

**67-5-12 Dismissal of career status employees -- Causes -- Procedure -- Retention roster -- Reappointment register.**

- (1)
  - (a) Employees in a career status may be dismissed only:
    - (i) to advance the good of public service;
    - (ii) where funds have expired or work no longer exists; or
    - (iii) for any of the following causes or reasons:
      - (A) noncompliance with provisions in the Office of Attorney General policy manual, or division policies, and, for attorneys, noncompliance with the Rules of Professional Conduct;
      - (B) work performance that is inefficient or incompetent;
      - (C) failure to maintain skills and adequate performance levels;
      - (D) insubordination or disloyalty to the orders of a superior;
      - (E) misfeasance, malfeasance, or nonfeasance;
      - (F) failure to advance the good of the public service, including conduct on or off duty which demeans or harms the effectiveness or ability of the office to fulfill its mission or legal obligations;
      - (G) conduct on or off duty which creates a conflict of interest with the employee's public responsibilities or impact that employee's ability to perform his or her job assignments;
      - (H) any incident involving intimidation, physical harm, threats of physical harm against coworkers, management, or the public;
      - (I) failure to meet the requirements of the position;
      - (J) dishonesty; or
      - (K) misconduct.
  - (b) Employees in career status may not be dismissed for reasons of race, national origin, religion, or political affiliation.
- (2) Except in aggravated cases of misconduct, an employee in a career status may not be suspended, demoted, or dismissed without the following procedures:
  - (a) The attorney general or a designated representative shall notify the employee of the reasons for suspension, demotion, or dismissal.
  - (b) The employee shall have an opportunity to reply and have the reply considered by the attorney general or a designated representative.
  - (c) The employee shall have an opportunity to be heard by the attorney general or a designated representative.
  - (d) Following a hearing, an employee may be suspended, demoted, or dismissed if the attorney general or a designated representative finds adequate reason.
  - (e) If the attorney general or a designated representative finds that retention of an employee would endanger the peace and safety of others or pose a grave threat to the public interest, the employee may be summarily suspended pending administrative hearings and a review by the Career Service Review Office.
- (3)
  - (a) An employee in a career status who is aggrieved by a decision of the attorney general or a designated representative to suspend, demote, or dismiss the employee may appeal the decision to the Career Service Review Office or its hearing officers by following the procedures in Title 67, Chapter 19a, Grievance Procedures.
  - (b) Matters other than dismissal or demotion may be appealed to and reviewed by the attorney general or a designated representative whose decision is final with no right of appeal to the Career Service Review Office or its hearing officers.

- (4) Disciplinary actions shall be supported by credible evidence, but the normal rules of evidence in courts of law do not apply in hearings before the attorney general or a designated representative or the Career Service Review Office or its hearing officers.
- (5)
  - (a) Reductions in force required by reinstatement of an employee under Section 67-5-11, inadequate funds, change of workload, or lack of work shall be governed by a retention roster to be maintained by the Office of the Attorney General and the requirements of this Subsection (5).
  - (b) Except attorney general executive or administrative appointees, employees not in a career status shall be separated before any employee in a career status.
  - (c) Retention points for each employee in a career status shall be based on the employee's seniority in service within each employee category in the Office of the Attorney General, including any military service fulfilled subsequent to the employee's original appointment.
  - (d) Employees in career status shall be separated in the order of their retention points, the employee with the lowest points to be discharged first.
  - (e) Those employees who are serving in other positions under Section 67-5-11 shall:
    - (i) have retention points determined as if they were working for the office; and
    - (ii) be separated in the order of the retention points as if they were working in the Office of the Attorney General.
  - (f) An employee in a career status who is separated by reason of a reduction in force shall be:
    - (i) placed on a reappointment register kept by the Office of the Attorney General for one year; and
    - (ii) offered reappointment to a position in the same category in the Office of the Attorney General before any employee not having a career status is appointed.

Amended by Chapter 369, 2012 General Session