference: [Civil Service and Human Capital Modernization Act, 62 O.S. § 34.301](#); [Civil Service and Human Capital Modernization Rules, Oklahoma Administrative Code Title 260 Chapter 25 and Chapter 130](#).

A. 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 and neither expands nor diminishes the rights or responsibilities of any party under the Civil Service and Human Capital Modernization Rules (Rules) OAC 260:130:27-5. This policy is not intended to provide any contractual obligations related to continued employment, compensation, or employment contracts.

The Rules apply to all Commission employees except those designated by the agency director as the executive management 5%. The Commission may apply the progressive discipline to all employees; however, Commission employees designated as executive management as determined by the agency director do not have complaint rights under the Civil Service and Human Capital Modernization Rules.

Lastly, Commission employees may be terminated at any time during their twelve (12) month probationary period without the right of complaint.

B. Definitions

In addition to words and terms defined in the Civil Service and Human Capital Modernization Act and rules, the following words and terms shall have the following meaning unless the text indicates otherwise.

"Discharge" means the act of terminating the employment relationship of employees who did not voluntarily resign or otherwise forfeit their position according to any other statutory provision. Discharge does not include separation due to reduction-in-force or voluntary buyout.

"Disciplinary actions" means the second step of progressive discipline to correct infractions of statute, rule, policy, practice, or procedure regarding work performance or behavior including written reprimand, involuntary demotion, or suspension without pay.

"Employee engagement" means a supervisor has engaged in the first step of progressive discipline; this may include steps of warning, discussion, a corrective interview, coaching, counseling, oral reprimand, or a letter of concern.

"Involuntary demotion" means the reclassification of an employee from his or her job to a different job that has a lower grade assigned, made without the consent of the employee.

"Job" means a position or job grouping level in a job family.

"Progressive discipline" means 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. Each employee has a duty and responsibility to comply with OMES' progressive discipline policy. 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 of discipline.

C. 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 phases.

D. First Phase – Employee Engagement

The first phase of progressive discipline shall be employee engagement and includes a myriad of engagement tools: verbal warning, discussion, corrective interview, coaching, counseling, oral reprimand, or a letter of concern.

Employee engagement may be utilized to correct infractions of statute, rule, policy, practice, or procedure regarding work performance or behavior. This phase may serve to streamline the progressive discipline process and to bring potential problems to an employee's attention before they escalate. Documentation of employee engagement should be noted and maintained by the supervisor and employee. The supervisor or employee should be prepared to recall the events of the employee engagement when progressing to the next phases in the progressive discipline process or at a hearing process.

During employee engagement, an employee shall be informed of:

1. The nature of the problem which is the cause for the engagement and actions that must be taken to resolve the problem; and
2. The consequences of repeated infractions or continuing deficient performance or behavior.

E. Second Phase – Formal Discipline (Complaint rights activate at this phase)

Absent aggravating conditions, formal discipline is the second phase of progressive discipline and is administered after employee engagement has unsuccessfully produced acceptable results. An employee may receive disciplinary action to correct violations of statute, rule, policy, practice, or procedure regarding work performance or behavior. The Commission may utilize one or more disciplinary actions to correct an employee's behavior including written reprimand, suspension without pay, and involuntary demotion.

Disciplinary action documentation shall include a citation of any other employee engagement or discipline that was used in the decision to administer disciplinary actions. At this phase of progressive discipline, the employee has the right and is eligible to file a complaint with the Civil Service Division of OMES to contest a disciplinary action(s). In this second phase of progressive discipline, the documentation shall be maintained by the supervisor and employee as well as maintained in the employee's disciplinary file.

The Commission shall ensure the following:

1. An employee shall be given a copy of any disciplinary action documents at the time the disciplinary action was taken.
2. An employee shall have a right to review disciplinary action documents in his or her agency personnel record.
3. Documents shall be provided to an employee in person. If an appointing authority is not able to provide the documents in person, the appointing authority shall provide these documents through acceptable electronic means.
4. Right of Access to the Civil Service Division of OMES, as required by statute, for employee disciplinary action documents.

F. 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 following:

1. The date of the written reprimand.
2. The statute, rule, policy, practice, or procedure regarding work performance or behavior which was violated.
3. A statement of the act or incident which is the cause or reason for the written reprimand.
4. A citation of any employee engagement or previous disciplinary actions used in the decision to administer the written reprimand.
5. Steps that can be taken to resolve or correct the problem.
6. Consequences of repeated infractions or continuing deficient performance or behavior.
7. A statement of the employee's right to file a complaint with the Civil Service Division.
8. A copy of the Civil Service Division's complaint petition.

