

CHAPTER 3

PERSONNEL

Table of Contents

Section 3.1	Scope of This Chapter
Section 3.2	State Personnel System
3.2.1	Uncovered Employees
3.2.2	Covered Employees
3.2.3	Original Probationary Employees
3.2.4	Types of Appointment
Section 3.3	Discipline of Covered Employees
3.3.1	Reprimand and Counseling
3.3.2	Suspension
3.3.3.	Demotion
3.3.4.	Dismissal
3.3.5.	Rules for Law Enforcement Officers
Section 3.4	Appeal from Disciplinary Action
3.4.1	Appeals Involving Law Enforcement Officers
3.4.2	Employee's Disclosure of Information ("Whistleblowing")
Section 3.5	Employee Grievances
Section 3.6	Agency Actions Affecting Employees
3.6.1	Promotional Probation
3.6.2	Reorganization and Reduction in Force
Section 3.7	Employee Options

3.7.1	Voluntary Resignation and Resignation in Lieu of Dismissal
3.7.2	Change from Covered to Uncovered Service
Section 3.8	Leave
3.8.1	Holidays
3.8.2	Annual Leave
3.8.3	Sick Leave
3.8.4	Compensatory Leave and Overtime Pay
3.8.5	Industrial Leave
3.8.6	Leave under the Family and Medical Leave Act
3.8.7	Other Leave
3.8.8	Leave without Pay
Section 3.9	Conditions of Employment
3.9.1	Standards of Conduct
3.9.2	Conflict of Interest
3.9.3	Restricted Political Activity
3.9.4	Employment of Relatives
Section 3.10	Inquiries about State Employees
Section 3.11	Equal Employment Opportunity
3.11.1	General Considerations Regarding Discrimination Complaints
3.11.1.1	Procedure upon Receipt of a Notice of Charge of Discrimination
3.11.1.2	Confidentiality
3.11.1.3	Settlement Agreement
3.11.1.4	Unlawful Discrimination

3.11.1.5	Retaliation
3.11.1.6	Interviewing
3.11.1.7	Nondiscriminatory Work Environment
3.11.1.8	Affirmative Action
3.11.2	Race, Color, and National Origin Discrimination
3.11.3	Sex Discrimination
3.11.3.1	Sexual Harassment
3.11.4	Religious Discrimination
3.11.5	Disability Discrimination
3.11.6	Age Discrimination
3.11.7	Genetic Information Discrimination
3.11.8	Discrimination Complaints
Section 3.12	Workers' Compensation
3.12.1	Workers' Compensation Defined
3.12.2	Workers Covered by the Workers' Compensation System
3.12.3	Employer Responsibility for Industrial Injuries of Employees
3.12.4	Risk Management's Role
3.12.5	The Attorney General's Role

Forms

Form 3.1	Administrative Leave Pending Investigation
Form 3.2	Return from Administrative Leave
Form 3.3(a)	Involuntary Demotion—Covered Permanent Status (PS) Employee, Full Authority Peace Officer (FAPO)
Form 3.3(b)	Involuntary Demotion—Covered PS Employee, Non-FAPO
Form 3.4	Involuntary Demotion—Uncovered Employee
Form 3.5(a)	Voluntary Demotion Request—Covered Employee to Covered Position
Form 3.5(b)	Voluntary Demotion Request—Covered Employee to Uncovered Position
Form 3.5(c)	Voluntary Demotion Request—Uncovered Employee to Uncovered Position
Form 3.6(a)	Voluntary Demotion Acceptance—Covered Employee to Covered Position
Form 3.6(b)	Voluntary Demotion Acceptance—Covered Employee to Uncovered Position
Form 3.6(c)	Voluntary Demotion Acceptance—Uncovered Employee to Uncovered Position
Form 3.7(a)	Dismissal—Covered PS Employee, FAPO
Form 3.7(b)	Dismissal—Covered PS Employee, Non-FAPO
Form 3.8	Dismissal—Covered Original Probationary Employee
Form 3.9	Dismissal—Uncovered Employee
Form 3.10	Dismissal—Temporary Employee
Form 3.11	End of Assignment—Temporary Employee
Form 3.12	Expiration of FMLA Leave

