

SECTION 10

TERMINATIONS

10.02 TERMINATION FOR JUST CAUSE

AUTHORITY: *Civil Service Act* Regulations and the Collective Agreement

ADMINISTRATION: Public Service Commission
Government Departments/Agencies

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1. INTRODUCTION

- 1.01 An employee who fails to maintain proper standards of conduct or commits a disciplinary offense, shall be subject to disciplinary action (Part IX of *Civil Service Act Regulations*). No employee shall be disciplined except for just cause.
- 1.02 The administration of discipline is the responsibility of the deputy head. Termination for just cause is a very serious action and must be dispensed in accordance with the principles and steps outlined within Section 6.05 of this manual.
- 1.03 Although management has the right to discipline any employee, this discretion is qualified by the right of the employee to have protection against unfair treatment. Therefore, the employer must be able to demonstrate “just cause” for any disciplinary action imposed. For just cause to exist, the requirements laid out in Subsection 3.03 of Section 6.05 must be met.

2. APPLICATION

- 2.01 This applies to all employees within the Civil Service.

3. POLICY

- 3.01 Discipline is normally a progressive process except for certain kinds of misconduct, which because of their seriousness, justify moving immediately to a more serious penalty up to and including termination for just cause. The framework under which termination for just cause occurs is found in the *Civil Service Act*, its regulations and the UPSE collective agreement:

CIVIL SERVICE ACT

S.32(4) A department head or a deputy head may, for cause, demote or dismiss an employee in his department or agency.

S.32 (5) An employee who is suspended, demoted or dismissed shall be notified in writing of the reason for the action and a copy of the notification shall be forwarded to the Chief Executive Officer.

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REGULATIONS TO THE CIVIL SERVICE ACT

PART IX: CONDUCT OF EMPLOYEES

33.(1)(d) dismissal or demotion is taken for repeated violations of Government or departmental policy or for a single, serious disciplinary offence.

(2) In this Part “dismissal” means the ending of the employment relationship by an act of the employer for just cause, and for purposes other than a layoff.

34.(1) The deputy head may, subject to subsection (2),
(a) reprimand an employee; or
(b) suspend, demote or dismiss an employee.

(2) Where an employee of the classified division is disciplined under clause (1)(b), the discipline awarded is subject to the approval of the Department.

(3) The Department may confirm, vary or quash a disciplinary action taken by a deputy head or delegate.

(4) Where an employee is disciplined by suspension, demotion, or dismissal, the employer shall, within ten days from the date of such disciplinary action, provide the employee with written reasons for such disciplinary action. A copy of such notice shall be sent to the Department, and, to the Union when the employee is a member of the Union.

UPSE COLLECTIVE AGREEMENT

Article 27 - Disciplinary or Non-Disciplinary Action

Disciplinary Action

27.01 No employee shall be disciplined except for just cause.

27.02 When an employee is disciplined by suspension, demotion or

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dismissal, the Employing Authority shall provide the employee within three (3) working days of the date of discipline with written reasons for such disciplinary action and a copy of such notice shall be sent to the Union and the Commission.

27.03 If an employee is to be disciplined by suspension, demotion or dismissal and a meeting is held with the employee to administer such discipline, the employee shall be entitled to have a Steward or Union staff representative present.

27.04 No notice of disciplinary action or any other document concerning disciplinary action shall be placed on an employee's personnel file without the employee being given an opportunity to read its contents and upon request the employee shall be provided with an exact copy for his/her own records.

27.05 Upon the employee's request, any notice of disciplinary action or any other document concerning disciplinary action, other than evaluation reports and payroll transactions, which may have been placed on his/her personnel file shall be removed after two (2) years have elapsed since the disciplinary action was taken, provided no further disciplinary action has been recorded during this period.

27.06 Upon the request of the employee, the Employing Authority shall provide him/her with the opportunity to read any documents on his/her personnel file, other than recruitment documents.

27.07 Where it is determined that an employee has been unjustly disciplined, the employee shall be reinstated without loss of pay or any other benefit which would have accrued if he/she had not been disciplined. Nothing in this Article prevents the Commission or the Adjudication Board from increasing, decreasing, or otherwise revising a disciplinary award made by an Employing Authority.

- 3.02 Once a situation which has the potential for discipline comes to your attention, your first point of contact should be your departmental HR Manager. In turn, the HR Manager will contact the Public Service Commission, Labour Relations Division, as the Commission provides expertise and consistency to the handling of discipline for the employer.
- 3.03 A grievance of termination for just cause varies from the normal grievance

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procedure and shall be submitted at the final level of the grievance procedure as outlined within Article 26.13(b)(1)&(2) of the current collective agreement.

- 3.04 An employee terminated for just cause is not entitled to severance pay as outlined within Article 18 of the collective agreement.