

80 ILLINOIS ADMINISTRATIVE CODE CH. VI. SEC. 250.110
SUBTITLE A

Section 250.110 Separations and Demotions

a) Resignation. An employee, having a nonstatus or status appointment, as described in Sections 250.70 and 250.80, may resign by presenting his signed resignation to his employer. An employee having a nonstatus appointment, as described in Section 250.70, may be terminated by his employer upon completion of his work assignment. The Director shall be notified promptly by the employer of all resignations and terminations.

b) Leave of Absence.

- 1) The Director shall be notified promptly by the employer of all leaves of absence, military, disability, or otherwise, granted, including dates of beginning and completion of such leave which exceeds 30 calendar days of non-pay status.
- 2) A status employee, who because of disability, becomes eligible for disability benefits to be paid by the employer or, as later determined, by the Illinois state retirement system to which the employee contributes, shall be granted a leave of absence for the period for which the employee is eligible to receive such benefits, including any gap in benefit payments between the expiration of institutional benefits and those available under the retirement system, and shall be entitled to return to a position in the employee's class without any loss of status due to such disability leave, providing the employee returns upon the expiration of all disability benefits to which entitled. If, within one year following the expiration of all disability benefits, the employee requests reinstatement, with approval of the Director, the employee's name may be placed on the reemployment register in the class in which the employee was employed at the time the disability leave was granted and in accordance with total seniority earned. If, within one year following the expiration of all disability benefits, the employee requests reinstatement, but because of the employee's disability is deemed unable to perform the duties in the class, the employee may be required to pass physical or other tests to determine employability under the System.
- 3) An employer with the concurrence of two licensed physicians, one of whom to be of the employee's choice, may make the following determinations:
 - A) If an employee is no longer able to perform the duties and responsibilities of the position in the class due to a disability, the employee will be required to take disability leave; or
 - B) If an employee at the time of expiration of a leave for disability has exhausted all potential benefits and is unable to resume the duties and responsibilities of a position in the class, employment may be terminated unless an employer and the employee agree on employment in a more suitable classification; or
 - C) If an employee, at the time of expiration of leave for disability, is unwilling to return to the position from which he/she is on leave, the employee may resign or employment may be terminated. If there is a difference of opinion, a third outside physician will be selected by the two physicians. The employer shall so notify the employee and the Director in writing for all of the above actions.
- 4) A status employee shall be granted a leave of absence for pregnancy whenever the required duties of the position occupied by the employee are incompatible with the state of pregnancy, as determined by the employer, and such leave shall continue until competent

medical opinion indicates that the employee is able to return to work in a position in the class in which the employee was employed prior to the leave.

- 5) A status employee who accepts a position which represents a promotion in a class outside his promotional line shall be granted a leave from a position of his former class for the duration of the probationary period in the new class.
- 6) An employee placed on Disciplinary Suspension or on Suspension Pending Discharge shall be placed on a leave of absence from his position.

c) Layoff.

- 1) The Director shall be notified promptly of all employees on layoff status, together with date of beginning of layoff, and of return to employment from layoff status, when such layoff exceeds 30 consecutive work days. A status employee shall receive a written notice, at least 30 calendar days in advance of the effective date of layoff, when such layoff exceeds 30 consecutive work days; however, the effective date of layoff may be extended up to 15 days without the requirement of further notice.
 - 2) Whenever it becomes necessary to lay off one or more employees, except as provided in Section 250.110(c)(3), the employee who has the least amount of service in the class shall be laid off first, and additional layoffs shall be made in the ascending order of the place of the employee on the service and seniority lists for that class.
 - 3) An employee, who is the incumbent of a position for which the Director has authorized specialized certification under Section 250.60(d)(9), or who is the incumbent of a position which has previously been identified as requiring specialized training or experience as required by the position in accordance with minimum acceptable qualifications for the class may not be bumped by another employee with greater seniority unless the employee with greater seniority possesses the special and identified qualifications authorized for the incumbent's position.
 - 4) Whenever it becomes necessary to reemploy one or more employees in a class, the employee last laid off by seniority shall be reemployed first, and further reemployment shall be made in the order of seniority until the reemployment register for that class is exhausted. Work of short duration requiring reemployment of one or more employees will not require a new written 15 day advance notice of layoff if the work period is to be five consecutive working days or less and the work is emergent in nature.
 - 5) A status employee who is subject to layoff from a part-time position, may bump an employee in a full-time status position, providing the part-time employee's equivalent full-time accrued seniority based on hours in pay status is greater than that of the least senior employee in a full-time position. A full-time status employee, who is subject to layoff, may bump the least senior full-time employee, who then may bump the part-time employee having the highest percent-time appointment providing the full-time employee has more accrued seniority.
 - 6) Names of employees laid off during their probationary periods shall be returned to the register from which they were certified to their position in accordance with service in a status appointment earned as of date of layoff.
- d) Disciplinary Suspension.* An employer may suspend an employee as a disciplinary measure for not more than 30 calendar days.
- 1) The employer will discuss the specific problem pertaining to contemplated suspension with the employee and the Campus Personnel Director or his designee before a suspension

notice is served. The employee will be told at that time that suspension is being considered.

