

**MEMORANDUM**

**REVISION 6 SERIES D**

**TO:** Holders of Career Service Rule Books

**FROM:** Career Service Board

**DATE:** November 22, 2013

**SUBJECT:** Revision of Career Service Rule 16-73 Disciplinary Action Following Pre-Disciplinary Meeting and related rules

The Career Service Board has approved the revision of Career Service Rule 16-73 Disciplinary Action Following Pre-Disciplinary Meeting and related rules. Previously, Rule 16-73 required that a disciplinary action be served on the affected employee within fifteen calendar days of the pre-disciplinary meeting. It differed from the rules setting deadlines for grievances, grievance responses, and appeals in that it did not provide for an automatic extension to the next business day when day fifteen falls on a day the OHR is closed. This inconsistency led to some confusion about when disciplinary actions should be served on employees. The new rules address this issue by making the language in all three rules consistent by mandating that when a deadline falls on a day the OHR office is closed, the deadline will be extended to the next working day. This rule change also makes other changes to the wording and organization of Rule 16-73 for the sake of clarity.

	<b><u>Page Number</u></b>	<b><u>Issuance Dates</u></b>
<b>Remove:</b>	16-8 18-4 19-3	January 7, 2013
<b>Replace:</b>	16-8 18-4 19-3	November 22, 2013

**PLEASE INSERT IN YOUR RULE BOOK AS SOON AS POSSIBLE. THANK YOU.**

16-73 Disciplinary Action Following Pre-disciplinary Meeting  
(Revised November 22, 2013; Rule Revision Memo 6D)

- A. Personnel decisions relating to progressive discipline may take into account any relevant prior disciplinary action.
- B. A written notice of the disciplinary decision and the reasons for the disciplinary action based on the pre-disciplinary meeting and other pertinent information obtained by the appointing authority shall be served on the employee within fifteen (15) calendar days after the meeting. The notice shall be considered served on the date shown on the certificate of hand delivery or mailing. If the fifteenth day falls on a day the OHR is not open for business, the appointing authority has until the next working day to serve the notice of discipline.
- C. However, if an appointing authority presents to the OHR Executive Director documented extenuating circumstances requiring additional time, the OHR Executive Director may extend the date for taking disciplinary action for an additional ten (10) calendar days. A request for an extension of time must be sent to the OHR Executive Director prior to the expiration of the time for taking disciplinary action. If disciplinary action is not taken within the initial time period and a request for extension of time is not timely submitted to the OHR Executive Director, the agency must repeat the steps contained in section 16-40 before disciplinary action may be taken.
- D.
  - 1. A verbal reprimand may not be grieved or appealed.
  - 2. An employee may file a grievance of a written reprimand in accordance with Rule 18 **DISPUTE RESOLUTION**. An employee may not appeal a written reprimand to the Career Service Hearings Office.
  - 3. An employee may directly appeal a suspension, involuntary temporary reduction of pay, involuntary demotion or dismissal in accordance with Rule 19 **APPEALS**.

16-74 Guidelines for Involuntary Temporary Reduction of Pay  
(Revised October 17, 2010; Rule Revision Memo 47C)

When an involuntary temporary reduction in pay is imposed on an employee, the employee's pay shall not be reduced:

- A. More than four and fifty-five hundredths percent (4.55%); or
- B. Below the range minimum of the employee's pay range; or
- C. For less than seven (7) pay periods; or
- D. For more than thirteen (13) pay periods.

Any merit increase or merit payment shall be based on the employee's normal rate of pay, not the employee's temporarily reduced rate of pay.

A. Notice to Employees:

The department or agency must post or provide to all employees a copy of this procedure, the name and telephone number of the department or agency designee(s) who may accept grievances, and the acceptable methods of delivery of grievances. If the department or agency fails to appoint a department or agency designee, the appointing authority shall be deemed to be that department or agency's designee.

B. Filing of Grievance:

In order to file a grievance an employee must:

1. Prepare and complete all sections of the official OHR grievance form.
2. Deliver the grievance to the department or agency designee within fifteen (15) calendar days after notification of the action or inaction which gives rise to the grievance. If the grievance is mailed, it must be received within the fifteen (15) calendar days.
3. Employees must use their own personal time when preparing grievances unless they are granted permission by their supervisors to use paid work time.

C. Responding to Grievance:

The department or agency shall consider the grievance and within fifteen (15) calendar days following receipt of the grievance provide the employee a dated, written notice of a decision. The written decision shall contain a certificate of mailing or certificate of hand delivery which indicates the date the decision was mailed or hand delivered to the employee.

D. Computation of Time:

The period of time shall be computed as follows (all time periods are calendar days):

1. The date of notification of the action or inaction shall be the date the employee knew or should have known of the action or inaction.
2. The period of time for filing the grievance starts on the day following the date of notice of the action or inaction.
3. The date for responding to a grievance starts on the day following receipt of the grievance.
4. If the final date for filing or responding to a grievance falls on a day the OHR is not open for business, the final date shall be the next working day (Revised November 22, 2013; Rule Revision Memo 6D).
5. The grievance filing or response period ends at 5:00 p.m. on the final date.

3. Bonus or incentive payments or the lack thereof, or the criteria used by an agency or department to make or not make such payments, or any other aspect of the bonus or incentive program may not be appealed.
- B.
1. Career Service employees who do not hold career status or former employees who did not hold career status may only file direct appeals when they have alleged that an employment decision subject to direct appeal is discriminatory or when they allege a violation of the “Whistleblower Protection” ordinance.
  2. Career Service employees who do not hold career status may appeal the disposition of a complaint alleging discrimination.

#### Section 19-20 Filing of Appeal

##### A. Time Limitation:

(Revised October 2, 2007; Rule Revision Memo 22C)

1.
  - a. Appeals claiming violation of the City’s “Whistleblower Protection” ordinance shall be filed with the Hearing Office within thirty (30) calendar days of the alleged retaliatory adverse employment action.
  - b. All other appeals shall be filed with the Hearing Office within fifteen (15) calendar days after the date of notice of the action being appealed.
2. The computation of the period of time for filing an appeal shall be as follows (all time periods are calendar days):
  - a. The date of notice of the action shall be the date on the certificate of hand-delivery if hand-delivered to the appellant or the date on the certificate of mailing of the notice if sent by U.S. mail or interoffice mail.
  - b. The period of time for filing the appeal starts on the day following the date of:
    - i. The alleged retaliatory adverse employment action in the case of an appeal brought under the “Whistleblower Protection” ordinance; or
    - ii. The notice of the action or date of inaction in all other cases.
  - c. If the final date of the appeal period falls on a day the Hearing Office is not open for business, the final date for appeal shall be the next working day (Revised November 22, 2013; Rule Revision Memo 6D).