

YOUTH SERVICES POLICY

Title: Employee Suspensions: Pending Investigation, Enforced Annual Leave, Pending Criminal Proceedings	Type: A. Administrative Sub Type: 2. Personnel Number: A.2.17
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References: Civil Service Rules 11.9, 11.26, 12.3, 12.5, 12.8, 12.10, 13.10, 17.10; and YS Policy Nos. A.1.4 "Investigative Services", A.2.1 "Employee Manual" A.5.1 "Access to, Security of, and Use of Information Technology Resources and Mobile/Cellular/Smartphone Devices, and A.5.6 "Internet and Email Usage"	
STATUS: Approved	
Approved By: <i>Mary L. Livers, Deputy Secretary</i>	Date of Approval: 04/30/2015

I. AUTHORITY:

Deputy Secretary of Youth Services (YS) as contained in La. R.S. 36:405. Deviation from this policy must be approved by the Deputy Secretary.

II. PURPOSE:

To provide for the administration of procedures for suspensions pending investigations, enforced annual leave, and suspensions pending criminal proceedings as prescribed by Civil Service Rules.

III. APPLICABILITY:

This policy shall apply to all employees of YS.

Each Unit Head shall be responsible for ensuring that suspensions pending investigation, instances of enforced annual leave, and suspensions pending criminal proceedings are imposed pursuant to this policy and Civil Service Rules.

IV. DEFINITIONS:

Discipline - In accordance with Civil Service Rule 12.3 "Discipline" includes only the following: suspension without pay, reduction in pay, involuntary demotion, and dismissal.

Enforced Annual Leave - In accordance with Civil Service Rule 11.9, an appointing authority may require an employee to take annual leave whenever, in his administrative judgment, such action would be in the best interest of the agency.

Suspension - Temporary exclusion of an employee from employment. This policy does not address disciplinary suspensions, which are found in the Employee Manual and Rulebook, YS Policy A.2.1. The suspensions addressed by this policy are suspensions pending investigation and suspensions pending criminal proceedings.

Unit Head - Deputy Secretary, Facility Directors and Regional Managers.

YS Central Office - Offices of the Deputy Secretary, Assistant Secretary, Undersecretary, Chief of Operations, Deputy Assistant Secretary, General Counsel, Regional Directors, and their support staff.

V. POLICY:

It is the Deputy Secretary's policy that a Unit Head/designee shall impose a suspension pending investigation, enforced annual leave, or a suspension pending criminal proceedings on an employee when, in the Unit Head's administrative judgment, such action would be in the best interest of YS.

VI. GENERAL PROCEDURES:

- A. Usually, non-disciplinary suspensions will be imposed when the best interest of the unit dictates the employee's immediate departure from the unit; that is, those incidents which jeopardize the life, health or safety of staff, the public or youth, impair the services of the unit, and/or are grossly contradictory to the mission statement of YS, which states that *the Office of Juvenile Justice protects the public by providing safe and effective individualized services to youth, who will become productive, law-abiding citizens.*
- B. There are three options available for suspensions contemplated by this policy:
 - 1. Suspension Pending Criminal Proceedings (Civil Service Rule 12.5);
 - 2. Suspending Investigation (Civil Service Rule 12.10); and
 - 3. Placing an employee on enforced annual leave (Civil Service Rule 11.9).
- C. Placing an employee on enforced annual leave or on Suspending Pending Investigation under Civil Service Rule 12.10 may be effected on an emergency basis by verbal notice to the employee, subject to other requirements more fully discussed below.
- D. Specific incidents which may justify a non-disciplinary suspension include, but are not limited to the following:
 - 1. Sleeping on duty;
 - 2. Failure to be alert while on duty;

3. Introduction/use/possession of contraband;
4. Intoxication;
5. Unprofessional relationship or behavior with youth;
6. Arrest for criminal behavior; and
7. Abuse of youth.

- E. The Unit Head shall determine how long the employee will be on suspension. The duration of the suspension should be commensurate with the duration of the emergency/impairment to the affected unit. For example, unless circumstances warrant otherwise, the duration of a suspension for sleeping on duty might be for the remainder of the shift. With other violations, the suspension shall be for that period of time which the unit is adversely affected by the presence of the employee.
- F. The Unit Head shall advise Public Safety Services (PSS) Human Resources (PSS/HR) of the suspension.