- 2) In imposing a disciplinary suspension, the employer shall serve a written suspension notice on the employee showing reason for the suspension, and shall immediately report the suspension to the Director of the System and shall send a copy of the notice served on the employee, along with proof of service, to the Director.
- 3) Causes justifying suspension, not for discharge, shall include, but are not limited to: unauthorized and unexcused absence; leaving work without authority; failure to ring in or out on time card; habitual lateness; punching other time cards; key duplication and/or unauthorized possession of keys; misrepresentation of absence; falsification of records; refusal to do work assigned; failure to follow work schedules; failure to follow time schedules; insolence; failure to adhere to departmental regulations of appearance; smoking in prohibited areas; disregard of safety regulations; careless workmanship resulting in spoilage, waste, or delay; unauthorized use of institutional property; gambling on institutional property; creating or contributing to unsanitary conditions; horseplay or scuffling; fighting; sleeping during working hours; unauthorized visiting and "loafing on the job."

AGENCY NOTE: It is to be noted that an employee's allegation that a Disciplinary Suspension was unfairly imposed is subject to the grievance procedure established by the employing institution but is not reviewable by the Civil Service System.

e) Discharge Proceedings and Effective Date of Discharge.

1) Pre-discharge Proceedings.

- A) Prior to initiating any proceedings before the Merit Board for the discharge of an Employee, the Employer shall notify the Employee in writing, served upon the Employee in person if the Employee is present on the job, otherwise by certified mail to the most recent address of the Employee as shown on the Employer's records, of the Employer's intention to initiate such proceedings. The notification shall advise the Employee of the substance of the charges proposed to be filed in sufficient detail to inform the Employee of the nature of the conduct on which the proposed charges are based. The notification shall also advise the Employee that either or both of the following options are available to the Employee:
 - i) the Employee may require the Employer to hold a conference with the Employee or his representative within three work days of service of the Employer's notification for the purposes of responding to the matters contained in the notification and of attempting to achieve a reconciliation or understanding; and
 - ii) within three work days of service of notification, the Employee may deliver to the Employer a written response to the matters contained in the Employer's notification; provided that if the Employee elects to require the conference identified in option (i), at such conference the Employee may request and receive an opportunity to respond further in writing within three work days after the conclusion of such conference.
- B) Within seven work days after compliance with the provisions of (1)(A) above, the Employer shall either (i) notify the Employee that no further action will be taken to

- initiate discharge proceedings with the Merit Board against the Employee based solely on the matters contained in the Employer's notification, or (ii) initiate proceedings before the Merit Board under this Section 250.110(e) seeking discharge of the Employee based solely on the matters contained in the Employer's notification. The Employer's election not to initiate discharge proceedings with the Merit Board shall not preclude the Employer from imposing a suspension in accordance with Section 250.110(d) or some lesser penalty.
- C) An Employee who has been served with an Employer's notification as provided in (1)(A) above may be placed on excused absence with pay during all or any part of the period covered by Section 250.110(e)(1) to provide the Employer an opportunity to investigate serious charges.
- 2) Actual Discharge Proceedings.
- A) Proceedings before the Merit Board seeking the discharge of an Employee shall be initiated by the Employer filing with the Merit Board Written Charges for Discharge setting forth the causes for discharge in sufficient detail to inform the Employee of the nature of the conduct on which the charges are based. The Written Charges shall be accompanied with a certification by the Employer that all procedures set forth in paragraph (e)(1) of this Section have been followed and that there has been full compliance with any options elected thereunder by the Employee. At the time the Written Charges for Discharge and the certification are filed with the Merit Board, the Employer shall serve copies thereof upon the Employee in person if the Employee is present on the job, otherwise by certified mail to the most recent address of the Employee as shown on the Employer's records, and the Employer shall file a proof of such service with the Merit Board.
- B) An Employee who has been served with Written Charges for Discharge in accordance with subsection (e)(2)(A) above may be suspended without pay by the Employer during all or any part of the period that the discharge proceeding is pending, and until final disposition thereof, if the Employer is of the opinion that the Employee's presence on the job might constitute a substantial risk of injury to life or property, or might cause a disruptive effect on Employer's operations. Any such suspension without pay shall become effective on the date the Employer serves Written Notice of Suspension upon the Employee, which may be served with the Written Charges for Discharge or on any date thereafter. Such service shall be upon the Employee in person if the Employee is present on the job, otherwise by certified mail to the most recent address of the Employee as shown on the Employer's records, and the Employer shall file with the Merit Board a copy of the Written Notice of Suspension and proof of service thereof.
- 3) Hearing Request.
- A) An Employee who has been served with Written Charges for Discharge may request a hearing thereon by filing a written request for hearing with the Secretary for the Merit Board within 15 calendar days of the date of personal delivery or mailing of the Written Charges for Discharge to the Employee. The Secretary for the Merit Board shall immediately notify the Employer of the filing of such written request by the Employee. Thereafter, further proceedings shall be as hereafter provided in this Section 250.110(e) and any discharge shall be effective on the date of the discharge

