

Rule XXI: Suspension and Discharge**RULE XXI****Suspension and Discharge**

Section A. Policy statement

It is the policy of the Civil Service Commission to support an Appointing Authority's prerogative to enforce discipline and require courteous and efficient service from employees in the merit system. The continued employment of every employee shall depend upon the quality of their work and the delivery of efficient service. Any employee may be suspended or discharged for cause.

Section B. Causes for suspension and discharge

Although suspension or discharge may be based upon causes other than those enumerated, the following are declared to be adequate causes for suspension or discharge, namely, that the employee:

- 1 has willfully violated any provision of the Charter, the Ordinance, these rules or departmental work rules;
- 2 is incompetent or inefficient in the performance of assigned duties or has been unwilling or unable to perform duties in a safe and acceptable manner;
- 3 has been careless or negligent in the care of County property or has, without authorization, used or allowed the use of County property for personal benefit or the benefit of others;
- 4 has been guilty of abusive or improper treatment of an inmate or patient of any County institution or of a person in custody, or of an individual entrusted to the employee's care;
- 5 has been offensive in conduct or language toward the public or employees;
- 6 has failed to maintain effective working relationships;
- 7 has been excessively tardy or absent from duty, or has refused to perform a reasonable amount of emergency work outside working hours when directed to do so by a supervisor;
- 8 has engaged in criminal, dishonest, immoral or notoriously disgraceful conduct which is prejudicial to the County or to County's reputation;
- 9 has possessed opened containers of alcoholic beverages while on duty or on the premises without securing prior permission from a supervisor;
- 10 has possessed or sold a controlled substance or an illegal drug while on duty or on the premises;
- 11 has violated or failed to obey any lawful and reasonable official policy, order, or direction made and given to the employee by a supervisor;
- 12 has induced or attempted to induce any officer or employee of the County to commit an illegal act or to act in violation of any lawful and reasonable official policy, order, or direction;
- 13 has directly or indirectly aided or in any manner been involved with or participated in assessing, soliciting, collecting, or receiving money or other valuable things from anyone for any political purposes whatsoever;
- 14 has used, promised to use, or attempted to use directly or indirectly any official authority or influence to secure for any person an appointment or advantage in appointment to any position, or any increase in pay, promotion, or other advantage in employment;
- 15 has falsified an employment or payroll document;

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- 40 16 has been convicted of violating a municipal, county, state or federal law which bears upon the
 41 employee's employment with St. Louis County;
- 42 17 is unable to do his or her job due to physical disability or illness when the physical disability or illness is
 43 of a permanent or continuing nature and all the employee's unused sick leave has been exhausted;
- 44 18 has a confirmed positive drug or alcohol test result.

Section C. Suspensions

- 45 1 An Appointing Authority may suspend an employee without pay for discipline or pending an
 46 investigation.
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- 48 2 An employee who is suspended shall be given a written statement, which contains the beginning and
 49 ending dates of the suspension and basis for the suspension. The written statement shall be provided
 50 to the suspended employee and to the Personnel Director not later than five calendar days after the
 51 beginning of the suspension or two working days after the conclusion of the suspension, whichever
 52 comes sooner. If the suspension results in the employee being suspended for more than 30 days in any
 53 12-month period, the Appointing Authority shall advise the employee in the written statement of the
 54 employee's right to appeal the suspension to the Commission. If the suspension is appealable the
 55 written statement shall inform the employee that he or she may appeal to the Commission and that
 56 any appeal to the Commission must be received by the Commission not later than 10 days after receipt
 57 by the employee of the written statement. If the suspension is grievable, the written statement shall
 58 so inform the employee.
- 59 3 Appealable suspensions
 60 Except for pretermination suspensions and investigative suspensions, an employee, who is suspended
 61 in multiple suspensions for more than 30 calendar days in any 12-month period, shall have the right to
 62 appeal the suspension, or the last suspension if multiple suspensions aggregate to exceed the 30
 63 calendar days herein specified, in the same manner as a discharge.
- 64 4 Non-appealable suspensions
 65 The following are suspensions from which no appeal lies to the Commission:
 66 a Pretermination suspensions provided in Section D.1.b. of this Rule;
 67 b Investigatory suspensions provided in Section C.5. of this Rule;
 68 c Suspension or suspensions of 30 days or less in any 12-month period.
- 69 5 Investigatory suspensions
 70 An employee who has been charged by or who is under investigation by a competent law enforcement
 71 authority for the violation of a municipal, county, state or federal law which bears upon the employee's
 72 employment with St. Louis County or an employee who is under investigation by a competent law
 73 enforcement authority for a matter which could be the basis of suspension or discharge under Section
 74 B. of this Rule may be suspended without pay until the investigation has been finally resolved. An
 75 employee who is under investigation by an Appointing Authority for a violation of a matter which could
 76 be the basis of suspension or discharge under Section B. of this Rule, and which threatens the health,
 77 welfare or safety of the County, or its employees, may be suspended without pay, for a reasonable
 78 time, not to exceed 30 days, pending resolution of the investigation. Nothing in this subsection,
 79 however, precludes the Appointing Authority from discharging an employee for cause during the
 80 period of investigatory suspension. Following the final resolution of the charges or the investigation:

