

CHAPTER 8

EMPLOYEE RELATIONS

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Introduction

This chapter deals with procedures to handle the problems that inevitably arise in any personnel system. The suggestions presented will help district supervisors minimize the loss in productivity and the general unpleasantness associated with grievances and disciplinary actions. Handling these problems in a fair and speedy manner will greatly increase the morale of district employees.

Grievance Procedure

Grievances are complaints from employees charging their employment has been directly and adversely affected by unfair treatment, unsafe working conditions, or unjust application of policies, procedures, or the law.

It should be the policy of all districts that employees be treated fairly and equitably in all respects. Those employees who feel they have not been treated in this manner should have the right to present their grievances to the appropriate officials for consideration. Employees should be allowed to present their grievances on their own behalf or through representatives of their choice. A system should be developed that will permit employees to present informal and formal complaints concerning matters which are subject to the complete or partial control of the board of supervisors. If the grievance involves NRCS personnel, then the NRCS grievance procedure should be followed. The filing of grievances should not be considered as reflecting unfavorably on an employee's performance or loyalty.

The following example is a procedure for processing conservation district informal and formal grievances. Also refer to the Grievance Procedure section of the Sample District Personnel Policy Handbook, Exhibit 1.2, for an alternative. In the following paragraphs, "days" refer to working days and are maximum time limits.

1. Whenever possible, grievances should be resolved informally. Every effort should be made by the employee and immediate supervisor to come to an agreeable resolution of the grievance within a reasonable period of time (10 days). Complaints which the immediate supervisor does not have the authority to resolve should be referred to the district board promptly.
2. Unsuccessful attempts at an informal resolution of a complaint should be followed by a formal grievance. The employee should prepare a written statement which states the grievance, describes the remedial action being sought, and provides all information available in support of the complaint.

Upon receipt of a written grievance, the immediate supervisor should make all reasonable efforts to resolve the complaint. If the grievance is not resolved, it should be forwarded to the chair of the district board or designee, within seven days of receipt, with a statement of efforts made to resolve the problem.

The district board should make its decision on the grievance within 15 days of receipt or, if not possible, at the next scheduled board meeting.

Standards of Conduct and Ethics

A district program cannot be effective unless it is carried out by a district staff which, in addition to being technically competent, demonstrates professional integrity in its conduct. All district employees have a

responsibility to perform their assigned duties in a professional manner, to support their immediate supervisor and district board and to uphold the public trust in conservation districts.

All employees should be expected to maintain high standards of ethics and personal conduct. The following minimum requirements should be considered.

1. **Attendance** - Employees are expected to report for work and leave work at the time designated by the district. Planned absences are to be arranged with the employee's supervisor in advance. Unexpected absences are to be reported promptly to the immediate supervisor prior to the beginning of the employee's work period.
2. **Diligence During Work Period** - Employees are expected to perform assigned duties during the entire schedule for which compensation is being received, except for reasonable time provided to take care of personal needs.
3. **Work Performance** - Employees are expected to meet established performance standards. Any conditions or circumstances in the work environment which prevent an employee from performing effectively are to be reported to the immediate supervisor.
4. **Sexual Harassment** - Employees expect a workplace free from sexual harassment. Sexual harassment may consist of requests for sexual favors, unwelcome sexual advances, threats, actual bodily contact, other deliberate verbal or physical conduct of a sexual nature, or the creation of a "hostile environment" charged with unwelcomed sexual overtones. Such behavior should not be tolerated among employees. Sexual harassment is forbidden where the offending employee is in a position to affect the compensation or employment status of the person being harassed. In all cases, the district board members shall take appropriate corrective action. This rule applies equally to sexual harassment of both men and women.
5. **Outside Employment** - Employees should not engage in any outside employment or other activity which interferes in any way with the full performance of duties and responsibilities of their conservation district position.
6. **Financial Interest** - Employees should not have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with the duties and responsibilities of a district employee or engage in a financial transaction that results from information obtained through employment.
7. **Property Usage** - Employees should not use or allow the use of district, state or federal property of any kind for other than officially approved activities.
8. **Official Information** - Employees should not use or allow the use of official information gained through employment, which has not been made available to the general public, for furthering a private interest.
9. **Employee Debts** - Employees should not fail to pay just debts, since the creditor frequently involves the district in attempts to make restitution.