Form 3.13	Expiration of Leave without Pay—Covered or Uncovered Employee, Return or Request Additional Time
Form 3.14(a)	Expiration of Leave without Pay—Covered Employee, Separation Letter
Form 3.14(b)	Expiration of Leave without Pay—Uncovered Employee, Separation Letter
Form 3.15	Job Abandonment—Separation Letter
Form 3.16(a)	Lateral Transfer—Covered Employee to Covered Position
Form 3.16(b)	Lateral Transfer—Covered Employee to Uncovered Position
Form 3.16(c)	Lateral Transfer—Uncovered Employee to Uncovered Position
Form 3.17	Long Term Disability Approved, Unable to Return to Work—Separation Letter
Form 3.18	Medical Certification Requirement
Form 3.19	Medical—Fitness-for-Duty Evaluation
Form 3.20	Medical—Order for Medical Examination
Form 3.21(a)	Memorandum of Concern—Covered PS Employee
Form 3.21(b)	Memorandum of Concern—Uncovered Employee
Form 3.22	Notice of Charges of Misconduct—Covered PS Employee, FAPO or Non-FAPO
Form 3.23(a)	Reprimand—Covered Permanent Status Employee
Form 3.23(b)	Reprimand—Uncovered Employee
Form 3.24	Resignation
Form 3.25	Resignation—Acceptance of Verbal or Written Resignation
Form 3.26	Resignation—In Lieu of Dismissal
Form 3.27	Resignation—In Lieu of Dismissal, Confirmation of Discussion
Form 3.28	Reversion—Failure to Complete Promotional Probation

Form 3.29	Suspension without Pay, 40 Hours or Less—Covered Employee, FAPO
Form 3.30	Suspension without Pay, Greater Than 40 Hours—Covered PS Employee, FAPO
Form 3.31	Suspension Without Pay, 80 Hours or Less—Covered Employee, Non-FAPO
Form 3.32	Suspension without Pay, Greater Than 80 Hours—Covered PS Employee, Non-FAPO
Form 3.33	Suspension—Uncovered Employee

CHAPTER 3

PERSONNEL

3.1 Scope of This Chapter. This Chapter reviews state and federal laws concerning personnel matters. As noted in this Chapter, for certain employment issues, it is particularly important that state agencies and other state employers consult with their assigned counsel or the Employment Law Section of the Attorney General's Office. Chapter 15 discusses discrimination law, particularly as it concerns state employers.

3.2 State Personnel System. Employees who are in the State Personnel System are either "covered employees" or "uncovered employees." The State Personnel Rules, A.A.C. R2-5A-101 to R2-5B-603, apply to these employees. Certain other state employees are governed by other statutes and provisions. For example, employees who are in the Law Enforcement Officers' Merit System are governed by A.R.S. §§ 41-1830.11 to 41-1830.16 and A.A.C. R13-5-101 to R13-5-804. This Chapter discusses the State Personnel System as it pertains to both covered and uncovered employees.

3.2.1 Uncovered Employees. Except as provided in Title 41, Chapter 4, Articles 4 and 5 of the Arizona Revised Statutes, beginning September 29, 2012, all appointments are to at will uncovered positions. A.R.S. § 41-742(A)(1); A.A.C. R2-5A-307(A).

Uncovered employees may be disciplined or terminated at any time without statement of cause and for any reason not prohibited by law. Accordingly, uncovered employees do not have a protected interest in continued employment or a right to appeal disciplinary actions taken against them. An agency may dismiss an uncovered employee simply by notifying the employee that his or her employment is terminated. See Form 3.9.

Because an uncovered employee has no right to know the reasons for his or her dismissal, an agency should not disclose the reasons for the dismissal to the employee, either orally or in writing. Communicating a reason for the dismissal may result in liability for the agency or may entitle the uncovered employee to a hearing. *Bishop v. Wood*, 426 U.S. 341, 346 (1976); *Bd. of Regents v. Roth*, 408 U.S. 564, 576 (1972); see also *Montoya v. Law Enforcement Merit Sys. Council*, 148 Ariz. 108, 110-11, 713 P.2d 309, 311-12 (App. 1985).

3.2.2 Covered Employees. Covered employees may be disciplined or terminated only for cause as outlined in A.R.S. § 41-773, A.A.C. R2-5A-801, and A.A.C. R2-5B-301 to R2-5B-305. See Sections 3.3 to 3.3.5 for further discussion regarding specific discipline that may be imposed on a covered employee.

