

**§ 126A-8-2. Disciplinary actions.**

(a) No career employee subject to this Article shall be dismissed, suspended, or demoted for disciplinary reasons, except for just cause.

(b) In determining whether just cause exists for dismissal, suspension, or demotion for unacceptable personal conduct, an employing agency shall consider all of the following factors:

- (1) The severity of the conduct.
- (2) The subject matter of the conduct and whether it was job-related.
- (3) The actual harm or risk of potential harm resulting from the conduct, including harm to the agency's operations, efficiency, mission, reputation, or public trust.
- (4) The employee's work history.
- (5) Discipline imposed in past cases of similar violations. An agency may modify its disciplinary standard when it determines that past precedent is no longer appropriate and the modification is grounded in articulable reasoning and applied fairly and consistently to current and prospective cases.

(c) The employing agency shall exercise reasonable discretion in identifying which of the factors outlined in subsection (b) of this section are most relevant given the facts presented and how to weigh the various factors to determine appropriate discipline. No discipline shall fail solely for failing to consider one of the factors in subsection (b) of this section if just cause was present.

(d) In determining whether just cause exists for dismissal, suspension, or demotion for issues of job performance, the employing agency shall employ the following standards:

- (1) Unsatisfactory job performance. – The employing agency shall assess whether the employee fails to satisfactorily perform job requirements as specified in the job description, work plan, or as directed by management.
- (2) Grossly inefficient job performance. – The employing agency shall assess whether the employee's failure to satisfactorily perform job requirements results in harm or the potential for harm, including death, serious bodily injury, or loss of or damage to State property or funds that result in a serious impact on the State or work unit.

(e) In cases where an employing agency has decided to take disciplinary action, the employee shall be given written notice before the action is taken that explains the specific acts or omissions that are the reasons for the disciplinary action. The written notice shall also explain the employee's appeal rights. The employee may appeal to the agency head through the agency grievance procedure for a final agency decision within 15 days of receiving the notice. If the employee appeal involves an allegation of discrimination, retaliation, or harassment, the employee shall file an equal employment opportunity inquiry within 15 days of receiving the notice before appealing through the agency grievance procedure. The employee will have 15 days following the closure of the equal employment opportunity inquiry to appeal through the agency grievance procedure for a final agency decision.

(f) Notwithstanding subsection (e) of this section, an employee may be suspended without warning for causes relating to personal conduct detrimental to State service to avoid undue disruption of work or to protect the safety of persons or property or for other serious reasons.

(g) If the employee is not satisfied with the final agency decision or is unable, within a reasonable period of time, to obtain a final agency decision, the employee may appeal to the Office of Administrative Hearings. This appeal shall be filed within 30 days of receiving of notice of the final agency decision.

(h) In accordance with G.S. 150B-34(a), the administrative law judge shall decide the case based upon the preponderance of the evidence, giving due regard to the demonstrated

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knowledge and expertise of the agency with respect to facts and inferences within the specialized knowledge of the agency. (2026-40, s. 1.)