

## ANNOUNCING: REVISED STANDARDS OF CONDUCT POLICY

The Commonwealth's Department of Human Resource Management (DHRM) has revised the Standards of Conduct Policy 1.60 effective April 16, 2008. Some of the changes are significant. In revising the policy, the objective of the State Policy Committee was to incorporate changes that better communicate expectations and the potential consequences of conduct or performance issues, to ensure that agencies have sufficient flexibility to meet specific business needs and to streamline administrative processes related to suspensions.

On April 1, 2008 Budget Unit Directors will receive packets containing copies of the new policy for each classified employee along with acknowledgement forms that verify employee receipt of the policy. You will be asked to sign the form indicating that you have received a copy of the new policy and the form will be placed in your official personnel file in Human Resources.

Several features of the revised policy are especially appealing. The revised policy:

- presents "positive" standards for behavior and work rather than a list of offenses.
- continues to require that supervisors consider any mitigating (or aggravating) circumstances when deciding what corrective action is appropriate.
- requires that prior to issuing any Written Notice employees must be given notification of the offense, an explanation of the agency's evidence in support of the charge, and a reasonable opportunity to respond. Many supervisors currently follow this procedure – however the policy now requires this to occur in all instances when a Written Notice is planned.

Please talk with your supervisor or contact Kathy Williamson (3-4564) in Human Resources if you have questions about this very important revised policy.

The following are some key changes to the policy. Please read the entire revised policy for all the changes.

- **The policy presents a list of positively expressed standards of conduct. The standards are broad statements, and are designed to serve as categories to which agency companion policies and specific conduct or performance issues may be directly linked.**
- **The policy emphasizes that the ultimate intent of progressive discipline is to help employees become fully productive members of the organization; and to help managers effectively address conduct or performance that an employee is unable or unwilling to change.**
- **Prior to issuing formal disciplinary action (Written Notice), supervisors must provide written notification of the offense, an explanation of the agency's evidence in support of the charge, and a reasonable opportunity to respond.** In the past, only Written Notices that involved suspension, demotion or termination required the "opportunity to respond" process. Beginning April 16, 2008 ALL Written Notice actions will include prior notification to the employee and an opportunity for response. The employee relations manager in Human Resources will provide assistance with this process. Employees will not be placed on paid Pre-Disciplinary Leave to prepare a response when the planned action does not involve suspension, demotion or termination.
- For non-exempt employees, the definition of "workday" within policy will be eight (8) hours. This is to ensure that non-exempt employees in agencies with alternate schedules who are suspended for the same offense receive the same penalty. This is primarily a fairness issue where currently, two non-exempt employees, each suspended for three days for the same reason, can lose either 24 or 30 hours of pay depending upon their alternate work schedule. Nothing will change for exempt employees.
- The effect of misconduct or unsatisfactory performance on agency business operations for each level offense is described, and for that reason, specific examples are no longer listed in the policy or administrative procedures. Specific examples are included in a chart which provides guidance to managers and is attached to the revised policy.
- The meaning, "weight" and lifespan of Written Notices remain unchanged.

- **Managers are encouraged to apply corrective action in a progressive sense. For example, if an employee has an active Written Notice Group I on record and then commits the same offense, the corrective action may be a Written Notice Group II, and not another Written Notice Group I.**
- The most significant change to the policy is with Pre-Disciplinary Leave With Pay. There are two categories of Pre-Disciplinary Leave – one for disciplinary reviews and/or administrative investigations and one for investigations conducted by law enforcement.
- The revised provision extends paid, Pre-Disciplinary Leave from five to up to fifteen workdays to allow for a disciplinary review and/or administrative investigation. Pre-Disciplinary Leave will continue to apply to situations where management needs to immediately remove an employee from the workplace without providing advance notification, but would have broader application for a longer period of time.
- An employee who is placed on Pre-Disciplinary Leave with pay because of alleged criminal conduct that impacts their ability to do their job or represents a risk to the agency shall be continued on Pre-Disciplinary Leave with pay until either (a) the employee is formally charged with a criminal offense by authorities or entities outside of the employer agency, such as by arrest or indictment, or (b) the criminal investigation is concluded without any formal charges being made. This change is based on the advice of counsel, active agency cases, and rulings by the US Supreme Court. These changes should significantly reduce the Commonwealth's liability in cases involving investigations by law enforcement. The recommended approach is also comparable to that used by most organizations, including many local government entities in Virginia. Agencies will have the authority to institute disciplinary charges against the employee under the Standards of Conduct, up to and including termination, based upon the facts or evidence of conduct that prompted the criminal investigation or process.

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