



*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 does a suspension pending investigation do?**

A. Temporarily excludes an employee from work, with pay, during an investigation and subsequent administrative proceedings.

**Q. When can an agency impose a suspension pending investigation?**

A. When the employee is suspected of conduct that, if confirmed, would warrant discipline or removal and the employee's continued presence at the workplace would be contrary to the best interests of state service.

**Q. Should an agency keep the employee on suspension pending investigation until the disciplinary action or removal becomes effective?**

A. Only if the agency has proposed dismissal or removal. If the agency has proposed any other action, the agency should end the suspension pending investigation and return the employee to work. The agency has already decided that it is going to keep the employee, so there is no need to spend taxpayer dollars keeping the employee away from work.

**Q. What constitutes an investigation?**

A. Any inquiry into an employee's behavior, conduct, performance, or mental or physical fitness for work.

**Q. How long can an agency suspend an employee pending investigation?**

A. No more than 260 work hours.

**Q. Can this be extended?**

A. No.

**Q. Why are these suspensions limited?**

A. The taxpayers are paying the employee's salary but the employee is rendering no services to them. Therefore, an agency should consider alternative action (detail to special duty, change to a different shift or job site, temporary change of duties, etc.). An agency should use a suspension pending investigation for the shortest duration practicable.

**Q. How should an agency document a suspension pending investigation?**

A. By preparing a memorandum similar to the following for the investigatory file and for the employee's supervisory file.

On \_\_\_\_\_ [date] \_\_\_\_\_, at \_\_\_\_\_ [time] \_\_\_\_\_, \_\_\_\_\_ [name] \_\_\_\_\_ notified Employee that he was being placed on a paid suspension pending investigation until further notice to investigate allegations of \_\_\_\_\_.

**Q. What kind of leave is an employee on while on suspension pending investigation?**

A. None.

**Q. May an agency use enforced compensatory leave or enforced annual leave instead of a suspension pending investigation while the agency conducts its investigation?**

A. Not for the initial 260 hours.

**Q. What if despite due diligence, the agency cannot complete the investigation within 260 work hours?**

A. An agency may then place the employee on enforced annual leave as long as the employee's annual leave balance does not fall below 240 hours [Rule 11.9(b)] or on enforced compensatory leave [Rule 21.6(b)]. If these options are not available, the agency must return the employee to work, in some capacity. **NOTE:** If enforced annual leave exceeds 30 days, the agency must tell the employee the reason – the rational basis related to a governmental interest. *Appeal of Clary*, CSC Docket No. 13189, decided 12/4/99, on application for review. This is not required for forced compensatory leave. *Appeal of Dobbins*, CSC Docket No. 13956, decided 4/5/01, on application for review.

**Q. Is a suspension pending investigation a disciplinary action?**

A. No, because the agency continues to pay the employee.

**Q. Is a suspension pending investigation appealable?**

A. Yes, based on discrimination or a rule violation. However, the appeal is usually moot, as the Commission or Referee can grant no relief because the employee is receiving full pay.

**Q. Is written notice required for a suspension pending investigation?**

A. No, an agency can initiate a suspension pending investigation verbally.

**Q. Does the agency have to give the employee a reason for a suspension pending investigation?**

A. Yes. The agency must tell the employee the general nature of the conduct it is investigating (such as theft of state property, inappropriate dealings with clients, falsifying client records, diverting benefit checks to friends).

**Q. Must an agency confirm a suspension pending investigation in writing?**

A. No.

**Q. May an agency call an employee in for questioning while the employee is on a suspension pending investigation?**

A. Yes.

**Q. May an agency impose call-in requirements on an employee who is on a suspension pending investigation?**

A. Yes.

**Q. Must an employee answer the agency's questions during an investigation?**

A. Yes, or face discipline.

**Q. Is an employee entitled to have a lawyer present while being questioned during an agency investigation?**

A. No.