

67-19-18 Dismissals and demotions -- Grounds -- Disciplinary action -- Procedure -- Reductions in force.

- (1) A career service employee may be dismissed or demoted:
 - (a) to advance the good of the public service; or
 - (b) for just causes, including inefficiency, incompetency, failure to maintain skills or adequate performance levels, insubordination, disloyalty to the orders of a superior, misfeasance, malfeasance, or nonfeasance in office.
- (2) An employee may not be dismissed because of race, sex, age, disability, national origin, religion, political affiliation, or other nonmerit factor including the exercise of rights under this chapter.
- (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the executive director shall establish rules governing the procedural and documentary requirements of disciplinary dismissals and demotions.
- (4) If an agency head finds that a career service employee is charged with aggravated misconduct or that retention of a career service employee would endanger the peace and safety of others or pose a grave threat to the public interest, the employee may be suspended pending the administrative appeal to the department head as provided in Subsection (5).
- (5)
 - (a) A career service employee may not be demoted or dismissed unless the department head or designated representative has complied with this subsection.
 - (b) The department head or designated representative notifies the employee in writing of the reasons for the dismissal or demotion.
 - (c) The employee has no less than five working days to reply and have the reply considered by the department head.
 - (d) The employee has an opportunity to be heard by the department head or designated representative.
 - (e) Following the hearing, the employee may be dismissed or demoted if the department head finds adequate cause or reason.
- (6)
 - (a) Reductions in force required by inadequate funds, change of workload, or lack of work are governed by retention points established by the executive director.
 - (b) Under those circumstances:
 - (i) The agency head shall designate the category of work to be eliminated, subject to review by the executive director.
 - (ii) Temporary and probationary employees shall be separated before any career service employee.
 - (iii)
 - (A) When more than one career service employee is affected, the employees shall be separated in the order of their retention points, the employee with the lowest points to be discharged first.
 - (B) Retention points for each career service employee shall be computed according to rules established by the executive director, allowing appropriate consideration for proficiency and seniority in state government, including any active duty military service fulfilled subsequent to original state appointment.
 - (c)
 - (i) A career service employee who is separated in a reduction in force under this section shall be given preferential consideration when applying for a career service position.

- (ii) Preferential consideration under Subsection (6)(c)(i) applies only until the former career service employee accepts a career service position.
 - (iii) The executive director shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, concerning the manner of granting preferential consideration under Subsection (6)(c)(i).
- (d)
- (i) An employee separated due to a reduction in force may appeal to the department head for an administrative review.
 - (ii) The notice of appeal must be submitted within 20 working days after the employee's receipt of written notification of separation.
 - (iii) The employee may appeal the decision of the department head according to the grievance and appeals procedure of this chapter and Chapter 19a, Grievance Procedures.

Amended by Chapter 249, 2010 General Session