The employee shall be provided an opportunity to respond in writing to the written reprimand and responses shall be attached to the written reprimand and filed in the employee's agency personnel record.

G. 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 the rules prescribed by the Office of Management and Enterprise Services (OMES), Human Capital Management (HCM) division or by the Ethics Commission, conduct unbecoming a public employee, conviction of a crime involving moral turpitude, or any other just cause.

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 a 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*](#); or
18. Any other just cause.

H. Suspension without Pay

A written communication to the employee shall include:

1. The date the employee was informed of the suspension without pay.
2. The statute, rule, policy, practice, or procedure regarding work performance or behavior that was violated and caused the suspension without pay.
3. A statement of the act, incident, or omission that is the cause or reason for the suspension without pay.
4. A citation of any employee engagement or disciplinary actions used in the decision to administer the suspension without pay.
5. Effective date, the total number of days and date(s) of the suspension without pay.
6. Steps that can be taken to resolve the problem.
7. Consequences of repeated infractions or continuing deficient performance or behavior.
8. A statement of the employee's right to file a complaint with the Civil Service Division.
9. A copy of the Civil Service Division's complaint petition.

The employee shall be provided an opportunity to respond in writing to the suspension without pay and responses shall be attached to the suspension without pay documentation and filed in the employee's agency personnel record.

I. Involuntary Demotion

The written communication to the employee shall include:

1. The date the employee was informed of the involuntary demotion.
2. The statute, rule, policy, practice, or procedure regarding work performance or behavior that was violated and caused the involuntary demotion.
3. A statement of the act, incident, or omission which is the cause or reason for the involuntary demotion.
4. A citation of any employee engagement or previous disciplinary actions used in the decision to administer the involuntary demotion.
5. The effective date of the involuntary demotion and the job level and pay.
6. Steps that can be taken to resolve the problem.
7. Consequences of repeated infractions or continuing deficient performance or behavior.
8. A statement of the employee's right to file a complaint with the Civil Service Division.
9. A copy of the Civil Service Division's complaint petition.

The employee shall be provided an opportunity to respond in writing to the involuntary demotion and responses shall be attached to the involuntary demotion documentation and filed in the employee's agency personnel record.

J. Third Phase – Ending Employment/Discharge

If the decision is made to terminate the employee, the written communication shall include:

1. The date the employee was informed of the termination.
2. The statute, rule, policy, practice, or procedure regarding work performance or behavior which was violated and cause for the termination.
3. A statement of the act, incident, or omission which is the cause or reason for the termination.
4. A citation of any previous disciplinary actions used in the decision to administer the termination.
5. Effective date of the termination.
6. A statement of the employee's right to file a complaint with the Civil Service Division.
7. A copy of the Civil Service Division's complaint petition.

K. Responsibilities of Parties

1. Commission Responsibility

The Commission shall use the progressive discipline phases for all employees outlined in this policy and may adopt other progressive discipline steps that 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.

2. Supervisor Responsibility

Each supervisor shall:

- ❖ Inform 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.
 - ❖ Use prompt, positive action to avoid more serious disciplinary actions.
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- ❖ Consult with Human Resources before imposing disciplinary action.

[Supervisor Notes](#)

3. Human Resources Responsibility

The Commission's Human Resource Manager shall maintain documentation of discipline in the employee's disciplinary file consistent with the General Records Schedule of the Oklahoma Department of Libraries, Office of Archives and Records, and give a copy of any disciplinary document when it is placed in the employee's disciplinary file.

4. Employee Responsibility

Each employee has a duty and responsibility to comply with the Commission's progressive discipline policy.

L. Timing of Discipline

A request for discipline under this policy shall be initiated and forwarded to the Commission's Human Resources within twenty (20) calendar days of the event for which an employee is being disciplined, or when the supervisor should have known about the event unless an investigation of the event is required. Discipline of employees shall be administered within twenty (20) calendar days after all required documentation has been submitted to Human Resources. Discipline of leadership shall be administered after all required documentation has been submitted to Human Resources and a special meeting scheduled with the Commissioners. Violations of the timing requirements of this policy shall not prohibit discipline from being issued; however, they may lead to discipline for the supervisor who failed to adhere to the timing requirement of this policy.

M. Records

The Civil Service Division, Human Capital Management, Office of Management and Enterprise Services, 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.