**Section 420.430 Discipline, Discharge, and Termination**

a) Progressive Corrective Discipline: Employees shall be subject to corrective discipline progressively utilizing counseling, warnings and/or suspensions, as the facts and circumstances dictate, prior to discharge, unless the facts and circumstances warrant immediate discharge or suspension. If an employee's work or work-related conduct remains unacceptable after the application of progressive corrective discipline, the employee may be discharged in accordance with the appropriate following subsections.

b) Discipline − Warning Notices: A department director or designee may issue a warning notice as a disciplinary measure. A copy of any warning notice shall be placed in the employee's official personnel file and may be used in considering further discipline, demotion, withholding of salary increases and other personnel transactions. Any notice given shall bear the signature of the issuing official.

c) Disciplinary Suspensions: Written statements of reason for disciplinary suspensions without pay totaling not more than 30 calendar days in any 12 month period shall be filed by a department director or other administrative authority with the Director of Personnel or designee in the form and manner prescribed. If the employee is certified, and subject to suspensions totaling more than 30 calendar days in any 12 month period, the department director or administrative authority shall file written charges for such suspension with the Director of Personnel or designee in the form and manner prescribed in the Merit Commission Rules (80 Ill. Adm. Code 50). Before a disciplinary suspension shall be effective, a signed request containing a clear and concise statement of facts showing good cause to suspend the employee shall be approved by the Director of Personnel. The employee shall be informed in writing of the charges prior to the effective date of the proposed suspension and be provided with a reasonable summary of the evidence. The employee shall have 4 working days after being informed of the proposed suspension within which to address to the department director or designee written rebuttal of the reasons given for the suspension. A decision not to suspend the employee or to reduce the suspension shall be rendered in writing to the employee and filed with the Director of Personnel. Notice of such suspension imposed must also be filed immediately with the Director of Personnel. If delay in the imposition of discipline will result in clear harm or damage to a department, the employee may be suspended prior to the review by the Director of Personnel.

d) Suspension Pending Decision on Discharge: A department may suspend an employee, without pay, for up to 30 days pending the decision of the operating department as to whether charges for discharge shall be filed against the employee. The department shall, at the time of the suspension, provide the employee with written reasons for the suspension in person or by certified mail, return receipt requested, at the employee's last address appearing in the personnel file. Notice of suspension must also be filed immediately with the Director of Personnel. The department shall thereafter promptly investigate the facts and circumstances and render its decision. Should the department determine that the facts and circumstances do not warrant disciplinary suspension or charges for discharge, the employee shall be made whole. Should the department determine that a disciplinary suspension is appropriate, subsection (c) shall apply in its entirety. Should the department determine that discharge of the employee is appropriate, subsection (f) shall apply in its entirety.

e) Definition of Day for Suspension Purposes: A day, for purposes of suspension, shall be defined as 7.5 hours, predicated on a 37.5 hour work week, unless the employee is in a position requiring a 40 hour week, in which case the day shall be 8.0 hours. Intermittent and permanent part-time employees' day for purposes of suspension shall be prorated based on their work schedule.

f) Discharge of Certified Employee:

1) Discharge of a certified employee may be initiated by a department director or other administrative authority by filing written charges for discharge with the Director of Personnel in the form and manner prescribed by the Director of Personnel, as specified in the Merit Commission Rules. Written charges shall contain a clear and concise statement of facts showing good cause for discharge and other supporting documentation, if applicable. No discharge of a certified employee shall be effective without the approval of the written charges for discharge by the Director of Personnel or designee.