VII. DIFFERENT TYPES OF NON-DISCIPLINARY EMPLOYEE SUSPENSIONS AND PROCEDURES:

- A. Suspension Pending Criminal Proceedings (Civil Service Rule 12.5, requires Civil Service Commission approval.)

With prior Civil Service Commission approval, the Deputy Secretary may suspend a permanent employee, without pay, pending criminal proceedings when an indictment or bill of information has been filed against the employee for conduct that, if proved, would be cause for dismissal and the Deputy Secretary cannot obtain sufficient information to initiate dismissal proceedings.

1. Unit Heads shall submit written justification to the Deputy Secretary for application of a suspension under this rule. The Unit Head's reasons for a suspension pending criminal proceedings should include at least the following:
 - a. An explanation why the conduct would be cause for dismissal;
 - b. An explanation why the employee cannot be allowed to work in any capacity;
 - c. An explanation why sufficient information to initiate dismissal proceedings cannot be obtained; and
 - d. A statement or documentation indicating that an indictment or bill of information has been filed.
2. The Deputy Secretary shall seek approval for the suspension through the Civil Service Commission by submitting a request for approval of a suspension pending criminal proceedings which includes the following:
 - a. An explanation why the conduct would be cause for dismissal;

- b. An explanation why the employee cannot be allowed to work in any capacity;
 - c. An explanation why sufficient information to initiate dismissal proceedings cannot be obtained; and
 - d. A statement or documentation indicating that an indictment or bill of information has been filed.
3. Before approving a suspension under Civil Service Rule 12.5, the Civil Service Commission must furnish the employee a copy of the Deputy Secretary's request and be given a reasonable opportunity to respond.
 4. A permanent employee suspended under Civil Service Rule 12.5 must be given written notice before the time the suspension begins. This notice must comply with Civil Service Rule 12.8 to the extent possible.
 5. These suspensions shall be **without pay** unless otherwise directed by the Civil Service Commission. The Commission shall also determine the duration and other conditions of this suspension.

B. Suspension Pending Investigation (Civil Service Rule 12.10)

1. The Deputy Secretary, and those to whom appointing authority has been delegated, may verbally suspend a permanent employee pending investigation when he/she has reason to believe the employee is suspected of conduct that, if confirmed, would warrant discipline or removal, and the employee's continued presence at work during the investigation and subsequent administrative proceedings would be contrary to the best interests of state service.
2. The employee shall be told that he/she is being suspended with pay and the general nature of the conduct being investigated.
3. When this option is used, the Unit Head shall inform PSS/HR within 24 hours, and must submit written justification for the suspension in writing to PSS/HR no later than 24 hours after the suspension is imposed. The justification must include a description of the situation, the impairment to the unit, and the projected duration of the suspension or placement on enforced leave. This information shall be maintained in the investigation file. It shall not be included in the employee's personnel record.
4. A suspension pending investigation shall be with pay and shall not exceed 260 work hours. An employee's leave balances are not affected by a suspension pending investigation.
5. A suspension pending investigation is not discipline and is only appealable under Civil Service Rule 13.10(b) or (c).

6. PSS/HR and the Unit Head shall work together and coordinate the continuation of the suspension, the return of the employee to work or the conversion of the suspension to another type of suspension, or placement of the employee on enforced annual leave.

C. Placing an Employee on Enforced Annual Leave (Civil Service Rule 11.9)

1. Civil Service Rule 11.9 provides that an appointing authority may require an employee to take annual leave whenever, in his administrative judgment, such action would be in the best interest of the agency. The appointing authority may give the employee verbal notice that he is being placed on enforced annual leave. Except in certain situations specified in the rule.

When an employee is placed on enforced leave due to an investigation being conducted, it is the Unit Head's responsibility to ensure that the employee's e-mail account is temporarily disabled until the investigation is concluded, and if applicable, the employee's laptop is confiscated to alleviate access to OJJ databases. (Refer to YS Policy Nos. A.2.17 and A.5.6).

2. No employee shall be required to reduce his accrued annual leave to less than 240 hours, unless:
 - a. The annual leave is imposed in lieu of being granted leave without pay. This exception is subject to the right granted the employee by the military leave provisions provided in Civil Service Rule 11.26;
 - b. It is determined that the need to be absent from work is because of a condition covered by the United States Family and Medical Leave Act; or
 - c. The leave is required during closures in accordance with Rule 17.10 as a layoff avoidance measure.

Previous Regulation/Policy Number: A.2.17
Previous Effective Date: 11/25/2013
Attachments/References: