Policy 2600

From Human Resources

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PERSONNEL POLICY MANUAL
MoDOT Personnel Policy Title: Performance/Conduct Intervention **Policy Number**: 2600 **Chapter Title**: Discipline **Effective Date**: January 17, 2012 **Supersedes Policy Number**: 2600 **Dated**: October 1, 2004
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POLICY STATEMENT

The Missouri Department of Transportation's (MoDOT) objective is to maintain a qualified workforce through performance management. When an employee cannot or will not follow department

guidelines and/or department goals and expectations, corrective intervention in the form of probation, suspension, disciplinary demotions, or termination may be necessary. This personnel policy provides supervisors with tools necessary to manage performance/conduct issues. This policy does not entitle employees or require supervisors to take corrective intervention before an employee is terminated.

ACCOUNTABILITY / RESPONSIBILITY

1. Supervisors are responsible for documenting performance/conduct issues and identifying employees with performance/conduct needing improvement.

2. Supervisors are responsible for consulting with the local human resources (HR) office for a consistency review/recommendation prior to administering any discipline greater than a verbal warning.

3. Supervisors are responsible for ensuring the local HR office receives a copy of all disciplinary letters involving written warnings, or greater, to aid in future consistency reviews.

4. The district engineer or division leader/state engineer is responsible for sending a copy of disciplinary letters above the written warning level to the HR director for filing in the appropriate employee's file.

5. The district engineer or division leader/state engineer is responsible for ensuring this personnel policy is communicated, enforced, and supported by his/her management team. The management team is responsible for assisting supervisors in identifying employees who are not meeting the department's expectations.

6. The district engineer or division leader/state engineer is responsible for signing letters or disciplinary probation, disciplinary demotion, suspension without pay, and termination.

GUIDELINES

7. Identify employees with performance/conduct that is either "Needs Improvement" or "Unacceptable." (Higher-level supervisors may have some knowledge and will need input to identify these employees.)

8. Identify performance needing improvement as the gap demonstrated by an employee in the way tasks and activities are carried out compared to standards and measures.

9. Pinpoint (observable and measurable) job-related conduct and the results (actions produced by the conduct).

10. Hold frequent follow-up and ongoing assessment discussions.

11. Disciplinary probation will primarily be used when performance problems are not resolved with lesser discipline. Consult with a HR representative on the appropriate period of time for the probation. The disciplinary probation period can be extended, at the discretion of the supervisor,

and after consultation and approval of a HR representative. Suspension without pay will primarily be used for conduct issues.

12. Provide a letter to each employee who is given a written warning, a disciplinary probation, a disciplinary demotion, or a suspension without pay. Each of these letters needs to identify what performance or conduct issue caused this discipline, what improvements are expected, and when these improvements are expected to be made. These letters also need to explain what discipline will result if the improvements are not made within the time allowed. Consult with a HR representative regarding the content of these letters before they are signed and issued.

13. Provide a termination letter to each employee who is terminated. Consult with a Central Office HR representative and the Assistant Chief Counsel – HR (or that attorney's designee) regarding the content of this letter before it is signed and issued.

TOOLS FOR IMPROVEMENT

14. Disciplinary Probation

A. Disciplinary probation should be applied by the first line supervisor with the approval (signature) of the district engineer or division leader/state engineer.

B. Key points that must be discussed when issuing a disciplinary probation are:

1) Detail complete performance issues; and

2) Emphasize that continuation of the past level of performance is not acceptable.

C. Review written expectations and provide the employee with a copy. Include, in the letter, the standards expected and how the standards will be measured.

D. As a guideline, the disciplinary probationary period should address the following:

1) Performance improvements may require more training, practice, etc.

2) The employee's continued employment will be determined during the length of the disciplinary probation.

3) While on the disciplinary probation, the employee will not be eligible for a performance increase or a promotion.

E. The following language should be incorporated into all letters of disciplinary probation:

1) During your disciplinary probation, if evidence indicates you are not making an honest effort to meet expectations, your employment will be terminated. Termination can occur before the end of the disciplinary probation.

2) Successful completion of the disciplinary probation does not guarantee employment. If your performance reverts back, termination may result without additional coaching or counseling.

