
GUIDELINES ON THE MANAGEMENT OF SUSPENSIONS



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Public Service Commission

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GLOSSARY

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Disciplinary Code and Procedures	Disciplinary Code and Procedures for the Public Service as contained in Public Service Co-ordinating Bargaining Council Resolution 2 of 1999
Employer	"Employer" as referred to in the Disciplinary Code and Procedures.
Suspension	Precautionary suspension as contemplated in Item 7.2 of the Disciplinary Code and Procedures
Transfer	Precautionary transfer as contemplated in Item 7.2 of the Disciplinary Code and Procedures

GUIDELINES ON THE MANAGEMENT OF SUSPENSIONS

1. INTRODUCTION

1.1 Purpose of the guidelines

Emanating from two surveys on the management of suspensions, conducted by the Public Service Commission, a need was identified for guidelines on the management of suspensions. These guidelines aim to provide employers with a framework to assist them in drafting their own departmental policies on the management of suspensions. They will also attempt to-

- provide the employer with general principles which apply to the process of suspending employees; and
- promote best practice in giving effect to suspensions in the public service.

1.2 Legislative framework

Item 7.2 of the Disciplinary Code and Procedures provides for an

employer to suspend an employee on full pay or transfer an employee, as a precautionary measure, under the following circumstances:

- If the employee is alleged to have committed a serious offence.
- If the employer believes that the presence of an employee at the workplace might jeopardise any investigation into the alleged misconduct, or endanger the well-being or safety of any person or state property.

Precautionary suspension, in terms of the Code, does not constitute a judgement, and must be on full pay.

1.3 What is a precautionary suspension?

In terms of the Disciplinary Code and Procedures, a precautionary suspension is two-fold in nature, in that it provides for-

- [a] a precautionary transfer; and
- [b] a precautionary suspension with full pay.

failures to comply with these standards may be fairly and objectively addressed.

Precautionary suspension is an interim measure imposed by the employer, not as a disciplinary sanction, but for reasons of orderly administration.

1.4 The need for departmental policies on the management of suspensions

1.4.1 Departmental policies on the management of precautionary transfers/suspensions are necessary to ensure that such transfers/suspensions are managed in accordance with the principles of administrative justice, natural justice and fairness. The maintenance of a good labour relations atmosphere in the workplace requires that acceptable and fair procedures are in place and observed.

1.4.2 Such policies serve a dual purpose in that they provide a framework that enables management to maintain satisfactory standards, and employees to have access to procedures whereby alleged

1.4.3 Policies on the management of suspensions should be in writing, consulted with labour, and made available to employees. The essential elements of any procedure for dealing with suspension are that the basis for the suspension is clear, that the reasons for suspension are well defined, that the employee is informed of the decision and the reasons for the decision, and that the employee has the opportunity to respond to the impending suspension.

2. GUIDING PRINCIPLES

2.1 The employer must have valid and fair reasons for suspending an employee, based on fair labour relations principles.

2.2 The period of suspension should be reasonable and justifiable.

2.3 Suspensions must be reviewed on a regular basis.

2.4 There must be a clear balance between the interests of the employee in continuing his or her daily work, and the disciplinary and operational requirements of the employer.

2.5 Employees must, without delay and throughout the process be informed of the various steps that the employer is initiating/undertaking.

2.6 If suspended, the employee is entitled to a speedy and effective finalisation of the disciplinary process.

3. POLICY STATEMENT

Once a departmental policy on the management of suspensions is agreed upon, departments/provincial administrations must, as a first step, issue a policy statement to all employees, stipulating the procedure to be followed when suspending an employee, pending disciplinary action.

4. FORMS OF SUSPENSION

4.1 Transfer or re-assignment of duties

The employee is temporarily transferred to another work location, as a precautionary measure. Such a transfer may also entail that the employee is re-assigned to other duties. The transfer or re-assignment of duties will be on the same or similar level.

The intent is for temporary removal from-

- [a] the place of work; or
- [b] nature of work

to avoid circumstances where, for instance, the presence of an employee at the workplace or in the specific environment might jeopardise any investigation into the alleged misconduct.

The officer remains against his/her post on the fixed establishment.

Transfer or re-assignment of duties should, depending on the seriousness of the alleged offence, be given priority over suspension from duty, in order to curb expenditure

where salaries are paid for no services rendered.

4.2 Suspension with full emoluments

The employee is not allowed to take up his/her normal duties until the suspension is lifted, but must be available at a location acceptable and accessible to the employer for the purpose of completing the investigation. Any condition attached to a suspension should be regarded as a lawful order. Breach of the instruction could result in further disciplinary action in appropriate circumstances.

Suspension does not amount to a breach of the employment contract by the employer, because the employee remains on full pay although prevented by the employer from performing the duties that would normally be required of the employee.

Suspension with full emoluments should only be considered as a last resort. Ideally suspensions should be for a period not longer than 30 days.

