TO: ALL OFFICES

SUBJECT: MANUAL MATERIAL

DHS:2-1-9 through 2-1-11.

EXPLANATION: DHS:2-1-9 through DHS: 2-1-11 are revised to correct scrivener errors and remove the wording "other supporting documentation."

Original signed on 12-20-04

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WF # 04-HH (NAP)
INSTRUCTIONS FOR FILING MANUAL MATERIAL

OAC is the acronym for Oklahoma Administrative Code. If OAC appears before a number on an Appendix or before a Section in text, it means the Appendix or text contains rules or administrative law. Lengthy internal policies and procedures have the same Chapter number as the OAC Chapter to which they pertain following a “DHS” number, such as personnel policy at DHS:2-1 and personnel rules at OAC 340:2-1. The “340” is the Title number that designates DHS as the rulemaking agency; the “2” specifies the Chapter number; and the “1” specifies the Subchapter number.

The chronological order for filing manual material is: (1) OAC 340 by designated Chapter and Subchapter number; (2) if applicable, DHS numbered text for the designated Chapter and Subchapter; and (3) all OAC Appendices with the designated Chapter number. For example, the order for filing personnel policy is OAC 340:2-1, DHS:2-1, and OAC 340:2 Appendices behind all Chapter 2 manual material. Any questions or assistance with filing manual material will be addressed by contacting Policy Management Unit staff at (405) 521-3611.

REMOVE

DHS:2-1-9
DHS:2-1-10
DHS:2-1-11

INSERT

DHS:2-1-9, pages 1-2, revised 12-15-04
DHS:2-1-10, pages 1-3, revised 12-15-04
DHS:2-1-11, pages 1-4, revised 12-15-04
DHS:2-1-9. Written reprimand

(a) **Purpose.** A written reprimand is used to correct problems not resolved by oral reprimand or for more serious performance or behavioral problems that warrant beginning at the written reprimand level. The immediate and reviewing supervisors sign the written reprimand.

(b) **Requirements.** A written reprimand includes:

1. the employee's name, title, job family descriptor, pay band, user identification (ID) number, and division;
2. the date of the written reprimand;
3. a citation of the statute, policy, practice, or procedure violated;
4. **grounds for written reprimand** including a statement of the act or incident that is the cause of the written reprimand, and evidence supporting the disciplinary action. Witness statements and investigative reports are listed in the written reprimand and provided the employee under separate cover;
5. a corrective action plan per DHS:2-1-7(e);
6. a summary of prior discipline considered in issuing the written reprimand;
7. a statement that continued violations will result in suspension without pay, involuntary demotion, or discharge;
8. a notice that the employee has a right to submit a written response in not less than five working days and that the response will be attached to the written reprimand and included in the employee's personnel file;
9. a notice of the employee's right to grieve the written reprimand in accordance with the Oklahoma Department of Human Services (OKDHS) grievance regulations; and
10. signature of the employee's immediate and reviewing supervisors.

(c) **Distribution.** The local administrator provides a copy of the written reprimand and response to the:

1. employee;
(2) Human Resources Management Division (HRMD) personnel file; and

(3) corrective discipline manager.
DHS:2-1-10. Suspension without pay and involuntary demotion

(a) **Purpose.** A suspension without pay or involuntary demotion is taken when other forms of discipline are unsuccessful or for serious performance or behavior problems. The notice of proposed suspension without pay or involuntary demotion is issued only by a chief officer, division director, or designee. For purposes of this Section, one day equals eight working hours. A suspension without pay can not exceed 60 calendar days or 480 hours in any 12-month period.

(b) **Notice.** Notice of the proposed and final action is given by personal service or certified mail, restricted delivery. Notice of proposed suspension without pay or involuntary demotion includes:

1. the employee's name, title, job, family descriptor, pay band, user identification (ID) number, and division;
2. the date of the notice;
3. the number of proposed hours or days of suspension without pay or the description of the proposed position of demotion;
4. a citation of the statute, policy, practice, or procedure violated;
5. grounds for suspension without pay or demotion including a statement of the act or incident that is the cause for the suspension without pay or demotion;
6. the evidence supporting the proposed action. Witness statements and investigative reports are listed in the proposed suspension without pay or involuntary demotion and provided the employee under separate cover;
7. a summary of prior discipline considered in issuing the notice of suspension without pay or involuntary demotion; and
8. a notice of the employee's right to submit a written response in not less than five working days.

(c) **Final action.** Within ten working days after the employee's response deadline, the employee is provided written notice of the final action. The chief officer, division director, or designee considers the notice, the employee's response, the employee's performance evaluation, and other relevant issues in arriving at the final action. The notice of final action resulting in a suspension without pay or involuntary demotion includes:
(1) the employee's name, title, job family descriptor, pay band, user ID number, and division;

(2) a statement that the action is being taken pursuant to Section 840-6.5(B) of Title 74 of the Oklahoma Statutes;

(3) the date and specific final action taken;

(4) the length and dates of suspension without pay or the position of demotion;

(5) a citation of the statute, policy, practice or procedure violated;

(6) grounds for suspension without pay or involuntary demotion, including a statement of the act or incident that is the cause for the suspension without pay or involuntary demotion;

(7) a summary of prior discipline considered in issuing the suspension without pay or involuntary demotion;

(8) the consideration given to the employee's response;

(9) a corrective action plan;

(10) notice of the employee's right to grieve the suspension without pay or involuntary demotion in accordance with the Oklahoma Department of Human Services (OKDHS) grievance regulations; and

(11) notice of the employee's right to file an appeal to the Oklahoma Merit Protection Commission (MPC); address of the MPC; the MPC filing time limit of 20 calendar days from date employee receives notice of the final action; and a copy of the MPC petition for appeal form.