order of the Merit Board, unless otherwise expressly stated in such order.

- B) If the Employee does not file a written request for hearing v with the Secretary for the Merit Board within said 15 calendar days, the Employee's discharge shall become effective at the end of such 15-day period without further action by the Merit Board. The Secretary for the Merit Board shall promptly notify the Employer of the Employee's failure to file a timely written request for hearing.
- 4) Hearing Proceedings.
- A) Upon receipt of the Employee's written request for hearing on the Written Charges for Discharge, the Merit Board shall promptly appoint a Hearing Board to hear the charges and the Employee's response. All hearings relating to discharge proceedings shall be convened by and conducted under the control of the Director or his authorized representative. The Director, the Hearing Board, the Employee and the Employer shall all make good faith efforts to commence the hearing within 10 calendar days of receipt of the Employee's written request for hearing, but in no event shall such hearing commence later than 45 days after service of the Written Charges for Discharge. Dilatory tactics or actions will not be permitted and the Director, the Hearing Board, the Employee and the Employer shall all make good faith efforts to conduct the hearings in no more than three hearing days, unless justice and fair play require otherwise. A transcript of the hearings, including exhibits, shall be made and shall be filed with the Secretary for the Merit Board as soon as possible following conclusion of the hearings.
 - B) Within 15 calendar days of the receipt of the transcript from the Secretary for the Merit Board, the Hearing Board shall file its findings of fact and any other recommendations with the Secretary, unless such time is extended by the Director for good cause shown. For the purpose of this Section, good cause shall include, but not be limited to: sickness, attendance at court proceedings, death, weather conditions which prevent the members from meeting. If by that time the findings of fact have not been received by the Secretary for the Merit Board, the Director will either appoint another approved Hearing Board which will then review the record and submit findings of fact within 10 calendar days of the appointment, or the Director will give written notice to all Hearing Board members and to all parties to the proceeding that he will, within 10 calendar days, discontinue the hearing and commence new hearings and the present Hearing Board will be dismissed without pay. Within this 10-day period following the Director's notice, the Hearing Board can appeal to the Director by showing cause why time should be extended.
 - C) The Director shall certify as the Hearing Record the Written Charges for Discharge, the Employee's request for hearing, the transcript and exhibits and the Hearing Board's findings of fact and other recommendations.
 - D) Upon such certification, the Secretary for the Merit Board shall, by certified mail, immediately forward to all parties of record a notice that the Hearing Record has been certified and a copy of the Hearing Record. Any objections to the form or contents of the Hearing Record, briefs, abstracts, or excerpts from the Hearing Record, arguments, motions, or recommendations, relating to the proceedings or the Hearing Record, or requests for further | hearing or for permission to supplement further the Hearing Record by other evidence, must be filed with the Secretary for the Merit

Board within 14 calendar days from the date of the postmark of the certified mail notice that the Hearing Record has been certified, with proof of service thereon on all parties. No answer or reply briefs and arguments will be permitted unless expressly authorized by the Merit Board or its Chairman. Personal appearances before the Merit Board on any matter relating to a particular discharge proceeding will be granted only by express consent and prior order of the Merit Board after due notice to all parties.

