

HR/LR Policy #1388

Disciplinary Salary Deductions and Unpaid Suspensions of Exempt Employees

Date Issued: 11/17/2004

Date Revised: 12/16/2015

Former PERSLs: N/A

Rebrand Date*: 02/28/2018

Authority: Enterprise Human Resources

OVERVIEW

Objective

To clarify when and under what circumstances an exempt employee is subject to disciplinary salary deductions or unpaid disciplinary suspensions and to advise employees of the mechanism by which to report improper deductions.

Policy Statement

As provided in the Fair Labor Standards Act (FLSA) and this policy, exempt employees are subject ONLY to the following forms of disciplinary salary deduction or unpaid disciplinary suspension:

- Salary deduction in any amount for violating safety rule(s) of major significance.
- Unpaid suspension in one or more full work day increments for violating state or federal law(s) or written workplace conduct rule(s).
- Unpaid suspension for a full workweek(s) for any disciplinary reason, including for poor performance.

Scope

This policy applies to all FLSA-exempt 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 and Key Terms

Workweek

The FLSA defines "workweek" as a fixed and regularly recurring period of 168 hours: seven consecutive 24-hour periods.

Examples of workplace conduct rules

Include, but are not limited to, the Zero Tolerance for Sexual Harassment Policy, workplace violence policies, and policies prohibiting drug or alcohol use.

Safety rules of major significance

Are those relating to the prevention of serious danger in the workplace or to other employees.

Exclusions

Non-exempt employees, exempt employees working as teachers, lawyers, outside sales, and doctors who are not subject to the salary basis requirements of [29 C.F.R. 541.602](#).

Statutory References

[29 C.F.R. 541.602\(b\)\(4\) and \(5\)](#)

GENERAL STANDARDS AND EXPECTATIONS

The FLSA has strict rules about when and in what increments an employer may make deductions from an exempt employee's salary. The default rule is that exempt employees may only be suspended without pay in full **workweek** increments, unless the employee has violated: (1) a state or federal law, (2) a statewide or agency-specific written workplace conduct rule, or (3) a safety rule of major significance.

- If an exempt employee violates state law, federal law or a statewide or agency-specific written workplace conduct rule that is applicable to all employees, they may be suspended without pay in one or more full **work day** increments.
- If an exempt employee has poor job performance or attendance, they may be suspended in full **workweek** increments. (Per the Department of Labor, poor job performance or attendance is not a "violation of a workplace conduct rule.")
- If an exempt employee violates safety rules of major significance, they may have their salary docked in any amount.

Some collective bargaining agreements and/or plans permit the agency, in lieu of suspension, to deduct hours from the employee's accumulated vacation balances in an amount equal to the suspension, or permit the agency to require the employee to use accumulated vacation hours while on suspension. So long as the employee's take-home pay is not reduced, such suspensions are not 'unpaid,' and therefore are outside the scope of this policy and not subject to the time increment limitations set forth in this policy.

Improper Deductions

- If an exempt employee believes that an improper deduction has been made from the employee's salary, the employee should immediately report this information to the direct supervisor, to the agency's human resources office, or to the employee's union representative.
- Agencies must promptly investigate reports of improper deductions.
- Allegations of improper deductions are subject to existing grievance procedures within applicable collective bargaining agreements.
- Employees will be reimbursed for any improper deductions as required by law.

RESPONSIBILITIES

Agencies are responsible for the request:

Training managers and supervisors about proper bases for disciplinary deductions of exempt employees' salaries, establishing a procedure for exempt employees to report any improper deductions, and promptly investigating reports of improper deductions.

MMB is responsible for:

Distributing this policy to agencies and updating as necessary.

FORMS AND SUPPLEMENTS

N/A

REFERENCES

N/A

CONTACTS

Enterprise Human Resources

**Date policy content moved to new document template featuring updated branding, logo, formatting, and corrections to typographical errors. No change to policy content.*