

Effective 5/13/2014

Part 4
Disciplinary Actions and Appeals

17-30a-401 Title.

This part is known as "Disciplinary Actions and Appeals."

Enacted by Chapter 366, 2014 General Session

17-30a-402 Disciplinary charges -- Grounds -- Process.

- (1) An appointing authority may demote, suspend, discharge, or reduce a merit system officer's pay for:
 - (a) neglect of duty;
 - (b) disobedience of a reasonable order;
 - (c) misconduct;
 - (d) inefficiency or inability to satisfactorily perform assigned duties; or
 - (e) an act inimical to public service.
- (2) A department may not suspend a merit system officer for more than 176 work hours at one time or for more than 352 work hours in one year.
- (3) The appointing authority shall order the demotion, reduction in pay, suspension, or discharge of a merit system officer.

Enacted by Chapter 366, 2014 General Session

17-30a-403 Disciplinary charges -- Appeal to commission -- Hearing -- Findings.

- (1) The appointing authority:
 - (a) may impose disciplinary charges in accordance with a rule, policy, ordinance, or law; and
 - (b) shall serve the merit system officer to be disciplined with a copy of the written charges.
- (2)
 - (a) A disciplined merit system officer may file an appeal of the disciplinary charges with the department, which shall conduct the appeal internally.
 - (b) The department shall conduct an appeal in accordance with rules or policies adopted by the appointing authority.
- (3) If the disciplinary charges are sustained on internal appeal, the merit system officer may appeal to the commission in accordance with the provisions of this section and commission rule.
- (4)
 - (a) A merit system officer disciplined in accordance with Subsection (1) may, within 10 calendar days after the internal department appeal decision described in Subsection (2), make an appeal in writing to the commission.
 - (b) If the merit system officer fails to make an internal appeal of the disciplinary action, the officer may not appeal to the commission.
- (5) The commission may hear appeals regarding demotion, reduction in pay, suspension, or discharge of a merit system officer for any cause provided in Section 17-30a-402.
- (6) In the absence of an appeal, a copy of the charges under Subsection (1) may not be made public without the consent of the officer charged.
- (7)
 - (a) The commission shall:

- (i) fix a time and place for a hearing on the appeal; and
 - (ii) give notice of the hearing to the parties.
- (b)
- (i) Except as provided in Subsection (7)(b)(ii), the commission shall hold a hearing under this Subsection (7) no less than 10 and no more than 90 days after an appeal is filed.
 - (ii) The commission may hold a hearing more than 90 days after an appeal is filed if:
 - (A) the parties agree; or
 - (B) the commission finds that the delay is for good cause.
- (8)
- (a) The commission shall hold the hearing in accordance with Title 52, Chapter 4, Open and Public Meetings Act.
 - (b) Notwithstanding Subsection (8)(a), if the commission proposes to and is authorized to close the hearing to the public in accordance with Title 52, Chapter 4, Open and Public Meetings Act, the commission shall open the meeting to the public if the aggrieved officer requests that the commission open the hearing.
- (9) The parties may be represented by counsel at the hearing.
- (10) The commission, on its own motion or at the request of the appointing authority, may dismiss an appeal for unjustified delay, removal to a court or other venue, or for other good cause shown.
- (11) In resolving an appeal, the commission may sustain, modify, or vacate a decision of the appointing authority.
- (12) After the hearing, the commission shall publish a written decision, including findings of fact and conclusions of law, and shall notify each party.

Enacted by Chapter 366, 2014 General Session

17-30a-404 Appeal to Court of Appeals -- Scope of review.

- (1) A person may appeal a final action or order of the commission to the Court of Appeals for review.
- (2) A person shall file a notice of appeal within 30 days of the issuance of the final action or order of the commission.
- (3) The Court of Appeals shall base its review on the record of the commission and for the purpose of determining if the commission has abused its discretion or exceeded its authority.

Enacted by Chapter 366, 2014 General Session