3.2.3 Original Probationary Employees. New employees hired into covered service are required to serve an original probationary period of one year. A.A.C. R2-5B-202. The probationary period provides an agency with an opportunity to assess an employee's suitability for permanent employment. Covered employees may be terminated at any time during the original probationary period without a statement of cause. Once a covered employee obtains permanent status, however, he or she may be terminated or disciplined only for cause. A.R.S. § 41-773.

If, during the probationary period, an agency head determines that the services of a probationary employee are no longer required for any reason or no reason, the agency head may dismiss the employee without a stated reason, and the probationary employee has no right to appeal that action. A.A.C. R2-5B-202(C)(2)(a). As with an uncovered employee, an agency should not disclose to a probationary employee the reasons for his or her dismissal. See Form 3.8. The agency head may offer the employee another position for which the employee possesses the qualifications. A.A.C. R2-5B-202(C)(2)(b).

An agency head may extend the probationary employee's original probation up to six additional months for employment-related reasons. A.A.C. R2-5B-202(B)(1). An employee's probationary period may exceed 18 months if the employee is granted leave without pay for more than 80 consecutive working hours. A.A.C. R2-5B-202(B)(2).

If, after a supervisor evaluates the employee and the agency head takes no action to extend the employee's probation or separate the employee, the employee will be awarded permanent status. A.A.C. R2-5B-202(C)(1).

3.2.4. Types of Appointment. Regular appointments may be to full-time employment, part-time employment, subject to funding availability, or to a trainee position. A.A.C. R2-5A-307(B)(1).

Temporary appointments may be for a recurring period up to a maximum of 1500 hours in any one position per agency per calendar year. Temporary appointments may be intermittent, on a seasonal basis, or on an as needed basis. A.A.C. R2-5A-307(B)(2). Employees in temporary positions do not have a protected interest in continued employment or a right to appeal disciplinary actions taken against them. An agency should not disclose to the temporary employee the reasons for his or her dismissal. See Forms 3.10-11.

With the concurrence of the employee, the agency head, and the Director of the Department of Administration, an agency head may place an employee on special assignment within the agency for up to six months. A special assignment may not exceed six months unless extended by the Director. Successive assignments of the same person to the same employment class are not allowed. A.A.C. R2-5A-307(B)(3).

3.3 Discipline of Covered Employees. The following discussions cover the most common forms of discipline that apply to covered employees. Discipline may be

imposed as a corrective or a punitive measure in response to an employee's misconduct or deficient job performance. A.R.S. § 41-773. In disciplining employees, the most difficult task is not determining whether to impose discipline, but rather identifying the appropriate type of discipline. While progressive discipline is not legally mandated, progressive sanctions—from warnings to more severe penalties—are usually recommended. Agencies should contact their human resources representative for assistance when contemplating disciplinary action.

3.3.1 Reprimand and Counseling. Reprimand and counseling are the least severe forms of discipline. They provide ways to alert an employee to problems in his or her job performance and to urge corrective action before the problems become more serious. Reprimands may be oral or written. Oral reprimands allow a supervisor to express dissatisfaction with an employee's job performance without leaving a permanent record. A written reprimand documents the supervisor's dissatisfaction with the employee's job performance, and it must be placed in the employee's personnel file. A.A.C. R2-5A-105(C)(2)(e); see also Forms 3.23(a) and (b). Although an oral or a written reprimand is not a prerequisite to imposing more severe disciplinary action, it may avert the need for more severe disciplinary action. A supervisor may also urge corrective action by counseling the employee and following up with a memorandum of concern. See Forms 3.21(a) and (b). Although an employee may not appeal a reprimand or a memorandum of concern to the Arizona State Personnel Board, he or she may submit a grievance in accordance with the procedures in A.A.C. R2-5B-402 and R2-5B-403.

3.3.2 Suspension. When a reprimand is not adequate and dismissal is not warranted, an agency head may discipline an employee for misconduct or deficient job performance by relieving the employee of his or her duties without pay for up to 30 work days during any 12-month period. A.A.C. R2-5B-303(A)-(D). If the misconduct involves improper political activity under A.R.S. § 41-752, however, the agency head must either suspend the employee for not less than 30 work days or dismiss the employee. A.R.S. § 41-752(G).

