

Summary Actions



District Personnel Instruction No. 16-16

Effective Date	Expiration Date	Related DPM Chapters
March 14, 2016	Retain Until Superseded	16

Overview

District government employees hold positions of public trust. This trust is violated when an employee’s conduct threatens the integrity of District government operations; constitutes an immediate hazard to an agency, other District employees, or the employee; or is detrimental to the health, safety, or welfare of the public. As a result, the employee may be summarily suspended or removed from his or her position. This instruction outlines the procedures for taking summary actions.

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Conditions Supporting Summary Action

An employee may be summarily suspended or removed from his or her position when his or her conduct: (1) threatens the integrity of D.C. government operations; (2) constitutes an immediate hazard to the agency, to other District employees, or to the employee; or (3) is detrimental to the health, safety, or welfare of the public.

Threats to the Integrity of D.C. Government Operations

Threats to the integrity of D.C. government operations include actions that undermine the public trust, such as using public office for significant private gain, falsifying records or statements, fiscal irregularities, criminal activity, and other conduct prejudicial to the District government.

Examples of Threats to the Integrity of D.C. Government Operations

- Conviction of a felony or any criminal offense that is related to the employee's duties or his/her agency's mission
- Participating in a strike, work stoppage, slowdown, sickout or similar activity against the District government
- Defrauding the government of funds or property

Immediate Hazards

An employee may be summarily suspended or removed when his or her action(s) unnecessarily expose an agency, another employee, or the employee to an immediate danger, peril, risk, or other hazard. Such hazards include the following:

Examples of Immediate Hazards

- Carrying a weapon or unauthorized firearm not related to the employees' position description or duties in the workplace
- Assaulting, fighting, threatening, attempting to inflict or inflicting bodily harm while on District property or on duty

Detriments to the Health, Safety or Welfare of the Public

Behavior that is detrimental to the health, safety, or welfare of the public includes the following:

Examples of Conduct Detrimental to Public Health, Safety, or Welfare

- Failure or refusal to observe or enforce safety and health regulations exposing others or property to significant injury or damage
- Operating a government vehicle or private vehicle on official business while under the influence of an illegal drug or alcohol

Agency Head Approval

Due to their expedient and serious nature, the decision to take a summary action should be made after careful consideration of the facts. Supervisors must receive approval in writing from the agency head prior to taking any summary action. The approval must identify:

1. The facts relied upon by the agency head to support the actions;
2. The specific basis for summary action (threats to the integrity of government operations; conduct creating an immediate hazard; or conduct detrimental to public health, safety or welfare); and
3. The cause(s) for the suspension or removal, consistent with § 1605.

When the agency head is satisfied that the required conditions are present, the agency must inform the employee and may order the employee to immediately leave his or her duty station and to stay away from D.C. Government owned or occupied properties, if warranted. It is recommended that this be communicated in writing to the employee in conjunction with the summary action notice. However, the employee may be notified of the summary action verbally or in writing independent of the official notice. All security staff should be notified of any directive that denies the employee admittance to government property, all access cards should be revoked, and, if possible, all government equipment should be recovered.

Summary Action Notices

Whenever an agency decides to summarily remove or suspend an employee, they must provide the employee with a written notice of the action. Although summary action notices can be issued within five (5) days of notifying the employee they have been suspended or removed, agencies should strive to issue the summary action notice at the time the action takes place to avoid delays in receipt and processing. A summary notice provided to an employee must include the following:

1. The nature of the summary action (suspension or removal);
2. The effective date of the summary action;
3. The specific behavior warranting summary action;
4. The specific conduct at issue—**the basis for summary action (items 1-3 above) should be stated in the first paragraph of the notice;**
5. The materials upon which the proposed summary action is based (or instructions on how the employee may review the materials);
6. How the employee's conduct fails to meet appropriate standards; and
7. The name and contact information of the deciding official, or if a removal, the administrative review officer.

The notice should also advise the employee of their right to respond in writing to the notice of the proposed summary action, their right to be represented by an attorney or other

representative, and, in the case of a removal, the administrative review process. See District Personnel Manual § 1620.3 for additional information.

Confirming Receipt

Notices must be delivered to the employee in person or to the employee's address of record by a commercial courier that provides delivery tracking and confirmation, or an alternate method that shows the employee actually received the notice. If an action is delivered in person, the official serving the document must execute a certificate of service, attesting to the delivery.

