Policy 2104

From Human Resources

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PERSONNEL POLICY MANUAL
MoDOT Personnel Policy Title: Appeal Procedures for Alleged Adverse Employment Actions Resulting From Whistleblower Reporting **Policy Number**: 2104 **Chapter Title**: Grievances and Complaint Policies **Effective Date**: September 1, 2012 **Supersedes Policy Number**: 2104 **Dated**: January 17, 2012
Approved By: Micki Knudsen, Human Resources Director (Signature on file)

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POLICY STATEMENT

The Missouri Department of Transportation (MoDOT) is committed to ensuring that no employee shall be subjected to disciplinary action, as defined below, for his/her reporting and/or disclosure of any alleged mismanagement, gross waste of state funds, abuse of authority, activities which pose substantial danger to public health or safety, or violations of the law or regulations.

For the purposes of this policy only, "disciplinary action" means any dismissal, demotion, transfer, reassignment, suspension, reprimand, warning of possible dismissal, or withholding of work, whether or not the withholding of work has or will affect the employee's compensation.

ACCOUNTABILITY/RESPONSIBILITY

1. Supervisors or any other department officials shall not prohibit any employee of the department from discussing the operations of the department, either specifically or generally, with any member of the legislature or a representative of the state auditor's office.

2. An employee is required to inform his/her supervisor or other appropriate departmental authority of any requests for information received from the legislature or state auditor regarding department activities. However, an employee is not required to give notice of such legislative requests and/or testimony made until after such information has been reported.

3. An employee is not authorized to represent his/her own personal opinions as those of the department.

4. An employee is not permitted to leave the assigned work area to report alleged offenses during normal work hours without following applicable department rules and personnel policies pertaining to leaves, unless the employee’s presence is requested by a legislator or legislative committee.

5. This personnel policy does not preclude the department from taking disciplinary action against an employee:

A. If the employee knowingly discloses false information;

B. If the information is closed or confidential under the provisions of the open meetings law or any other law;

C. If the disclosure relates to the employee's own violations, mismanagement, gross waste of funds, abuse of authority, or endangerment of public health or safety; or,

D. If the employee fails to notify the supervisor or other appropriate department authority as soon as possible following the report.

GUIDELINES

6. An employee who wishes to appeal disciplinary action pursuant to Section 105.055, RSMo and elects to have his/her case heard as a formal hearing should file an appeal using the Formal Complaint Form attached to this policy. The completed and signed Formal Complaint Form must be filed in writing and received by either the Audits and Investigations Director or the Equal Opportunity and Diversity Director (as outlined below) within 30 calendar days of the disciplinary action. This form should be mailed to the Audits and Investigations Director, Missouri Department of Transportation, P.O. Box 270, Jefferson City, Missouri 65102. Employees in the office of the Audits and Investigations (AI) Division who want to file an appeal under this policy should submit the Formal Complaint Form to the Equal Opportunity and Diversity (EOD) director at this same address. The AI director or the EOD director will promptly forward a copy of the Formal Complaint Form to the Chief Counsel. The parties will thereafter be notified of the name and address of the Missouri Highways and Transportation Commission hearing examiner who will conduct the appeal hearing.

7. This policy and procedure does not alter the at-will employment status of any MoDOT employee.

8. The procedure to be used for a hearing under this policy will follow the procedure outlined in Personnel Procedure 2103, “Formal Termination Hearings,” except at this hearing the employee is not alleging that he/she was terminated for racial, religious, or political grounds or not for the good of the service. At this hearing, the burden of proof is on the employee to prove beyond a preponderance of the evidence that the disciplinary action was in violation of Section 105.055, RSMo The relief available as a result of such hearing is outlined in Section 105.055, RSMo.

CROSS REFERENCES

Procedure 2103 “Formal Termination Hearings”

Section 105.055, RSMo (http://www.moga.mo.gov/statutes/C100-199/1050000055.HTM)

FORM

Formal Complaint Form

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