5. GROUNDS FOR SUSPENSION

5.1 Item 7.2 of the Disciplinary Code and Procedures provides for the circumstances under which an employee may be transferred or suspended on full pay. A decision to transfer/suspend should be taken with care, in the light of the circumstances involved. There are essentially two aspects to consider when transferring/suspending an employee:

[a] *Reasonable suspicion of misconduct*

Transfer/suspension may be appropriate once an initial investigation has established at least a reasonable basis for suspicion that alleged serious misconduct may have occurred. Therefore a decision to transfer/suspend should not follow as a mere automatic consequence of suspicion.

[b] *Reasonable belief that the employee may interfere*

If there is a reasonable basis for believing that the presence of the employee at the workplace might

interfere with the investigation, the witnesses and evidence, the transfer/suspension of the employee should be a last resort to ensure the continued progress of the disciplinary procedure.

5.2 Transfer/suspension should only be considered a precautionary measure, where the continued presence in the work area is inappropriate due to one or more of the following reasons:

- [a] The effective operation of the department.
- [b] The interests of the public.
- [c] The interests of the employee.
- [d] The interests of his or her fellow employees.
- [e] A reasonable and objective apprehension on the part of the employer that there is a real possibility of the misconduct being repeated.

5.3 Departmental policies on the management of suspensions should contain a list of serious transgressions that would result in a precautionary transfer/suspension being considered by the employer.

6. THE PROCESS FOLLOWED WHEN CONSIDERING THE SUSPENSION OF AN EMPLOYEE

6.1 Departments/provincial administrations should develop clear procedures to manage suspensions. These procedures should ensure the management of suspensions in an efficient and effective way and that the rules of natural justice are adhered to.

6.2 As a first step, the employer should apply its mind as to whether there are grounds for suspending the employee (refer to paragraph 5 above), based on the seriousness of the transgression, and then consider whether the employee should be allowed to continue his/her substantive duties.

6.3 If there are grounds for suspension, the employer should, as the next step, based on the unique circumstances around each case, consider the forms of suspension referred to in paragraph 4 above.

- 6.4 After considering the above-mentioned factors, the employer should schedule an informal meeting with the employee. The employee should be informed of the following:
- [a] The date, time and venue of the meeting.
 - [b] The proposed action by the employer.
 - [c] The allegations that gave rise to the proposed action.
 - [d] During the meeting he/she will be afforded the opportunity to make representations as to why he/she should not be suspended.
 - [e] He/she has the right to be represented as provided for in the Disciplinary Code and Procedures.
 - [f] Should he/she fail to avail him/herself of the opportunity to make representations at the meeting, he/she will be given the opportunity to submit written representations by a certain time and date.
- An example of a notice of intention to suspend is attached as Annexure A.
- 6.5 An officer from the Labour Relations/Human Resources component could attend the meeting in an advisory capacity.
- 6.6 Following the meeting, the employee's representations, if any, should be carefully considered by the delegated authority to ensure that there is sufficient evidence or legitimate reasons for the transfer/suspension.
- 6.7 Once a final decision has been made, the decision should be conveyed to the employee in writing and the notice should contain the following:
- [a] The decision by the delegated authority.
 - [b] The reasons why the employer saw it fit to transfer/suspend the employee, based on the representations made by the employee.
 - [c] The possible length of the transfer/suspension.
 - [d] The conditions of access to the workplace, and other conditions, during the course of the suspension.
 - [e] In the case of a suspension

from duty, the name of a contact person to obtain access to the workplace.

- [f] An indication that the suspension will be reviewed on a specific date.

Examples of a notification of transfer or re-assignment of duties and a notification of suspension are attached as Annexures B and C, respectively.

- 6.8 The transfer/re-assignment of duties/suspension of an employee should take effect from a current date and the transfer of an employee must be effected on state expenses, where applicable.

7. REVIEW OF SUSPENSION

- 7.1 Where the initial 30-day period of transfer/suspension has to be extended as a result of the fact that a hearing was not held within the said period, the transfer/suspension should be reviewed at regular intervals, e.g. weekly or monthly.

- 7.2 The delegated authority, should determine whether

the initial reasons for the suspension are still present in the prevailing circumstances. This assessment may be done in consultation with the chairperson of the disciplinary hearing.

- 7.3 If it is decided that the transfer/suspension should be extended, the employee must be informed of the reasons for the further extension and given an opportunity to make representations.

- 7.4 The reasons for the extension, and the employee's response, if any, should be carefully reviewed by the delegated authority to ensure that there are sufficient reasons to extend the transfer/suspension.

- 7.5 The suspension should be lifted when the employer no longer believes that the transfer/suspension is in the public interest or in the employer's interest, or when the reasons for the suspension have ceased to exist.

- 7.6 The disciplinary procedure should, notwithstanding the

decision to lift a transfer/suspension, be continued with and finalised.