If a covered employee is suspended without pay for more than 80 hours, the employee has the right to appeal the suspension to the Personnel Board. A.R.S. § 41-783(A). The suspension letter should reflect that right. See Forms 3.31 and 3.32 for examples of suspension letters. If the suspension is for 80 hours or less, the employee may submit a grievance. A.A.C. R2-5B-402(A)(1)(b); see also Form 3.31. In issuing suspensions in increments other than full work weeks (such as an eight-hour suspension) to employees who are salaried and exempt under the Fair Labor Standards Act, 29 U.S.C. §§ 201 to 219, care must be taken to ensure that the suspension complies with the FLSA. In this situation, it is advisable to contact your employment attorney.

3.3.3 Demotion. An agency head may demote (move to a position in another class with a lower pay grade) a covered permanent status employee for cause. A.A.C. R2-5B-304; see also Form 3.3(b). A covered permanent status employee may appeal a

demotion to the Personnel Board. A.A.C. R2-5B-304(C). An employee must be given notice of a demotion prior to the demotion's effective date. *Id.* For the effect of demotion on pay, see A.A.C. R2-5A-402(G). If the employee requests or accepts a demotion, the demotion is voluntary and the employee is not entitled to submit a grievance or to appeal the action. See Section 3.7.2; Forms 3.5(a) and (b); Forms 3.6(a) and (b). Reductions in pay grades based upon legitimate reorganizations, reductions in force, or reclassifications are not demotions.

3.3.4 Dismissal. Permanent status covered employees may be dismissed from state service only for cause pursuant to A.R.S. § 41-773, A.A.C. R2-5A-1002, and A.A.C. R2-5B-305(D). A covered permanent status employee must be given notice of a contemplated dismissal in writing. *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 546 (1985); *Carlson v. Ariz. Personnel Bd.*, 214 Ariz. 426, 430, 153 P.3d 1055, 1059 (App. 2007); A.A.C. R2-5B-305(C). This notice is called a "notice of charges." The notice of charges letter must provide facts and legal grounds supporting the charges, identify the reasons why dismissal is contemplated, and notify the employee that he or she has the opportunity to present a written response to the charges no later than three working days after receiving the notice of charges. See Form 3.22. The agency head may extend this three-day time period in writing. A.A.C. R2-5B-305(C).

The notice of charges should include the following information:

1. A description of the misconduct or deficient performance;
2. The dates that the misconduct or deficient performance occurred;
3. Names of key witnesses, if any;
4. Citations to the statutory subsections, personnel rules, or agency policies violated;
5. A description of the harm or damage resulting from the misconduct or deficient performance; and
6. A statement concerning prior warnings or discipline.

After considering the employee's response, the agency head may decide to take less severe disciplinary action or no disciplinary action. If the agency head decides to take less severe disciplinary action, the agency should provide the employee with a letter that includes the information in the notice of charges (items 1 through 6 above),¹ a statement of the discipline ultimately imposed, and the following:

¹ If the employee's response or additional investigation reveals that certain charges or facts are inaccurate, the disciplinary letter should correct those inaccuracies.

1. A statement describing the corrective action that the employee must take to remedy the misconduct or deficient performance to avoid further discipline;
2. A statement of the consequences of failing to remedy the misconduct or deficient performance; and
3. A warning that any further misconduct or deficient performance may or will lead to additional discipline up to and including dismissal.

If the agency head decides that dismissal is appropriate, the agency must provide the employee with written notice of the decision. The letter should include the information in the notice of charges (items 1 through 6 above). See Form 3.7(b). Dismissal is effective only after the dismissal letter has been served on the employee in accordance with A.A.C. R2-5B-305(E).

3.3.5 Rules for Law Enforcement Officers.

Arizona Revised Statutes Section 38-1101 imposes certain requirements on state agencies that are investigating misconduct by nonprobationary employees who are statutorily defined as “law enforcement officers.” These requirements apply regardless of whether the nonprobationary employee is a covered or an uncovered employee. The statute defines a law enforcement officer as an individual who is either (1) certified by the Arizona Peace Officer Standards and Training Board or (2) a detention or a correction officer. A.R.S. § 38-1101(P)(4).