F. General Guidelines on Disciplinary Probation

1) Documentation

Discipline intervention should be a partnership between the supervisor and the employee setting a goal of the employee moving from "Needs Improvement" or below to "Successful" or above. Documentation of requirements, expectations, conditions, commitments made, etc., provides a record that is important to both the supervisor and the employee. Therefore, thorough documentation should be prepared by the supervisor and a copy of the documentation given to the employee. A copy should also be retained in the district/division/office.

Examples of documentation include:

a. Probationary letter;
b. Follow-up discussions and ongoing assessments; and
c. Other letters concerning status of employment, such as successful completion of probationary period.

2) The supervisor and employee should agree on the "tools" necessary to reach expectations (e.g., training, time, advice, standard measurement, feedback, etc.).

3) The employee should be instructed who to contact if he/she has questions.

4) The employee should be allowed to ask questions and obtain any clarifications needed to understand what is expected.

5) The supervisor and employee should establish a schedule for periodic discussions.

6) The supervisor should clearly state what the next step will be if expectations are not met.

7) The supervisor should consult with an HR representative prior to the end of the probationary period to discuss the employee's progress during the probationary period. The HR representative should facilitate the preparation and issuance of a letter to the employee regarding his/her employment status at the end of the probationary period but prior to the probationary period ending (e.g., probation extended, successfully completed, or employment terminated). In the event more time is needed to determine the employee's status, the probation should be extended before its current end date and the employee should be notified in writing of such action. A copy of the letter issued to the employee regarding extended probationary status or the successful completion of probation should be maintained in the employee's personnel file.

15. Disciplinary Suspension Without Pay

A. When serious conduct issues arise, such as violation of personnel policies or state/federal laws, suspension without pay will be the primary discipline to consider instead of disciplinary probation. Less serious violations could result in written warnings, while the most serious violations should result in termination.

B. Occasionally a violation that results in a suspension without pay could also result in the employee being placed on a disciplinary probation.

Generally the probation will be used in conjunction with suspension without pay when the violation was serious enough that termination was strongly considered.

C. Suspension without pay should be applied by the first-line supervisor with the approval (signature) of the district engineer or division leader/state engineer.

D. Suspension without pay should be done in one-day increments (one day, three days, etc.).

16. Disciplinary Demotion

Disciplinary demotions should be handled in accordance with Personnel Policy 1021, "Demotion." Demotions may be used for either performance or conduct issues.

17. Termination

A. If improvement in either performance or conduct is not reached or if the conduct is of such seriousness that termination is determined appropriate regardless of lack of prior disciplinary history, the following should be included in each termination letter:

1) The effective date of termination;

2) A general reference regarding discussions leading to the termination (letters, counseling sessions, etc.);

3) Statements of facts leading to the employee's termination (avoid any reference to conclusions drawn from those facts);

4) The statement "we have determined your continued employment is not for the good of the service of MoDOT and your employment is terminated effective…" (on the date determined); include the statement that while discipline lesser than termination was considered, it was determined that termination was for the good of the service;

5) State how and when the employee will receive his/her last paycheck and what period of time the check will cover along with annual leave, comp time, overtime, etc.;

6) State who the employee is to contact to talk about the status of his/her benefits such as medical insurance, life insurance, cafeteria plan, retirement, deferred compensation, etc.; and,

7) Advise the employee of the Audit and Investigations (AI) director's address and his/her right to file an appeal within 30 days of the date of termination; advise the employee that if he/she wishes to appeal the termination, he/she must choose one of two alternative appeal processes to file under within the 30 days; indicate one choice is to appeal his/her termination in writing to the AI director, and that while this request must be writing, it does not need to be in a particular form; indicate the second alternative is to request a formal post-termination hearing, and that if he/she wants a formal termination hearing, he/she must fully complete and sign the Formal Complaint form attached to Personnel Policy 2103, "Formal Termination Hearings," and included with his/her termination letter; advise the employee that any written request that does not include the completed Formal Complaint form will be treated as a written request for the AI director's review.

B. In most cases, the employee should be given an opportunity to verbally respond to the reasons given for termination after he/she has been told of the termination.

C. The termination letter must be signed by the district engineer or the division leader/state engineer.

D. The termination letter does not have to be mailed "certified."

E. Copies of the termination letter should be shown going to the HR director and to the immediate supervisor. In the district, a copy also needs to be provided to the HR manager.

F. The supervisor should retrieve department property (identification badge, keys, lap top computer, etc.) from the employee before the employee leaves.

CROSS REFERENCE

Personnel Policy 1021, "Demotion"

FORM

Formal Complaint Form

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