



**DEPARTMENT OF CORRECTIONS
Human Resources**



Title:	Management Service Discipline, Dismissal/Removal	DOC Policy: 20.9.1
Effective:	6/1/10	Supersedes: 5/15/06
Applicability:	Management service employees. Refer to applicable collective bargaining agreement for represented employees.	
Directives Cross-Reference: State Policy 70.000.02		
Attachments: Attachment A - Disciplinary Actions Against Public Safety Officers		

I. PURPOSE

An employee in the management service of Oregon state government is subject to disciplinary action if the employee is unwilling or unable to fully and faithfully perform the duties of the position satisfactorily and is subject to dismissal from state service for misconduct, inefficiency, incompetence, insubordination, indolence, malfeasance or other unfitness to render effective service.

II. POLICY

A. The Department has adopted the following Department of Administrative Services (DAS), Human Resource Services Division (HRSD) policy:

[HRSD 70.000.02](#) – Management Service Discipline and Dismissal

B. Management Service employees defined as corrections officers or parole and probation officers under ORS 181.610 will be afforded the safeguards outlined in ORS 236.350 to 236.370 as described in Attachment A.

III. IMPLEMENTATION

This policy will be adopted immediately without further modification.

Certified: Signature on file
Birdie Worley, Rules Coordinator

Approved: Signature on file
Mitch Morrow, Deputy Director

Disciplinary Actions Against Public Safety Officers

Definitions:

1. “Disciplinary action” means action taken against a public safety officer by an employer to punish the officer, including dismissal, demotion, suspension without pay, reduction in salary, written reprimand and transfer.
2. “Just cause” means a cause reasonably related to the public safety officer’s ability to perform required work. The term includes a willful violation of reasonable work rules, regulations or written policies.
3. “Public safety officer” means:
 - (a) A corrections officer or parole and probation officer as those terms are defined in ORS 181.610.

Disciplinary actions; written procedures; safeguards; just cause; notice

1. Except as provided in subsection (2) of this section, the following safeguards apply when a public safety officer is under investigation concerning a matter that the officer reasonably believes may lead to economic sanctions or dismissal from employment and is subject to an interview by the officer’s employer:
 - (a) Unless the seriousness of an investigation requires otherwise, the interview must be conducted when the public safety officer is on duty or during the officer’s normal waking hours. If the interview is conducted when the public safety officer is off duty, the officer must be compensated appropriately.
 - (b) The public safety officer may have a representative of the officer’s choosing present at the interview.
 - (c) No more than two interviewers at a time may question the public safety officer. A recorder or other personnel may be present but shall not be involved in the direct questioning of the officer.
 - (d) The interviewers shall inform the public safety officer of their authority to compel the statement and of the identity of the investigators and all persons present during the interview.
 - (e) The public safety officer is not required to answer questions until the officer has been informed of the nature of the investigation and the facts reasonably sufficient to inform the officer of the circumstances surrounding the allegations under investigation. This paragraph does not apply to preliminary questions directed at gaining a general overview of events in order to assess whether an inquiry is necessary and to effectively investigate and gather evidence.
 - (f) The interview may not last an unreasonable amount of time, taking into consideration the gravity and complexity of the matter under investigation.
 - (g) During the interview, the public safety officer must be allowed to attend to physical needs.
 - (h)
 - (A) Except as provided in subparagraph (B) of this paragraph, the public safety officer being interviewed may not be threatened with punitive action or subjected to offensive language.

- (B) In a compelled interview solely for noncriminal purposes, a public safety officer who refuses to respond to questions or to be interviewed must be informed that refusal may lead to disciplinary action.
- (i)
 - (A) The public safety officer may record the interview and must be given a copy of the tape or digital file of the interview and, upon request, a transcript of any recording that has been transcribed by the employer.
 - (B) The public safety officer must be given a copy of any written statement or report describing the officer's statements.
 - (C) Materials required to be given to the public safety officer under this paragraph must be given before subsequent interviews in the course of the same investigation.
 - (j) As soon as it is determined that the public safety officer may be charged with a criminal offense, the officer must be informed of the officer's right to consult with criminal defense counsel with respect to the criminal charge.
 - (k) In a disciplinary or administrative investigation, the public safety officer's chosen representative may not be required to disclose, or be subject to disciplinary action for refusing to disclose, statements made by the officer to the representative for purposes of the representation.
2. The safeguards provided in subsection (1) of this section do not apply to:
 - (a) The questioning of a public safety officer in the normal course of informal verbal admonishment by, or other routine or unplanned contact with, a supervisor or other public safety officer; or
 - (b) An investigation concerned solely with alleged criminal activities.
 3. Disciplinary action may not be taken against a public safety officer without just cause.
 4. An employer that intends to take disciplinary action against a public safety officer shall:
 - (a) Notify the officer in writing of the charges against the officer and the proposed disciplinary action; and
 - (b) Provide the officer with an opportunity to respond to the charges at an informal hearing which may be recorded, with the person or persons having authority to impose the proposed disciplinary action.
 5.
 - (a) Except as provided in paragraphs (b) and (c) of this subsection, an employer shall complete its investigation into an allegation of misconduct by a public safety officer and provide notification under subsection (4)(a) of this section no later than six months from the date of the first interview described in subsection (1) of this section. The employer may extend the investigation to a maximum of 12 months from the date of the first interview, provided that, before the extended period begins, the employer provides written notice explaining the reason for the extension to the officer and the officer's chosen representative and union representative, if any.
 - (b) The time limit provided in paragraph (a) of this subsection does not apply:
 - (A) If the investigation involves an officer who is incapacitated or unavailable.
 - (B) If the investigation involves an allegation of workers' compensation or disability fraud by the officer.
 - (C) If the officer waives the limit in a signed writing.
 - (D) If the investigation requires a reasonable extension of time for coordination with one or more other jurisdictions.
 - (E) If the investigation involves more than one officer and requires a reasonable extension of time.

- (c) For the purpose of the time limit provide in paragraph (a) of this subsection:
 - (A) If the alleged misconduct is also the subject of a criminal investigation or criminal prosecution, time does not run for the period during which the criminal investigation or criminal prosecution is pending.
 - (B) If the investigation involves a matter in civil litigation in which the officer is a named defendant or the officer's actions are alleged to be a basis for liability, time does not run for the period during which the civil action is pending.
 - (C) If the investigation is the result of a complaint by a person charged with a crime, time does not run for the period during which the criminal matter is pending.
- 6. An investigation may be reopened if:
 - (a) Significant new evidence is discovered that is likely to affect the outcome of the investigation; and
 - (b)
 - (A) The evidence resulted from the public safety officer's predisciplinary response; or
 - (B) The evidence could not have been discovered by the employer without resorting to extraordinary measures.