(d) Distribution. The local administrator provides a copy of the:

(1) notice of proposed suspension without pay or notice of involuntary demotion and a copy of the employee's response to the:

   (A) employee;

   (B) corrective discipline manager; and

   (C) Legal Division; and
(2) final action of suspension without pay or final action of involuntary demotion to the:

(A) employee;

(B) Legal Division;

(C) corrective discipline manager;

(D) Human Resources Management Division (HRMD) personnel file; and

(E) Finance Division, Payroll Unit.
DHS:2-1-11. Discharge and pretermination hearing

(a) **Purpose.** An employee is discharged when his or her conduct or performance warrants. A permanent, classified employee is provided a pretermination hearing to provide information to determine whether the charges against the employee are true and support discharge. A pretermination hearing is not given to an employee terminated as part of a reduction-in-force. The notice of proposed discharge is issued only by a chief officer, division director, or designee.

(b) **Notice.** Notice of the proposed discharge, pretermination hearing, and final action is made by personal service or certified mail, restricted delivery. Pending completion of the notice and the pretermination hearing, an employee may be suspended with pay or temporarily reassigned as provided in policy. The notice must be provided to the employee at least seven working days before the pretermination hearing. Notice of proposed discharge includes:

   1. the employee's name, title, job family descriptor, pay band, user identification (ID) number, and division;
   2. date of the notice;
   3. a citation of the statute, policy, practice, or procedure violated;
   4. grounds for discharge, including a statement of the act or incident that is the cause for the discharge;
   5. the evidence supporting the proposed action. Witness statements and investigative reports are listed in the proposed discharge and provided the employee under separate cover;
   6. the certificate of prior disciplinary action;
   7. a notice of the employee's right to submit a written response in not less than five working days;
   8. a statement of the employee's right to be represented at the pretermination hearing by an attorney or other person of choice; and
   9. the date, time, and location of the pretermination hearing.

(c) **Certificate of prior disciplinary action.** The chief officer, division director, or designee ensures a certificate of prior disciplinary action is filed in the employee's
official Human Resources Management Division (HRMD) personnel file at least three calendar days before the hearing. The certificate lists the progressive disciplinary actions taken against the employee pursuant to DHS:2-1-7(b) and certifies that all mandatory progressive disciplinary actions have been taken.

(d) **Pretermination hearing.** The pretermination hearing provides information from which a determination is made as to whether reasonable grounds exist to believe that the charges against the employee are true and whether the grounds support the proposed discharge.

1. Pretermination hearings are not full evidentiary hearings and formal rules of evidence do not apply.

2. The pretermination hearing officer establishes and advises the parties of the procedure for conducting the pretermination hearing and allows each party or his or her representative to make a brief statement at the opening or closing of the proceedings, or both. Statements are limited to the party's position and a summary of the evidence supporting that position.

3. Argument is not evidence and the hearing officer may limit or exclude argument.

4. The pretermination hearing officer may also limit or exclude non-relevant witnesses, testimony, or documentation.

5. Parties and witnesses are not permitted to read prepared testimony into the record or cross-examine any witness.

6. Parties may request that the hearing officer ask specific questions relevant to specific issues.

7. The pretermination hearing officer may designate cases for telephonic hearing.

8. A pretermination hearing may be continued or rescheduled by the Oklahoma Department of Human Services (OKDHS) for good cause.

9. Requests for a pretermination hearing continuance are made to the OKDHS Legal Division not less than two working days prior to the hearing.

10. The pretermination hearing is recorded in its entirety by audiotape. The employee is provided a copy of the tape within 14 days of request and filing an appeal with the Oklahoma Merit Protection Commission (MPC).
(e) **Legal review.** When a recommendation for discharge is made, the Legal Division reviews the audiotapes of the pretermination hearing and all evidence for legal sufficiency.

(f) **Final action.** Within ten working days of the pretermination hearing, the chief officer, division director, or designee notifies the employee of the final action. The hearing officer's decision is included with the final action. The chief officer, division director, or designee considers the employee's response, the pretermination hearing decision, the employee's performance evaluation, and other relevant issues to the action. The notice of final action of discharge includes:

1. the employee's name, title, job family descriptor, pay band, user ID number, and division;
2. a statement that the action is taken pursuant to Section 840-6.5(B) of Title 74 of the Oklahoma Statutes;
3. the date, the specific final action taken, and, if discharge, the effective date of discharge;
4. a citation of the statute, policy, practice, or procedure violated;
5. grounds for discharge including a statement of the act or incident that is the cause for the discharge;
6. a summary of prior discipline considered in issuing the discharge;
7. the consideration given the employee's response;
8. the pretermination hearing officer's decision;
9. a notice of the employee's right to grieve the discharge in accordance with the OKDHS grievance regulations; and
10. a notice of the employee's right to file an appeal to the (MPC); the address of the MPC; the MPC filing time limit of 20 calendar days from date employee receives notice of the final action; and a copy of the MPC petition for appeal form.

(g) **Distribution.** The local administrator provides a copy of the:

1. notice of proposed discharge and response to the:
   
   (A) employee;
(B) Legal Division; and

(C) corrective discipline manager; and

(2) final action of discharge to the:

(A) employee;

(B) Legal Division;

(C) corrective discipline manager;

(D) HRMD personnel file; and

(E) Finance Division, Payroll Unit.