



State of Oklahoma
Oklahoma Department of Agriculture, Food, and Forestry

Policies and Procedures
Progressive Discipline

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Reference: [74 O.S. § 840-6.1 et seq.](#), [Merit System of Personnel Administration](#) and [Merit Rules](#).

A. Progressive Discipline

ODAFF's progressive discipline policy provides standards and guidelines for applying prompt, equitable and suitable discipline. These rules pertain to probationary and permanent classified employees unless otherwise specified. 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.

B. 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 involuntary removal of a permanent employee in permanent status in a job family level to another job family level assigned a lower pay band.

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 steps of discipline. [OAC 455:10-11-4](#).

D. 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](#).

E. Second Phase-Formal Discipline

The second phase of progressive discipline shall be formal discipline and shall 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 citation of any other informal or formal discipline which was used in the decision to administer formal discipline. [OAC 455:10-11-11](#).

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 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](#).

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

Any employee in the classified service may be discharged, suspended without pay for not to exceed sixty (60) calendar days, or demoted by ODAFF 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,
 - c. or 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 ODAFF 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,
 - e. or 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,
 - f. or fraud committed in securing any service or benefit from any program administered by ODAFF;
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 ODAFF 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 ODAFF;
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, waste of property, or use of state property for personal purposes;

17. Misuse of ODAFF equipment such as computers, copiers, and fax machines in the conduct of personal business outside the employee's assigned duties;
18. Financial conflicts or conflicts of interest as described at [74 O.S. § Chapter 62, App. 257:1-1-1 et seq.](#);
- or
19. Any other just cause.

H. Suspension without Pay

A permanent classified 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 working days after the employee has had opportunity to respond to the proposed suspension without pay, he or she shall be provided written notice of the final action by personal service or certified or registered mail. If the decision made is to proceed with the suspension without pay, 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 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](#).

I. Involuntary Demotion

A permanent classified 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 working days after the employee has had opportunity to respond to the proposed involuntary demotion, he or she shall be provided written notice of the final action by personal service or certified or registered mail. If the decision made is 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; a statement of the employee's right to file an appeal with the Merit Protection Commission, the 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 455:10-11-16](#).

J. Discharge

Unclassified employees are state employees but do not have the same set of rights as classified employees. Unclassified employees receive certain benefits and are covered by the time and leave provisions in state law and applicable [Merit Rules](#). Unclassified employees are "employees at will" and have no right or expectation of continued employment. The employment relationship between ODAFF and an unclassified employee can be severed at any time for any reason.

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 pretermination hearing to be held before the appointing authority or his or her designee. A pretermination 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 pretermination hearing is to provide the ODAFF 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 pretermination hearing shall be provided to the employee by personal service or certified or registered mail at least seven calendar days before the scheduled pretermination 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.

ODAFF shall file in the employee's official personnel file at least seventy-two (72) hours before each pretermination hearing a certificate to be included in the record stating what disciplinary actions have been taken to comply with progressive discipline prior to the pretermination hearing and proposed termination and further certifying that all mandatory progressive discipline actions as required by statute or rule have been taken before pretermination hearing; provided, said certificate shall not be required where grounds for proposed termination are for commission of a criminal offense or acts involving moral turpitude.

The pretermination hearing need not be a full evidentiary hearing and formal rules of evidence shall not apply. The pretermination 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 14 calendar days after the request is made.

Following the pretermination hearing, if recommendation for termination is made, recordings of the pretermination hearing and all evidence in support thereof shall be reviewed for legal sufficiency by ODAFF before termination is final. Within ten working days after the pretermination 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, the statute, rule, policy, practice or procedure regarding work performance or behavior which was violated and cause for the termination; all grounds for the termination; a citation of the law or rule under which the termination is being taken; 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 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.](#)

K. Responsibilities of Parties

1) ODAFF Responsibility

ODAFF shall use the progressive discipline phases outlined in this policy and may adopt other progressive discipline steps which address specific needs. ODAFF 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 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 ODAFF's progressive discipline policy. [OAC 455:10-11-7.](#)

L. Records

ODAFF 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 his or her 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 his or her agency personnel record. The Merit Protection Commission, because of statutory responsibility, shall have a right of access to disciplinary documents. ODAFF 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.](#)