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2.21.6505 SHORT TITLE

(1) This subchapter may be cited as the discipline policy.

History: [2-18-102](#), MCA; [IMP](#), [2-18-102](#), MCA; [NEW](#), 1984 MAR p. 958, Eff. 6/29/84; [AMD](#), 2006 MAR p. 2565, Eff. 10/27/06.

2.21.6506 POLICY AND OBJECTIVES

(1) It is the policy of the executive branch of Montana state government that:

(a) state employees who fail to perform their jobs in a satisfactory manner or whose behavior interferes with or disrupts agency operations be subject to disciplinary action, up to and including discharge;

(b) disciplinary action be administered for just cause, as defined in this policy;

(c) management inform employees of the just cause for formal disciplinary actions; and

(d) management offer employees the opportunity to respond to formal disciplinary actions.

(2) It is the objective of this policy to establish procedures for implementing informal and formal disciplinary actions.

(3) Management may implement disciplinary actions under this policy regardless of whether a performance evaluation has been completed.

(4) Agencies shall follow this policy unless it conflicts with negotiated labor contracts or specific statutes, which shall take precedence to the extent applicable.

History: [2-18-102](#), MCA; [IMP](#), [2-18-102](#), MCA; [NEW](#), 1984 MAR p. 958, Eff. 6/29/84; [AMD](#), 2006 MAR p. 2565, Eff. 10/27/06.

2.21.6507 DEFINITIONS

As used in this subchapter, the following definitions apply:

(1) "Agency" has the same meaning as defined in [2-18-101](#) (1) , MCA.

(2) "Discharge" means termination of employment for just cause.

(3) "Disciplinary demotion" means a change in the duties of an employee's position or transfer to a lesser position which may result in a reduction in pay.

(4) "Due process" means an employee:

(a) is informed of the action being taken and the reason for the action; and

(b) has the opportunity to respond.

(5) "Employee" means an employee in a permanent position who has attained permanent status as defined in [2-18-101](#) , MCA. It does not include employees hired as temporary employees, short-term workers, student interns, and employees who have not attained permanent status as those terms are defined in [2-18-101](#) , MCA. It does not include officers and employees identified in [2-18-103](#) and [2-18-104](#) , MCA.

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(6) "Formal disciplinary action" means, but is not limited to, a written warning, suspension without pay, disciplinary demotion, or discharge.

(7) "Informal disciplinary action" means corrective actions taken to improve unsatisfactory employee behavior, conduct, or performance. It may include, but is not limited to, coaching, counseling meetings, oral warnings, and training.

(8) "Just cause" means reasonable, job-related grounds for taking a disciplinary action based on failure to satisfactorily perform job duties, or disruption of agency operations. Just cause may include, but is not limited to: an actual violation of an established agency standard, procedure, legitimate order, policy, or labor agreement; failure to meet applicable professional standards; criminal misconduct; wrongful discrimination; deliberate misconduct; negligence; deliberately providing false information on an employment application; willful damage to public or private property; workplace violence or intimidation; harassment; unprofessional or inappropriate behavior; or a series of lesser violations.

(9) "Management" means those individuals beginning with an employee's immediate supervisor and other managers in a successive direct line of authority within an agency.

(10) "Progressive discipline" means a process of applying disciplinary actions which may progress from less serious actions to more serious actions.

(11) "Suspension without pay" means a management-ordered leave-without-pay for just cause.

(12) "Written warning" means a written disciplinary notice intended to notify an employee of unsatisfactory performance or conduct.

History: [2-18-102](#), MCA; [IMP](#), [2-18-102](#), MCA; [NEW](#), 1984 MAR p. 958, Eff. 6/29/84; [AMD](#), 2006 MAR p. 2565, Eff. 10/27/06.

2.21.6508 INFORMAL DISCIPLINARY ACTION

(1) At its discretion, management may use informal discipline prior or in addition to formal discipline to address performance deficiencies or misconduct.

(2) Management should document all informal disciplinary actions.

History: [2-18-102](#), MCA; [IMP](#), [2-18-102](#), MCA; [NEW](#), 1984 MAR p. 958, Eff. 6/29/84; [AMD](#), 2006 MAR p. 2565, Eff. 10/27/06.

2.21.6509 FORMAL DISCIPLINARY ACTION

(1) When formal disciplinary action is necessary, just cause, due process, and documentation, or other evidence of the facts are required.

(2) Management may determine the appropriateness of using progressive discipline on a case-by-case basis.

(3) In each formal disciplinary action, management shall give the employee a written notification that includes, but is not limited to:

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- (a) the just cause or reason for the disciplinary action;
- (b) the disciplinary action to be taken, including the dates, times, and duration where applicable;
- (c) the improvements or corrections expected, if applicable; and
- (d) the consequences of the employee's failure to make the required improvement or correction, if applicable.

(4) Management shall offer the employee the opportunity to review the notice of formal disciplinary action and to acknowledge its receipt by signing and dating the notice. The employee's signature does not necessarily mean the employee agrees with the disciplinary action. If the employee refuses to sign the notice, management shall make note of that fact.

(5) Management shall offer the employee the opportunity to respond to the notice of formal disciplinary action either orally or in writing.

History: [2-18-102](#), MCA; [IMP, 2-18-102](#), MCA; [NEW](#), 1984 MAR p. 958, Eff. 6/29/84; [AMD](#), 2006 MAR p. 2565, Eff. 10/27/06.

2.21.6515 GRIEVANCE POLICY

(1) An eligible employee, as defined in the state of Montana's Grievance Policy, may file a grievance under that policy if the employee receives a formal disciplinary action that results in a suspension without pay, disciplinary demotion, or discharge.

(2) An employee may not file a grievance based on an informal disciplinary action or a formal disciplinary action that results in a written warning.

History: [2-18-102](#), MCA; [IMP, 2-18-102](#), MCA; [NEW](#), 1984 MAR p. 958, Eff. 6/29/84; [AMD](#), 2006 MAR p. 2565, Eff. 10/27/06.