10. **Acts of Violence** - Employees should not engage in a riot or civil disorder, sheer acts of violence, cause danger to property, or injury to persons.

11. **Criminal Conduct** - Employees should not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful or other conduct prejudicial to the district.

Discipline

District employees are expected to perform and to conduct themselves in a professional manner. For the most part, this is what occurs. However, in some cases it may be necessary to correct an employee who has not observed some standard of performance or conduct. Generally, correction is accomplished through constructive feedback or verbal admonishment, but occasionally an employee does not respond to verbal discipline and a more serious and progressive form of disciplinary action is needed.

Employees respect, or even prefer, a supervisor who is consistent, equitable, and fair in all dealings with them. Discipline, if administered in a just, prompt and consistent manner, can actually be a morale booster. Although the major purpose of discipline is to coach and mentor staff; thereby, creating better habits and standards of work among employees, at times, it may be in the best interest of the conservation district and the public served that the employee be terminated

A personnel system based on merit provides the right of management to take necessary disciplinary action. The philosophy of merit also requires that there be "just cause" for administering the discipline. To better understand the term "just cause," consider the seven questions that follow, which were prepared by the Denver Regional Office of the Office of Personnel Management. The answers should be examined in any *anticipated* disciplinary action.

1. Was the employer's rule or managerial order reasonably related to the orderly, efficient, and safe operation of the employer's business?
2. Did the employer give to the employee forewarning or foreknowledge of the possible or probable disciplinary consequences of the employee's conduct?
3. Did the employer, before administering discipline to an employee, make an effort to discover whether the employee did, in fact, violate or disobey a rule or order of management?
4. Was the employer's investigation conducted fairly and objectively?
5. At the investigation, did the "judge" obtain substantial evidence or proof that the employee was guilty as charged?
6. Has the employer applied the rules, orders, and penalties evenhandedly and without discrimination to all employees?
7. Was the degree of discipline administered by the employer in a particular case reasonably related to:
 - a. the seriousness of the employee's proven offense and

- b. the record of the employee with the employer?

If it is determined that just cause exists, the following disciplinary actions should be taken:

Get all the facts. Get a complete statement from all persons involved. Review the employee's record for previous related offenses. Consider whether statements of the employee have been influenced by opinions or feelings. If there are inconsistencies in the evidence or insufficient facts, investigate further. Decide on a course of action. Determine seriousness or actual existence of the offense, what discipline and the how discipline should be administered, if appropriate.

Take action. The following are suggestions of action which could be taken. The final decision should always be made by the district board, or their designee.

- a. Charges dropped: Notify employee in writing.
- b. Verbal reprimand: Speak privately with employee. Be firm but considerate and understanding. Be specific. Ensure that the employee understands the disciplinary action that may be invoked if the employee fails to correct the deficient behavior.
- c. Written reprimand: Be specific. Cite appropriate rules or regulations. Ensure that the employee understands in writing, the disciplinary action that may be invoked if the employee fails to correct the deficient behavior.
- d. Terminations, Suspensions, Fines, Demotion: Be sure there is a sound basis for the action and that the employee receives due process. Prepare written notification. Serve charges on employee.

Evaluate results. Determine whether the action taken has achieved the desired results.

The district board should have full knowledge of all disciplinary actions that are taken. Except for minor verbal or written reprimands, the district board should be fully involved in at least steps 2 and 3 on the previous page.

Written Notifications

Due process requires that employees who are to be disciplined be given an opportunity to provide details of the incident or behavior prior to implementing disciplinary action. It is a principle of good management that employees clearly understand the reason for discipline. This understanding can best be accomplished by a written notice of disciplinary action.

Exhibits 8.3 - 8.5 of this chapter are letters that can be used as guides in developing notices of disciplinary actions. The following checklist can be used to ensure that the employee is treated fairly and understands the reasons for the action.

1. Is the notification specific as to the rule, regulation, or policy that was violated?
2. Does the notification clearly state that the employee can present a defense?

3. Is the employee given sufficient time to respond?
4. Does the notice state to whom the defense should be directed?
5. Does the notice state the effective date of the disciplinary action?

