



The examples and best practices listed here are illustrative only, and are intended only for use as general advice. An appeal decision is the product of applying the Civil Service Rules, Article and Constitutional principles of Due Process to the unique facts of each case. Accordingly, these FAQ's and the HR Handbook do not predict or guarantee a particular result.

Q. What are disciplinary actions?

A. Suspensions without pay, reductions in pay, involuntary demotions, and dismissals.

Q. What do these actions have in common?

A. Each reduces an employee's current pay.

Q. Is this list exclusive?

A. Yes.

Q. What if an employee claims that some other action was "discipline in disguise?"

A. The Commission and the courts have repeatedly rejected the concept of disguised discipline.

Q. What are examples of things that are not disciplinary actions?

A. Change in work hours, change in duty station, reassignment (a position change to a different classification with the same maximum – Rule 1.33), enforced annual leave, enforced compensatory leave, enforced sick leave, denial of leave, not granting a market adjustment, a CPM rating, suspension pending investigation, and improvement letters.

Q. Why are these not disciplinary actions?

A. Because they do not reduce the employee's current pay.

Q. What does a disciplinary suspension do?

A. Temporarily excludes an employee from the work place, without pay, for disciplinary reasons (Rule 1.40).

Q. How long can an appointing authority suspend an employee without pay?

A. For up to 176 work hours (Rule 12.3(b)).

Q. Are there any circumstances under which an employee can be suspended for more than 176 work hours?

A. Yes. The Commission can approve a suspension pending criminal proceedings, which lasts until the criminal case becomes final. The Commission or Referee can reduce a dismissal to a longer-than-176-hour suspension following an appeal hearing. The Commission can suspend an employee for more than 176 work hours as a penalty for a rule violation. Finally, the employee can agree to a longer suspension to settle an appeal or an investigation.

Q. When would the Commission or Referee order a suspension of more than 176 work hours?

A. When dismissal is too severe for the conduct proved at the appeal hearing. A long suspension gives a dismissed employee another chance by reinstating the employee with little or no back pay. An approved settlement can accomplish the same thing.

Q. Is a suspension a good disciplinary tool?

A. Rarely. The longer the suspension, the more time the employee will have to find a fill-in job to make up the economic loss. Additionally, either the suspended employee's work is not done or co-workers are stuck with doing the suspended employee's work.

Q. When is a suspension a good tool?

A. When the employee's pay cannot be reduced (because he is at the pay range minimum or minimum wage), when the agency needs the visibility of a suspension to get other employees' attention, or when the employee has caused a disturbance at work and needs to be away from work for a while.

Q. How long should an agency suspend an employee?

A. For the least amount of time it takes to get the employee's attention and in accordance with the agency's usual penalty for the same conduct.

Q. What should an appointing authority do if an employee comes to work during a suspension without pay?

A. Direct the employee to leave, using security staff if necessary.

Q. Is a suspension without pay the same as leave without pay?

A. No. With a suspension, the appointing authority excludes the employee from the workplace. With leave without pay, the employee is absent from the workplace with or without permission.

Q. If an employee falsely reports his time, should the agency impose leave without pay for the time not worked?

A. Yes. The agency should also discipline the employee for falsifying records.

Q. What does a reduction in pay do?

A. Reduces an employee's pay to a lower amount in the pay range for his or her classification. The employee's classification does not change. (Rule 1.33.02)

Q. Is a reduction in pay a good disciplinary tool?

A. Yes. It is very flexible. The reduction in pay can be temporary or permanent. The advantage is the employee continues to do his work, which avoids having to assign the work to blameless co-workers.

Q. Can you express reduction in pay as a percentage?

A. No.

Q. When is a reduction in pay not a good disciplinary tool?

A. When an agency needs the visibility of a suspension to get the employee's and other employee's attention.

Q. Is there a limit to a reduction in pay?

A. Yes. An agency cannot reduce the employee's pay below the pay range minimum or below minimum wage (Rule 12.3(c)).

Q. How does an agency determine if a reduction in pay is below the pay range minimum or minimum wage?

A. By converting the employee's hourly pay rate during the reduction (rounded up or down to the nearest penny) and comparing it to the pay range minimum and minimum wage.

Q. Why are there limits on a reduction in pay?

A. The constitutional prohibition against involuntary servitude and the federal Fair Labor Standards Act. With a reduction in pay, the employee continues to work, but for less money. Minimum wage and the pay range minimum establish the least the agency can pay the employee for performing that job.