2) Before a discharge shall be effective, the certified employee shall receive a written copy of the charges and a copy of a reasonable summary of the evidence designed to give the employee sufficient information to respond to the charges against him or her, and have at least 4 working days within which to respond to the charges with reasons and evidence why discharge should not occur. The certified employee's response, which should include matters in defense and/or mitigation, shall be presented to the Director of Personnel in writing before 4:30 p.m. on the fourth working day after the certified employee has received notice of the proposed discharge, counting the day of service as the first day. The certified employee shall be suspended pending discharge for these four working days, and shall remain suspended until a final decision on discharge shall be made. These 4 working days shall not increase the maximum suspension periods allowed pursuant to subsection (c). If the Director of Personnel has attempted service on the individual through mail or other carrier service and personal delivery and yet is unable to make service on the individual, the Director of Personnel may file a motion with the Secretary of State Merit Commission seeking a determination that service has been accomplished through due diligence. The motion may be filed any time after 30 days have lapsed from the date service is first attempted on the individual. Service of the motion on the individual shall be by regular mail at the individual's last known address. The motion shall set forth the actions of the Secretary of State's Office with respect to service on the individual. A hearing shall be scheduled within 10 days after the filing of the motion. An order shall be entered at the conclusion of the hearing. If due diligence is shown, an order shall be entered stating that service has been attempted and accomplished for purposes of this subsection. The time period for the individual to appeal the dismissal with the Merit Commission begins on the date of the order.

3) After receipt of the certified employee's response to the proposed discharge, the Director of Personnel or designee shall carefully consider all matters submitted by the employee. The Director of Personnel or designee may consult with the employing department director before a final decision on discharge is made. The Director of Personnel or designee shall make a decision within a reasonable time. If more than 10 working days is required, the employee shall be notified in writing by hand delivery, by certified mail, return receipt requested, by courier, or by process server. The final notice of discharge shall contain a statement that the response of the certified employee was considered before a final decision was made, or that no response was submitted. The procedures of subsections (f)(1) and (g) shall then apply.

g) Notice to Employee: Notice of approved charges for any disciplinary suspension or approved charges for discharge shall be served on the employee, by hand delivery by Secretary of State personnel, by certified mail, return receipt requested, by courier, or by process server at the employee's last address appearing in the official personnel file. The notice shall also identify the employee's responsibility to return to the supervisor any items furnished the employee by the Office of the Secretary of State, including any Secretary of State identification, uniforms, keys, supplies, tools or property, and to leave the place of employment as of the effective date of the suspension or discharge pursuant to Section 420.435.

h) Employee Obligations: Upon receipt by the employee of charges for discharge, the employee shall return to the supervisor any items belonging to the State, pursuant to Section 420.435 and leave the place of employment. The director of the employing department shall take action to insure compliance.

i) Appeal by Employee: A certified employee who has been served with approved charges for suspension totaling more than 30 calendar days in a 12 month period or approved charges for discharge may make a written request to the Merit Commission for hearing of those charges within 15 calendar days of receipt of written charges.

j) Discharge or Suspension of Probationary Employee: Discharge or suspension of a probationary employee may be initiated by filing written charges with the Director of Personnel in the form and manner prescribed by the Director of Personnel. Written charges shall contain a clear and concise statement of facts showing good cause for suspension or discharge and other supporting documentation if applicable. No suspension or discharge of a probationary employee shall be effective without the approval of the written charges by the Director of Personnel or designee.

k) Reinstatement from Suspension or Discharge: An employee who is reinstated following a period of suspension or discharge shall receive full compensation for that period. Full compensation shall represent total pay, with any vacation and sick leave benefits the suspended or discharged employee would have earned in the position classification during the period of suspension or discharge, less amounts earned by the employee from any other source, and unemployment compensation payments received during the period.

l) Suspension or Discharge Resulting from Arrest and/or Criminal Indictment:

1) The arrest or criminal indictment of any employee shall not be grounds for suspension or discharge. However, the facts of an arrest or criminal indictment made known to the Director of Personnel may be grounds for suspension or discharge if they meet one or more of the following criteria:

A) Resulted from an employee's conduct in the course of employment;

B) Occurred on or proximate to State premises and as a result of the employee's conduct, including conduct that may have violated standards of conduct; or

C) Raises reasonable doubt concerning the employee's suitability for continued State employment in the present assignment or position based upon the severity and nature of the offense.

2) If an employee is not subject to suspension or discharge under this Section, the Director of Personnel or designee may, depending upon the needs of the office or at the request of the employee, place the employee on indefinite leave status, without pay, pending a final court determination of innocence or guilt in accordance with Section 420.660.

m) Termination of Noncertified Employee: No noncertified employee may be terminated without prior approval of the Director of Personnel. The noncertified employee has no recourse with this Part or the Merit Commission.

(Source: Amended at 36 Ill. Reg. 12125, effective July 16, 2012)