To ensure that a disciplinary action notice is received by the employee, it should be delivered by hand or mailed "Certified Mail - Return Receipt Requested."

Exhibit 8.1 Example Table of Recommended Penalties

This table of penalties should be used as a general guide only. It is designed to avoid wide discrepancies in penalties for similar offenses. Since the circumstances surrounding similar offenses will vary, a thorough understanding of the facts in each case is necessary to render a sound judgment. **All disciplinary matters should have documentary evidence supporting the action taken.**

When it is necessary to take an immediate action to remove an employee from the work site and from normal duties, consideration should be given, if there is a suitable equivalent position, to assigning other duties during the investigative period. However, when this is not possible for reasons of safety, health, security, etc., as in the case of a person who is intoxicated, the written notice of charges should be provided as soon as possible after the action which had to be taken summarily.

OFFENSE	1 st OFFENSE	2 ND OFFENSE	3 RD OFFENSE
1. Insubordination (refusal to obey reasonable orders, insolence, etc.)	Official written reprimand or 1 to 3 day suspension, or t e r m i n a t i o n in extreme cases if offense is grossly detrimental to management's control of personnel or the situation.	4 to 6 day suspension or termination.	7 to 10 day suspension or termination.
2. Fighting or creating disturbance among fellow employees, resulting in an adverse effect on morale, production, or maintenance or proper discipline.	Official written reprimand or 1 to 3 day suspension, or t e r m i n a t i o n in extreme cases if offense is grossly detrimental to management's control of personnel or the situation.	4 to 6 day suspension.	7 to 10 day suspension or termination.
3. Sleeping on duty (where safety of personnel or property is not endangered thereby).	Official written reprimand or 1 to 3 day suspension.	4 to 6 day suspension.	7 to 10 day suspension or termination
4. a. Using intoxicating beverages or narcotic drugs. b. Intoxicated to a degree that would make continued presence a menace to safety or interfere with discipline or efficiency.	Official written reprimand or 1 to 3 day suspension. 1 to 3 day suspension.	4 to 6 day suspension. 2 to 5 day suspension or termination	7 to 10 day suspension or termination 5 to 10 day suspension or termination
5. Absence without leave (any absence from work which has not been approved). Leave used for a purpose other than for which it was requested and granted.	Official written reprimand or suspension of 1 to 3 days, charging absence to leave without pay, or termination if absence exceeds 5 consecutive days.	4 to 6 day suspension charging the absence to leave without pay, or termination if absence exceeds 5 consecutive days.	7 to 10 day suspension or termination.

Exhibit 8.1 Example Table of Recommended Penalties (continued)

OFFENSE	1 ST OFFENSE	2 ND OFFENSE	3 RD OFFENSE
6. False statements, fraud in application blank or form submitted to the jurisdiction. Apparent oversights and errors, where satisfactorily explained, may be excused. If misrepresentation was instrumental in gaining appointment, or other benefits, a 1 to 10 day suspension or removal depending on the record and explanation of the employee.	1 to 10 day suspension for misrepresentation, or termination.		
7. Chronic or excessive absenteeism.	Official written reprimand or 1 to 3 day suspension, or termination in extreme cases if offense is grossly detrimental to management's control of the work situation.	4 to 6 day suspension or termination	7 to 10 day suspension or termination
8. Disorderly or immoral conduct:			
a. Notorious off-duty conduct which brings disrepute or reflects unfavorably on the district as an employer.	Official written reprimand or 1 to 3 day suspension, or removal in extreme cases if offense is grossly detrimental to management's control of the work situation.	4 to 6 day suspension or termination	7 to 10 day suspension or termination
b. Conviction of a serious crime.	Official written reprimand or 1 to 3 day suspension, or termination in extreme cases if offense is grossly detrimental to management's control of the work situation.	4 to 6 day suspension or termination	7 to 10 day suspension or termination
c. Unavailability for work because of incarceration.	Official written reprimand or 1 to 3 day suspension, or termination in extreme cases if offense is grossly detrimental to management's control of the work situation.	4 to 6 day suspension or termination	7 to 10 day suspension or termination
9. Theft, bribery, or unauthorized use or possession of district property.	Official written reprimand or 1 to 10 day suspension if offense is minor. Termination for major offenses.	Removal.	