Q. A suspension is limited to hours 176 hours. Is a reduction in pay limited to the equivalent of 176 hours?

A. No.

Q. Why isn't a reduction in pay an illegal fine under LSA-R.S. 23:635?

A. As to the classified workforce, the Commission's rule-making power is to the exclusion of the Legislature. The Commission adopted its rule allowing reductions in pay in 1953; thus, it was already in place in 2001, when the Legislature adopted the statute.

Q. If the employee's position has a special entrance rate, can the agency reduce the employee's pay below the special entrance rate for disciplinary reasons?

A. Yes. A special entrance rate is a "hire in" rate that is used to adjust to market conditions. It does not replace the "real" minimum, which is the pay range minimum. Like always, it will be up to the agency to prove the incident is commentary to the offense when using any method of discipline.

Q. Can an agency offer an employee the option of accepting a voluntary reduction in pay in lieu of formal discipline?

A. Yes, the Agency is still required to give written notification as required in Chapter 12 and if accepted the written notification cannot be used to support future discipline or enhance penalties.

Q. What if an employee whose pay has been reduced transfers to another agency?

A. The new agency should honor the terms of the reduction in pay imposed unless the old agency seeks approval under Rule 15.10 to end the reduction in pay.

Q. What does a demotion do?

A. Moves the employee into a different position that has a classification with a lower maximum. (Rule 1.11)

Q. Must the agency reduce an employee's pay with a disciplinary demotion?

A. Yes, by at least 7% (Rule 6.10(a)).

Q. May the agency waive this pay reduction?

A. No, the agency can only waive this reduction when the demotion is voluntary (Rule 6.10(d)).

Q. With a disciplinary demotion, must the employee meet the minimum qualifications for the job?

A. Yes. (Rule 23.14)

Q. When is a demotion a good tool?

A. When an employee cannot competently perform the duties of his position but could competently perform lower level work or when a supervisory employee engages in disciplinable conduct that sets a poor example for subordinates.

Q. Are all demotions disciplinary?

A. No, a demotion can be voluntary (Rule 23.14). Additionally, reallocations and job corrections can result in non-disciplinary demotions (Rule 6.8(b) and Rule 6.8.1(b)) and relocation offer to a lower position as part of the layoff process (Rule 17.18).

Q. Can an employee who is facing discipline agree to a voluntary demotion?

A. Yes.

Q. Does the agency have to let the employee take a voluntary demotion?

A. No.

Q. Can an agency offer an employee the option of an involuntary demotion with a pay reduction or a voluntary demotion without a pay reduction?

A. Yes.

Q. What does a dismissal do?

A. Separates an employee from employment for disciplinary reasons that are the employee's fault (Rule 1.14.01).

Q. Is a dismissal the same as a removal?

A. No, a removal is a separation from employment for the non-disciplinary reasons listed in Rule 12.6.

Q. Are there any reasons an agency must dismiss a permanent employee?

A. When ordered by the Commission following a public investigation, OR
Within ten days after an employee's felony conviction becomes final. LSA-R.S. 42:1414

Q. Are there certain actions for which the usual penalty is dismissal?

A. Yes, sleeping on duty in a correctional facility; refusing to perform assigned duties; theft of agency property; maltreatment of the agency's patients, clients, etc.

Q. Besides termination of employment, does a dismissal have other consequences?

A. Yes. The employee loses eligibility for non-competitive reemployment, rehiring at his or her former pay rate, and removal from a department preferred reemployment list. The employee also loses the right to have annual and sick leave restored. Finally, the Department of State Civil Service or the appointing authority may reject the employee's application, and the Department of State Civil Service Civil Service may cancel the employee's eligibility for employment (Rule 6.5(c); Rule 22.4(d); Rule 23.16(a)4; Rule 23.13(b); Rule 11.18(b); Rule 17.23(e)4).

Q. Does a dismissal for theft of agency funds or property have any additional adverse consequences?

A. Yes. In addition to the consequences that attach to any dismissal, the agency cannot pay the employee for annual leave (Rule 11.10(a)) and the agency head must notify the legislative auditor and the parish district attorney. (LSA-R.S. 24:523)

Q. Does a dismissed employee lose retirement eligibility?

A. No. Retirement eligibility depends upon years of service and age. It has nothing to do with the employee's status at the time of retirement.

Q. Is poor behavior and/or performance cause for disciplinary action?

A. Yes, if an employee is not performing as indicated in their job description, CPM, agency's policies and procedures, and/or directive.