- 7.7 Where the investigation into alleged misconduct finds no grounds for a charge of misconduct, it is desirable to give written notice of termination of suspension, effective from a specified date, which may indicate that no grounds for a charge of misconduct were found and that no further steps will be proceeded with.

- [e] The written notifications of the transfer/suspension
- [f] Responses from the employee in regard to the transfer /suspension.
- [g] The reasons for the extension of a suspension.
- [h] Date of termination of the transfer/suspension.
- [i] All relevant documentation pertaining to the transfer/suspension.

8. RECORD KEEPING

Apart from the personal data of the employee already contained on PERSAL, the employer should keep records of each transferred/suspended employee specifying the following:

- [a] The nature of the alleged transgression.
- [b] The reasons for the transfer/suspension.
- [c] The period of transfer/suspension.
- [d] The financial implications of the transfer/suspension.

**EVERYONE HAS THE RIGHT
TO FAIR LABOUR PRACTICES**

**Bill of Rights S23 of the
Constitution of the Republic
of South Africa, 1996.**

ANNEXURE A

NAME OF THE EMPLOYEE

PERSONAL DETAILS OF EMPLOYEE

NOTICE OF INTENTION TO SUSPEND

1. You (**Full names and surname**), employed by the (**Name of employer**), are hereby informed that an informal meeting will be held on (**Date, time and venue of meeting**) regarding the appropriateness to transfer/suspend you with the retention of emoluments applicable to your post and rank, until such time as the investigation of your alleged misconduct has been finalised.
2. The reasons for the above-mentioned step are as a result of the following allegations:
 - 2.1 (**State allegations and attach copies of documents, where applicable**)
3. During the above-mentioned meeting you may submit reasons as to why you should not be suspended.
4. You have the right to be represented by a fellow employee or a representative of a recognised trade union during the above-mentioned meeting.
5. Should you fail to avail yourself of the opportunity to make representations in this manner, you will be given the opportunity to submit written representations to (**name and rank**) by the close of business on (**date**).

Thus signed at (**Place**) on this (**Day**) of (**Month and year**).

Signature of employer/manager

I (**Full name and surname**), hereby acknowledge receipt of this notice at (**time**), on this (**day**) of (**month and year**).

Signature of employee

Signature of witness (if applicable)

Date:

ANNEXURE B

NOTIFICATION OF TRANSFER OR RE-ASSIGNMENT OF DUTIES

1. The meeting held on **(Date and time of meeting)** regarding the appropriateness to transfer you/re-assign your duties, refers.
2. Kindly be advised that, after thorough consideration of your representations, it has been decided to suspend you by means of transfer/re-assignment of your duties, in terms of clause 7.2 of the Disciplinary Code and Procedures for the Public Service. You are therefore directed to report for duty at **(place of work)** on **(date)** to **(responsible supervisor)**, where you shall be responsible for **(state short description of duties)**.
3. The reasons for the above-mentioned decision are as follows:
 - 3.1 **(State the reason/s for the decision to transfer/re-assign duties)**
4. The conditions attached to your transfer/the re-assignment of your duties are as follows:

(State conditions, such as access to use of government vehicle)
5. Your transfer/the re-assignment of your duties will be reviewed within the next _____ days, when you will again be afforded the opportunity to make representations on the matter.

Thus signed at (Place) on this (Day) of (Month and year).

Signature of employer/manager

I **(Full name and surname)**, hereby acknowledge receipt of this notice at **(time)**, on this **(day)** of **(month and year)**.

Signature of employee

Signature of witness (if applicable)

Date:

ANNEXURE C

NOTIFICATION OF SUSPENSION

1. The meeting held on **(Date and time of meeting)** regarding the appropriateness to suspend you from duty, refers.
2. Your representations were thoroughly considered and it was decided to suspend you from duty, with full emoluments, with immediate effect, in terms of clause 7.2 of the Disciplinary Code and Procedures for the Public Service. The suspension is a precautionary measure, and does not in any way constitute a judgement.
3. The reasons for the above-mentioned decision are as follows:
 - 3.1 **(State the reason/s for the decision to suspend)**
 4. To avoid possible interference with the investigation or potential witnesses, you are directed not to enter the premises of the Department during your period of suspension, unless instructed to do so by your head of department. Should you require access to the department, you are kindly requested to contact **(name and telephone number)**, to obtain permission in that regard.
 5. You are also directed to hand in the following items to **(name, rank)**, before you leave the premises:

(State items)
 6. Your suspension will be reviewed within the next _____ days, when you will again be afforded the opportunity to make representations on the matter.

Thus signed at **(Place)** on this **(Day)** of **(Month and year)**.

Signature of employer/manager

I **(Full name and surname)**, hereby acknowledge receipt of this notice at **(time)**, on this **(day)** of **(month and year)**.

Signature of employee

Signature of witness (if applicable)

Date:

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