Employee Responses

An employee who is served a summary action may submit a written response within ten (10) calendar days of service to the deciding official or administrative review officer identified in the notice. The employee's response should include evidence that he or she believes might affect the final decision. Evidence may include written statements of witnesses, affidavits, documents, or other information. The written response is the employee's opportunity to discuss matters relevant to the reasons for the summary action.

Employee responses to a summary removal should be assessed during the administrative review process by an administrative review officer. Employee responses to summary suspensions will be assessed upon the issuance of the final decision. While the response received from the employee may allege a violation of their rights, it does not constitute a grievance. If the agency ultimately decides to uphold the decision to summarily remove or suspend the employee, the final decision must notify the employee of his or her right to appeal the decision or file a grievance. For additional information on administrative reviews or the grievance process, please refer to DPM Instruction 16-15, *Administrative Review Process* or DPM Instruction 16-17, *Grievance Processing*.



Administrative Reviews. Summary removals must be reviewed by an administrative review officer. Detailed information on the administrative review process can be found in DPM Instruction 16-15, *Administrative Review Process*.

Final Decision

Within 45 days of the employee's written response, the expiration date of the employee's time to respond, or, in the case of a summary removal, receipt of the administrative review officer's report, or another date as agreed to by the employee, the deciding official must serve a final decision on the employee. Service of the final decision must be done in person or by courier to the employee's address of record (with delivery confirmation).

The final decision must be based on the proposed action, the employee's written response (if any) and any administrative review report. The final decision must:

1. Provide a concise summary of the action(s) being taken and the effective date of the action(s);

2. Succinctly enumerate each independent cause for which the action is being taken; specifications shall not be used in any final written decision;
3. Provide for an independent action (suspension or removal) for each enumerated cause;
4. Demonstrate reasoned consideration of the relevant factors set forth in the District Personnel Manual at § 1606.2 for each independent action; and
5. Articulate the employee's appeal and grievance rights, if any.

Final decisions should be fairly similar to the summary action and may rely upon the factor analysis worksheets used at the summary phase.



Note: Should the final decision be to rescind or reduce the summary action, the Agency must evaluate the impact of the decision on the leave or pay lost by the employee as a result of the action to determine if restoration of leave or pay is necessary.

Legal

Authorities

1. **Statutory Authority:** D.C. Official Code § 1-616.51(5); and
2. **Regulatory Authority:** 6B DCMR §§ 1616, 1620, 1621, and 1623.

Applicability

The provisions of this instruction apply to those District government agencies and employees that are subordinate to the Mayor's personnel authority, with the exception of employees serving probation or under a temporary appointment. A valid collective bargaining agreement shall control, to the extent it conflicts with the provisions of this instruction.

Additional Information

For additional information concerning this instruction, please contact the DCHR's Policy and Compliance Administration, by calling (202) 442-9700 or by sending an e-mail to dchr.policy@dc.gov.

A handwritten signature in blue ink that reads "Ventris C. Gibson".

Ventris C. Gibson
Director, Department of Human Resources

Attachments

Attachment 1 – Sample Summary Suspension Notice

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**Policy and Compliance
Administration**

July 24, 2015

Mr. Ginger Snapp
100 District Avenue NW
Washington, D.C. 20001

Re: | Notice of Summary Suspension

Dear Ms. Snapp:

On July 1, 2015, at 1:30 PM, you were arrested by the Metropolitan Police Department (MPD) following a traffic stop while on route to a site visit at the Department of Culinary Arts. According to MPD's report, your vehicle was observed swerving on the road. The Officer smelled alcohol on your breath and administered a breathalyzer test. Your test result read .12, nearly .04 over the legal limit. Additionally, the officers saw multiple empty cans of beer in your vehicle. As a result, you were arrested for driving under the influence of alcohol while on duty. Your conduct was **detrimental to the public safety, health, or welfare**. Accordingly, you are being summarily suspended from District service effective as of the date of this notice.

Disciplinary Cause. This action is being proposed for the following reasons:

1. On or about July 1, 2015, you were arrested for driving under the influence of alcohol, while on duty, in violation of D.C. Code §50-2206-11(1). (**Conduct Prejudicial to the District Government**, 6B DCMR §1607.2 (a)(4).)

Agency Action: **30-Day Suspension**

These charges are supported by the sworn statement of Officer James Brown, and that statement is attached for your review.

As a government employee, you hold a position of public trust in the Office of Public Affairs. Your positive breathalyzer results and subsequent arrest for driving under the influence while on duty casts a shadow on the integrity of your Agency and undermines public confidence in the District of Columbia government. Based on the conduct outlined above and in consideration of the relevant Douglas factors, we are compelled to immediately suspend you for thirty (30) days.