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- 81 a The employee may be returned to duty in the same position, a position in the same job class, or,
 82 upon approval of the Personnel Director, a position in another job class. If the employee is not
 83 returned to duty, the Appointing Authority must follow discharge or layoff provisions as
 84 appropriate.
- 85 b If the employee is acquitted, or the charges against the employee are dismissed, or if the
 86 employee is otherwise exonerated of the matter investigated, the employee shall receive the same
 87 pay and benefits which would have been earned, but for the investigatory suspension, during the
 88 period of said suspension, unless the Commission specifies a lesser amount. Any pay authorized
 89 under this subsection shall be reduced by any income earned or received by the employee from or
 90 related to employment during the period of investigatory suspension including but not limited to
 91 wages, salary, tips, unemployment compensation, and worker's compensation.
- 92 c If the employee is convicted of any charge, whether original or amended, resulting from the
 93 underlying basis of the investigatory suspension or if the basis for investigation is otherwise
 94 substantiated, the employee shall not receive any pay or benefits which would have been earned
 95 during the period of investigatory suspension.
- 96 d The employee may be suspended or discharged, pursuant to Section B. of this Rule, based upon the
 97 substance of the investigation or charges. Any resulting suspension, without pay, pursuant to said
 98 Section B., shall be reduced by the total number of days the employee has been on investigatory
 99 suspension. The reduction in the length of suspension, pursuant to Section B., shall not be
 100 included to determine whether the employee has the right of appeal or grieve that or any
 101 subsequent suspension.

Section D. Discharge

1 Written statement of discharge

- 104 a When an Appointing Authority determines that cause exists for a permanent employee to be
 105 considered for discharge the Appointing Authority shall provide the employee, by personal service
 106 or by first class mail, with a written statement setting forth the basis and reasons why disciplinary
 107 action could be taken against the employee. The written statement shall include the nature of the
 108 discipline contemplated and the right and time period in which the employee is obligated to
 109 respond to the charges to the Appointing Authority orally or in writing. A copy of the written
 110 statement shall be provided contemporaneously to the Personnel Director.
- 111 b On receipt of the written statement, or on the third day from the date of mailing if the written
 112 statement is mailed, the Appointing Authority may place the employee in the unpaid status of
 113 pretermination suspension which status shall continue until the employee is discharged or
 114 returned to duty. If the Appointing Authority determines that pretermination suspension should
 115 be utilized he shall inform the employee of that fact in the written statement.
- 116 c If a written statement is mailed it shall be deemed received on the third day from the day of
 117 mailing.

2 Pretermination hearing

- 119 a Within five days after personal receipt of the written statement or within eight days of the mailing
 120 of the written statement the employee has the right to reply to the charges orally or in writing to
 121 the Appointing Authority or request a hearing before the Appointing Authority. When the written
 122 statement cannot be given personally or by first class mail due to the employee's unavailability or
 123 refusal to accept the mail, the five-day period during which the employee may request a
 124 pretermination hearing shall begin on the third day after the written statement is mailed.

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- 125 b If an employee requests a hearing before the Appointing Authority, the hearing should be held
 126 within 10 days after the employee has received the written statement setting forth the basis and
 127 reasons why discharge is being considered. At the hearing the employee may present an oral
 128 and/or written statement setting forth the reasons why discharge should not be considered.

129 3 Notification of final action by Appointing Authority

- 130 a Following a pretermination hearing or after the time for requesting a pretermination hearing has
 131 expired without a request, the Appointing Authority shall make a decision regarding the proposed
 132 action. If the Appointing Authority decides that the employee's discharge is warranted, the
 133 Appointing Authority shall notify the employee with a written discharge letter which shall be
 134 provided the employee, by personal service or by first class mail. The discharge letter shall contain
 135 the basis and reasons for the discharge, the effective date of discharge and a statement of the
 136 employee's right to appeal the discharge to the Commission within 10 days after the effective date
 137 of discharge. The effective date of discharge shall be the day the employee is personally served
 138 with a discharge letter or the third day after mailing if mailing is used to deliver the discharge
 139 letter. A copy of the discharge letter shall be provided to the Personnel Director at the same time
 140 it is provided to the employee.
- 141 b The discharge letter must be given to the employee by personal service or first class mail within 15
 142 days after the employee receives the written statement concerning potential discharge. When the
 143 written notice and reasons for discharge cannot be given personally or by first class mail due to the
 144 employee's unavailability or refusal to accept the mail, the period for appeal shall begin to run on
 145 the third day after the discharge letter or disciplinary letter as provided in subparagraph c. below
 146 has been mailed to the employee's last known address as shown on County records.
- 147 c If the Appointing Authority decides that a disciplinary action other than discharge is warranted the
 148 employee shall be informed with a disciplinary letter which shall contain the basis and reasons for
 149 the discipline as well as the discipline to be imposed. If the discipline imposed involves reduction
 150 in pay, demotion or suspension in excess of 30 days, the discipline letter shall contain a statement
 151 of the employee's right to appeal the discipline to the Commission within 10 days after the
 152 effective date of the discipline.
- 153 d The written basis and reasons for disciplinary action, the employee's written reply to the initial
 154 charges, if any, and the Appointing Authority's decision shall be filed as a public record with the
 155 Division of Personnel.

156 Section E. Time periods

157 The time periods set forth in Section C. and Section D. of this Rule are directory with the exception
 158 of the time period provided for responding to or requesting a pretermination hearing under
 159 Section D.2.a. and with the exception of the 10-day period for appealing to the Commission. The
 160 time period for responding to or requesting a pretermination hearing is mandatory and the 10-day
 161 period for appealing to the Commission is mandatory and jurisdictional.

162 Section F. Nonpermanent employee

163 A probationary employee or other employee who does not have permanent status may be
 164 discharged at any time at the discretion of the Appointing Authority. The Appointing Authority's
 165 decision to discharge is not appealable to the Commission.