

SECTION 6.03 PRE-DISCIPLINARY PROCESS AND CONFERENCE – NON-MANAGEMENT EMPLOYEES

1. **Generally:**

Whenever the Superintendent or designee determines that a classified employee may have committed an offense which could result in a suspension, fine, reduction, or removal, the employee will be notified of the allegations and a pre-disciplinary conference will be scheduled to give the employee an opportunity to respond to the charges and offer an explanation of the alleged misconduct. A pre-disciplinary conference is primarily an informal fact-finding session, not a legal proceeding. The objective of the conference is to obtain information through discussion, testimony, documentation, and/or questioning of the employee and witnesses to determine whether the alleged misconduct occurred.

2. **Notice of Pre-disciplinary Conference:**

Whenever the Employer has cause to believe an employee may receive a suspension, fine, disciplinary reduction in pay or position, or removal from public service, the Employer should reduce such charges or allegations in writing. The written statement should indicate or outline the behavior or conduct that is the basis for the Employer's belief that discipline is necessary.

The written allegations should be delivered to the employee in the form of a Notice of Pre-disciplinary Conference. The employee may waive the pre-disciplinary conference.

The employee will be notified of the time, location, and person who will conduct the conference. In response, the employee must sign an acknowledgement of the notice and may:

- appear at the conference to present an oral or written statement in response to the charges and answer questions regarding the alleged misconduct; or
- elect to waive the pre-disciplinary conference.

Administrative Leave: The Employer may place the employee on administrative leave while the charges are being investigated and until the pre-disciplinary conference procedures are completed.

Delay of Pre-disciplinary Conference: Upon a reasonable request from the employee, the Employer may temporarily delay the pre-disciplinary conference. Generally, the Employer should permit only 1 such delay, not to exceed 24 hours.

Representation: If the employee requests, he should be permitted to be accompanied, represented, and advised by an attorney, or person of his/her choice.

Witnesses: At the conference, the employee may present any testimony, documents, or witnesses that explain whether the alleged misconduct occurred. The employee shall provide a list of witnesses to the Employer and the hearing officer prior to the conference. It is the employee's responsibility to notify witnesses that their attendance is desired. The hearing officer shall determine if and which witnesses may speak.

Hearing Officer: Pre-disciplinary conferences will be conducted by a hearing officer. The hearing officer may be the Employer, or any person the Employer selects to serve in such capacity.

Recording of Proceedings: At the discretion of the hearing officer, the pre-disciplinary conference may be recorded. The employee may also record the proceedings in a similar manner if the hearing officer authorizes recording of the proceedings.

Pre-disciplinary Conference: The hearing officer conducting the conference will review the allegations, allow the Employer representative to summarize the evidence that is the basis of the allegations, and ask the employee to respond. An employee who elects to attend the conference and present evidence or who is called to testify **must** answer all questions truthfully. If it is later proven that the employee's answers were not truthful, such dishonesty may result in disciplinary action.

The hearing officer shall determine when the conference is concluded and will adjourn the meeting. The hearing officer may also independently investigate facts alleged by the responding employee or the employee's witnesses, may limit the number of witnesses, and may reconvene the conference if necessary to get additional information or to allow the employee an opportunity to respond further or to respond to new matters.

For example, if the employee provides an explanation that involves alleged facts unknown to the Employer's representative, the hearing officer may continue the conference to allow time to investigate the newly submitted information. As another example, if the employee or a witness provides information that indicates that the employee committed additional infractions, the hearing officer may continue the

conference to allow time to investigate the new allegations and/or to allow the Employer to issue a revised notice before concluding the pre-disciplinary conference.

Hearing Officer Report: If a written report is prepared, the employee shall be provided a copy.

The hearing officer shall consider the charges submitted and prepare a written report concluding whether the alleged misconduct occurred. The hearing officer shall not recommend discipline. The report of a hearing officer is not binding on the employee and is meant to provide the employee with an opportunity to respond to charges.

Determination of Corrective Action: Within a reasonable time following the receipt of the report, the Employer shall determine what discipline or corrective action, if any, is to be issued. The Employer shall determine the severity using the discipline policies and standards of conduct violated as guidelines.

Appeals: A classified employee may appeal to the State Personnel Board of Review "SPBR" in any of the following cases:

- a reduction (in pay or classification);
- a suspension of either 40 or more work hours in the case of an employee exempt from the payment of overtime compensation, or a suspension of 24 work hours or more in the case of an employee required to be paid overtime compensation;
- a fine of either forty or more hours' pay in the case of an employee exempt from the payment of overtime compensation, or a fine of 24 or more hours' pay in the case of an employee required to be paid overtime compensation; or
- a removal, except for the reduction or removal of a probationary employee and a removal of an employee for a conviction of a felony.

Appeals to the SPBR by classified employees must be filed with the SPBR within 10 calendar days of the date the employee is served with the order. An appeal from a layoff or a displacement must be filed no later than 10 calendar days after receipt of the notice of layoff or displacement. The SPBR maintains authority to decide whether an appeal warrants a hearing. When an appeal is heard, the SPBR may affirm, disaffirm, or modify personnel actions implemented by the Employer. However, in an appeal of a

removal order based upon a violation of a last chance agreement, SPBR may only determine if the employee violated the agreement, and thus affirm or disaffirm the judgment of the Employer.