Exhibit 8.1 Example Table of Recommended Penalties (continued)

OFFENSE	1 ST OFFENSE	2 ND OFFENSE	3 RD OFFENSE
10. Gambling on duty.	Official written reprimand or 1 to 3 day suspension.	1 to 5 day suspension.	5 to 10 day suspension or termination
11. Careless or negligent failure to observe any written regulation or other prescribed by competent authority.			
a. Violation of administrative regulations where safety of persons or property is not endangered thereby.	Official written reprimand or 1 to 3 day suspension.	1 to 5 day suspension.	3 to 10 day suspension or termination
b. Violation of administrative regulations where safety of persons or property is not endangered thereby.	1 to 10 day suspension or in extreme cases termination.	3 to 10 day suspension or termination.	Termination.
12. Negligence of or willful damage to public property or waste of public supplies.	1 to 5 day suspension or termination.	3 to 10 day suspension or termination.	Termination
13. Political activity.			
a. The use or attempt to use one's authority or official influence to control or modify the political action of any employee or engaging in any form of political activity during work hours.	1 to 10 day suspension or removal	Removal.	
14. Refusal to testify in a properly authorized inquiry or investigation except where such refusal is based on the grounds of self-incrimination. (Witness shall be assured freedom from restraint, interference, coercion, discrimination, or reprisal in presenting their testimony.)	1 to 5 day suspension.	3 to 10 day suspension or termination	Termination

Exhibit 8.1 Example Table of Recommended Penalties (continued)

OFFENSE	1ST OFFENSE	2ND OFFENSE	3RD OFFENSE
15. Discrimination because of race, color, creed, national origin, ancestry, age, marital status or sex.	Official written reprimand or 1 to 3 day suspension.	1 to 5 day suspension or termination.	5 to 10 day suspension.
a. Use of critical, demeaning, slanderous, or degrading remarks.	Official written reprimand or 1 to 3 day suspension.	1 to 5 day suspension or termination.	5 to 10 day suspension.
b. Discrimination in any aspect of employment such as appraisal, development, advancement, or treatment of employees, or discrimination because of age, political affiliation, marital status, physical handicap or non-merit factors.	Official written reprimand or 1 to 3 day suspension.	1 to 5 day suspension or termination.	5 to 10 day suspension.
16. Knowingly making false or malicious statements with the intent to harm or destroy the reputation authority or official standing of individuals or organizations.	Official written reprimand or 1 to 3 day suspension.	1 to 5 day suspension or termination.	5 to 10 day suspension.

Exhibit 8.2 Checklist for Disciplinary Action

ITEM	COMPLETED
1. Gather the facts: Get statements from those involved, including the employee, and make sure the employee has the same understanding of the job that the supervisor does.	_____
2. Evaluate the evidence: Look for specific cases not generalities.	_____
3. Determine the course of action: Determine reasons for poor performance and seriousness of offense. Is the proposed discipline appropriate for the offense and consistent with historical disciplinary action.	_____
4. Written notification: Any disciplinary action should be presented to the Employee in advance of action. A written notice should be sent to the employee stating the offense, explaining the district's concerns and allowing the employee enough time to define his actions.	_____
5. Take action: a. Drop action (insufficient evidence or allegations unfounded) b. Verbal reprimand c. Written reprimand d. Suspension e. Termination	
Whatever the action, document and file in employee's file. Always adhere to current district personnel policies.	_____
6. Evaluate results: Does the action taken achieve the correct results? If not, More progressive discipline may be implemented.	_____

Exhibit 8.3 Example Letter of Reprimand

HAPPY COUNTY CONSERVATION DISTRICT
123 4th Street
Gladville, Kansas 66666

January 22, 2016

Mr. Edward Smith
PO Box 307
Elm City, KS 66665

Dear Mr. Smith:

This is a letter of reprimand for your being absent from duty on January 8, 2016 without officially approved leave. You failed to request leave from your immediate supervisor as required by district policy and did not report your absence to the district office during that period.

You previously received a verbal reprimand on November 13, 2015 regarding other unauthorized absences from duty. At that time, your immediate supervisor reviewed district policy with you regarding leave.

While I am limiting disciplinary action in this instance to a written reprimand, this letter will serve as a warning that further unauthorized absences from duty may result in more adverse disciplinary action, up to and including termination.