- 5) Decision of the Merit Board. The Merit Board shall enter findings of fact and shall order discharge or reinstatement of an employee with no loss of compensation, or make such other order as it deems appropriate. In the course of reaching their decision, the Merit Board may request the Director to make such recommendations as he may deem appropriate with respect to the discharge proceedings. The Secretary for the Merit Board shall immediately forward copies of all Merit Board orders to the Employer and the Employee by certified mail. Request for a rehearing, or for a reconsideration of a Merit Board order or decision, shall not extend any appeal period for administrative review, except by express order of the Merit Board or its Chairman.
 - 6) Time Period Proceedings.
 - A) On the motion of either party with notice to the other party, or by independent action of the Chairman of the Merit Board or the Director communicated to both parties, any time period set forth in this Section 250.110(e) may be extended by the Chairman of the Merit Board or by the Director for good cause shown, provided that no such extension may be beyond a period established by Statute.
 - B) The time periods set forth in this Section 250.110(e), except for the 15-day period set forth in paragraph (3)(B) of this Section and except for any time period provided for seeking administrative review of a final decision of the Merit Board, shall be deemed directory and not mandatory; and no failure to comply with any of the time periods set forth in this Section 250.110(e), except for the 15-day period set forth in paragraph (3)(B) of this Section and except for any time period provided for seeking administrative review of a final decision of the Merit Board, shall cause the Merit Board to lose jurisdiction of any matter.
 - 7) Reasons for Discharge. Causes justifying discharge and any suspension during the discharge shall include, but are not limited to: all those listed as cause for suspension if they become recurring offenses; and, in addition, theft; drinking intoxicating liquors on institutional time or property; inability to perform satisfactorily assigned duties as a result of drinking alcoholic beverages; malicious damage to property, tools, or equipment; immoral or indecent conduct which violates common decency or morality; conviction of an offense involving moral turpitude; illegal or excessive use of drugs, narcotics, and/or intoxicants.
 - 8) Hearing Expenses. All customary and reasonable court reporter and copying expenses incident to the preparation of the Hearing Record and providing copies thereof to parties to the proceedings shall be paid by the Employer. The Merit Board shall pay all expenses of the Hearing Board members and any legal expenses incurred by a Hearing Board, to the extent that such expenses have been approved by the Merit Board or its Director.
- f) Demotion.
- 1) A demotion may occur when a status employee:
 - A) is subject to a reduction in salary in his current position, or in a position of the same

class to which he has been reassigned, except when the reduction in pay results from an overall reduction in pay to persons employed in the same class and/or when the Merit Board, on the basis of supporting evidence, determines that the pay potential should be lowered for a class;

- B) is subject to a reduction in percentage of time worked;
 - C) is appointed to a position in a lower class in a promotional line;
 - D) is appointed to a position in a class outside a promotional line with a lower pay potential;
 - E) is given a nonstatus appointment.
 - i) Any of the above actions is considered to be a demotion when such action has been initiated by the employer.
 - ii) Such an action is not considered to be a demotion when such action has been initiated, or has been willingly accepted, by the employee. Evidence of initiation by, or willing acceptance by, an employee shall be: a statement signed by the employee (to be filed by the employer with the notice of employment) indicating that the new appointment is at his request and/or is acceptable to him, or the employee applied for, and took, the Civil Service examination, upon the results of which the new appointment is based, after the date of certification to his most recent position.
 - iii) Without the evidence indicated in subsection (ii) above, the action will be considered to have been initiated by the employer and, therefore, will be considered to be a demotion.
- 2) An employer may effectuate a demotion by filing a Notice of Demotion with the Merit Board and serving a copy of said Notice of Demotion on the employee by certified mail, or by personally serving the employee.

The Notice of Demotion shall designate the position and class to which the employee has been demoted and shall factually state the causes justifying demotion. The effective date of the demotion shall be the date of service of the Notice of Demotion upon the employee. A demotion shall be subject to the same hearing and review procedures as are provided an employee in the case of a discharge. (See Section 250.110(e).) During any hearing and review proceedings, the employee shall be paid the approved rate for the class of the position to which he has been demoted as set forth in the Notice of Demotion.

- 3) A status employee, who is demoted to a position in a class in which he has never been employed on a status appointment, may qualify for the position to which he is demoted, if his name is not already on an eligible register for that class, by taking the examination given to all other applicants for this class as promptly as possible following demotion to the class. Such employee must pass such examination as a condition to his retaining his appointment.
- g) Dismissal.
- 1) An employer may dismiss an employee whose name has been certified and who has been subsequently employed in a status position, except those specified in Section 250.110(h)(2) and (3), at any time during the probationary period of employment in a class, if the employer determines, pursuant to conditions of Section 250.90(a), that the employee has failed to demonstrate the ability and the qualifications necessary to furnish

satisfactory service.

- 2) The employer shall notify the Director promptly of dismissals setting forth the reasons for such action.

h) Termination.

- 1) A notice of termination of employment shall be used by the employer to report completion of services of a temporary, or provisional employee, retirement of an employee, death of an employee, and/or the determination of the employer that an employee is unable to resume his duties at the expiration of a leave of absence in accordance with Section 250.110(b)(3).
- 2) An employer may terminate an Apprentice, a Trainee, or a Learner at any time during the period of training.
- 3) The employer shall notify the Director promptly of all terminations of employment, setting forth the reasons for such action.

(Source: Amended at 8 Ill. Reg. 24732, effective December 6, 1984.)

(Source: Amended at 18 Ill. Reg. 18 1901, effective January 21, 1994)