

HR/LR Policy #1357

Pre-Deprivation Hearing for Suspensions, Demotions, Discharges and Employer-Initiated Leaves

Issued 06/21/1999
Revised 03/10/2015
Authority Labor Relations

OVERVIEW

Objective	To advise agencies about hearings the agency must provide prior to taking disciplinary action by demoting, suspending, or discharging a public employee with permanent status. In addition, if a permanent status employee is placed on an unpaid, employer-initiated leave, the agency should follow the same procedure.
Policy Statement	Agencies must follow the provisions of this policy when demoting, suspending or discharging a public employee with permanent status with a resulting loss of pay or benefits. In addition, if an employee is placed on an unpaid, employer-initiated leave, the agency must follow this same procedure.
Scope	This policy applies to employees of executive branch agencies and classified employees in the Office of Legislative Auditor, Minnesota State Retirement System, Public Employee Retirement System, and Teachers' Retirement System.
Definitions	N/A
Exclusions	N/A
Statutory References	N/A

GENERAL STANDARDS AND EXPECTATIONS

Public employees with permanent status must be given notice of the charges against them before they are demoted, suspended or discharged with a resulting loss of pay, or placed on an unpaid, employer-initiated leave. This notice is in writing. In a written notice of discipline, the employee is offered an opportunity to respond at a pre-deprivation hearing. These hearings are commonly called "*Loudermill*" hearings.

Procedures

Prior to imposing discipline upon a public employee with permanent status that results in the loss of pay or benefits, or placing a permanent status employee on an unpaid, employer-initiated leave, agencies must offer the affected employee an informal pre-deprivation hearing consisting of the following:

1. Oral or written notice of the charges against the employee;
2. A brief explanation of the evidence supporting the charges;
3. An opportunity for the employee to present his or her side of the story (possible options are face-to-face meeting, written statement, or presentation by union/association); and
4. After hearing the employee's side of the story, the decision maker may withdraw, reduce, or impose the proposed discipline or action.

GENERAL STANDARDS AND EXPECTATIONS

While there is no legal right to union representation at the face-to-face meeting, you should permit the union representative to attend if requested by the employee. This is contractually required for discharge and it is expected for suspensions and demotions.

In most cases, providing such an opportunity for the employee to be heard prior to taking the personnel action will not result in undue delay. If, however, an agency opts not to provide a hearing before the action because it believes that any delay may threaten the health or safety of the employee, other employees, or the public, we recommend that a hearing be held promptly after the suspension or demotion. For discharge, the hearing must be held prior to the discharge to be effective.

Suggested language for discipline letters:

“You are entitled to a meeting to hear the reasons for the [demotion, suspension or discharge] and to give your side of the story. This meeting will be held on [date] at [time]. You may have union representation at the meeting.”

If you have any questions regarding this policy, please contact your agency Labor Relations Representative.

RESPONSIBILITIES

Agencies are responsible for:	Following the provisions of this policy.
MMB is responsible for:	Assisting agencies with administering the provisions of this policy.
Contacts	Labor Relations Representative