Review Process. You have the right to challenge this action and may secure an attorney or other representative, at your own expense. You are encouraged to fully review the accompanying materials supporting this action.

441 4th Street NW, Suite 300 South, Washington, DC 20001 | Telephone (202) 442-9700

Summary Suspension

You, or your representative, have the right to submit a written response to the Deciding Official who will review this action. With any response, you are encouraged to include affidavits or other documents that you would like considered. Any written response must be received within ten (10) calendar days from the date of this notice.

Based on the Deciding Official's review and recommendation, supporting documentation and any materials you provide, you will be issued a final determination, which will be sent to your address of record.

Sincerely,

By: _____
AGENCY HEAD
Proposing Official

CERTIFICATE OF SERVICE

On July 24, 2015, a copy of this notice of proposed summary suspension on:

Ginger Snapp
100 District Avenue NW
Washington, D.C. 20001

[By Hand Delivery] [OR USPS Certified No. ###] [OR FedEx Next Day No. ###]

By: _____
AGENCY HEAD
Proposing Official

ATTACHMENTS

No.	Date	Title
1	July 1, 2015	Sworn Statement of Officer James Brown

Attachment 2 – Sample Summary Removal Notice

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**Policy and Compliance
Administration**

July 24, 2015

Ms. Riviera Jordhan
100 District Avenue NW
Washington, D.C. 20001

Re: | Notice of Summary Removal

Dear Ms. Jordhan:

On July 1, 2015, you were arrested by the Metropolitan Police Department (MPD) following a traffic stop while in route to a ribbon cutting ceremony at Lakewood Elementary School. According to MPD's report, your vehicle was observed swerving on the road. The Officer smelled alcohol on your breath and administered a breathalyzer test. Your test result read .12, nearly .04 over the legal limit. Additionally, you were also found with over 100 grams of cocaine on your person. You were arrested for driving under the influence and possession of a controlled substance with the intent to distribute. Your conduct **threatened the integrity of District government operations**.¹ Accordingly, you are being separated from District service effective as of the date of this notice.

Disciplinary Cause. This action is being proposed for the following reasons:

1. On or about July 1, 2015, you were arrested for driving under the influence of alcohol while on duty, in violation of D.C. Code §50-2206-11(1). (**Conduct Prejudicial to the District Government**, 6B DCMR §1607.2 (a)(4).)

Agency Action: **Suspension**

2. On or about July 1, 2015, you possessed, with an intent to distribute, a controlled substance, cocaine, in violation of D.C. Code § 48-904.01(d). (**Controlled Substances/Paraphernalia**, 6B DCMR §1607.2 (h).)

Agency Action: **Removal**

3. On or about July 1, 2015, you did possess a controlled substance, cocaine, in violation of D.C. Code §48-904.01(d). (**Conduct Prejudicial to the District Government**, 6B DCMR §1607.2 (a)(4).)

¹ 6B DCMR §1616.2(a)

Sample Summary Removal Notice

Agency Action: **Removal**

These charges are supported by the sworn statement of Officer James Brown, and that statement is attached for your review.

As a government employee, you hold a position of public trust in the Office of Public Affairs. Your commission of felony drug possession with intent to distribute casts a shadow on the integrity of your Agency and undermines public confidence in the District of Columbia government. Under the circumstances, your employment must be immediately terminated.

Review Process. You have the right to challenge this action and may secure an attorney or other representative, at your own expense. You are encouraged to fully review the accompanying materials supporting this action.

You, or your representative, have the right to submit a written response to the Hearing Officer who will review this action. With any response, you are encouraged to include affidavits or other documents that you would like considered. Any written response must be received within ten (10) calendar days from the date of this notice.

Based on the Hearing Officer's review and recommendation, supporting documentation and any materials you provide, you will be issued a final determination, which will be sent to your address of record.

Sincerely,

By: _____
AGENCY DIRECTOR
Proposing Official

Sample Summary Removal Notice

CERTIFICATE OF SERVICE

On July 24, 2015, a copy of this notice of proposed enforced leave on:

Riviera Jordhan
100 District Avenue NW
Washington, D.C. 20001

[By Hand Delivery] [OR USPS Certified No. ###] [OR FedEx Next Day No. ###]

By: _____
AGENCY DIRECTOR
Proposing Official

ATTACHMENTS

No.	Date	Title
1	July 1, 2015	Sworn Statement of Officer James Brown