Sincerely,

Earnest R. Wiseman
Chairperson

Exhibit 8.4 Example Letter of Suspension

HAPPY COUNTY CONSERVATION DISTRICT
123 4th Street
Gladville, Kansas 66666

July 8, 2016

Mr. Edward Smith
PO Box 307
Elm City, KS 66665

Dear Mr. Smith:

This letter is to notify you that you will be suspended from duty without pay for three (3) workdays because of your absence from duty on June 23 and 24, 2016, without officially approved leave. You failed to request leave from your immediate supervisor as required by district policy and did not report your absence to the district office during that period.

You have been verbally warned about your attendance. On January 22, 2016, you were issued a written reprimand regarding your unauthorized absences. Continued absences in this manner may result in the termination of your employment. Your suspension will begin July 27, 2016, and end July 29, 2016, at the close of business.

Sincerely,

Earnest R. Wiseman
Chairperson

Exhibit 8.5 Example Letter of Termination

HAPPY COUNTY CONSERVATION DISTRICT
123 4th Street
Gladville, Kansas 66666

September 9, 2016

Mr. Edward Smith
PO Box 307
Elm City, KS 66665

Dear Mr. Smith:

This is to notify you that your employment with the Happy County Conservation District will be terminated because of your continued absences from duty without officially approved leave, the most recent incident being the period September 1-2, 2016. You failed to request leave from your immediate supervisor as required by district policy and did not report your absence to the district office during that period. You have received sufficient warning that your continued absences without officially approved leave could result in termination of your employment. Your termination will be effective September, 30, 2016, at the close of business.

Sincerely,

Earnest R. Wiseman
Chairperson

Exhibit 8.6 Example Record of Separation

1. NAME (last,first,middle)	2. SOCIAL SECURITY NUMBER _____-_____-_____	3. TERMINATION DATE _____-_____-_____ mo day yr
4. POSITION TITLE	5. FORWARDING ADDRESS (For W-2) _____ Number Street City State Zip Code	
6. REASON FOR TERMINATION (check only those items that apply)		
VOLUNTARY - (The employee is the initiating party) Attach letter of resignation from employee explaining reasons.	INVOLUNTARY - (The employer is the initiating party) Attach memo from supervisor explaining reasons.	
DATE SUPERVISOR NOTIFIED - _____	DATE EMPLOYEE NOTIFIED - _____	
VOLUNTARY QUIT <input type="checkbox"/> transportation problem <input type="checkbox"/> homemaking <input type="checkbox"/> death in family <input type="checkbox"/> health <input type="checkbox"/> moving from area: reason _____ <input type="checkbox"/> military service <input type="checkbox"/> attend school <input type="checkbox"/> going into own business <input type="checkbox"/> declined to give reason for quitting <input type="checkbox"/> failed to return from leave of absence on agreed date <input type="checkbox"/> dissatisfied with hours, job, pay, benefits, etc. <input type="checkbox"/> new job: new employer _____ starting date _____ pay rate _____ position _____ <input type="checkbox"/> early retirement - (own decision) <input type="checkbox"/> other _____ _____ _____	LAYOFF <input type="checkbox"/> lack of work <input type="checkbox"/> lack of funds <input type="checkbox"/> job or project eliminated <input type="checkbox"/> end of temporary employment <input type="checkbox"/> other RELEASED <input type="checkbox"/> failed to meet job requirements DISCHARGED <input type="checkbox"/> for misconduct RESIGNED <input type="checkbox"/> in lieu of involuntary termination RETIREMENT <input type="checkbox"/> normal <input type="checkbox"/> in lieu of involuntary termination	
7. COOPERATION AND CONDUCT ____ Excellent ____ Good ____ Average ____ Fair ____ Poor	8. JOB KNOWLEDGE AND SKILL ____ Excellent ____ Good ____ Average ____ Fair ____ Poor	
9. OVERALL PERFORMANCE IN LATEST JOB ____ Excellent ____ Good ____ Average ____ Fair ____ Poor	10. RECOMMENDED FOR REHIRE ____ Yes ____ No	
11. COMMENTS AND OBSERVATIONS _____ _____ _____		
Signature of Supervisor _____ Date _____		