If an employee meets the statutory definition of law enforcement officer, the agency must provide the employee with written notice before interviewing the employee on a matter that the agency reasonably believes could lead to dismissal, demotion, or suspension. A.R.S. § 38-1101(A)(2). The notice must inform the employee of (1) any known allegations of misconduct, (2) the alleged facts on which the agency is basing the investigation, (3) the nature of the investigation, (4) whether the employee is the subject of the investigation, and (5) the employee’s right to have a representative present at the interview. *Id.*

The employee then has the right to request that a representative be present at the interview to act as an observer. A.R.S. § 38-1101(A)(1). The representative must be an employee of the same agency, or, if one is not reasonably available, a representative from the employee’s professional membership organization. *Id.* The agency should give the employee reasonable notice prior to the interview to ensure that the employee’s representative is available. *Id.* The representative cannot be an attorney unless the agency agrees that he or she can be and cannot verbally participate in the interview, but can be present only as an observer. *Id.* During the interview, the employee has the right to take short, reasonable breaks to consult in person or telephonically with an attorney or other representative. *Id.*

The Legislature has also enacted A.R.S. § 38-1104, which states that law enforcement officers “shall not be subject to disciplinary action except for just cause.” A.R.S. § 38-1104(A). It requires an agency to establish that the law enforcement officer had reasonable knowledge that the actions at issue constituted misconduct for which discipline could be imposed, A.R.S. § 38-1104(I)(3)(a), and that a preponderance of evidence supports the discipline, A.R.S. § 38-1104(I)(3)(c). Furthermore, the discipline must not be excessive and must be reasonably related to the seriousness of the offense and the officer’s service record. A.R.S. § 38-1104(I)(3)(d). However, an agency does not have to establish just cause to discipline law enforcement officers who are probationary employees, A.R.S. § 38-1104(B), or who are uncovered employees, A.A.C. R2-5A-801(A).

See Forms 3.3(a), 3.7(a), 3.22, 3.29, and 3.30 for examples of letters that can be used when disciplining full authority peace officers.

3.4 Appeal from Disciplinary Action. Permanent status covered employees, who are not full authority peace officers, may appeal a suspension without pay for more than 80 working hours, a demotion, or a dismissal. A.R.S. § 41-783(A). The appeal must be filed with the Personnel Board no later than ten working days after the action’s effective date. *Id.* An agency should be prepared to obtain the information and witnesses necessary to establish the basis for the disciplinary action. If an appeal is filed, the agency should immediately notify its employment counsel.

3.4.1 Appeals Involving Law Enforcement Officers. Covered employees who are permanent status full authority peace officers may appeal a suspension without pay for more than 40 working hours, a demotion, or a dismissal. A.R.S. § 41-1830.16(B). These appeals are made to the Law Enforcement System Council, not the Personnel Board.

Arizona Revised Statutes Section 38-1101 imposes additional requirements in disciplinary appeals involving state employees who qualify as law enforcement officers. At any time after these employees file an appeal, they are entitled to request in writing a copy of the complete investigative file related to their discipline. The agency must provide the investigative file and the names and home or work mailing addresses of all persons interviewed during the course of the investigation to the employee within three business days of receiving the written request. A.R.S. § 38-1101(E)(1). These employees are also entitled, no later than ten days prior to their appeal hearings, to an exchange of copies of the documents that will be used at the hearing and that have not already been exchanged, the names and contact information of persons who have given statements, and the names of the witnesses who will appear at the appeal hearing and the subject matter of their testimony. A.R.S. § 38-1101(E)(2). The statute also imposes additional requirements in the appeal process that are not required for state employees who are not law enforcement officers.

3.4.2 Employee’s Disclosure of Information (“Whistleblowing”). Whistleblower law constantly changes due to legislative rewriting and judicial

interpretation. Agencies should therefore consult with counsel before taking disciplinary action against any employee who the agency believes may claim to be a whistleblower.

An employee who has control over personnel actions may not take disciplinary action against another employee for disclosing to a “public body” information involving a matter of public concern that the disclosing employee reasonably believes evidences either a violation of the law or mismanagement, a gross waste of monies, or an abuse of authority. A.R.S. § 38-532(A). The term “public body” includes “the attorney general, the legislature, the governor, a federal, state or local law enforcement agency, the county attorney, the governing board of a community college district or school district, the board of supervisors of a county or an agency director.” A.R.S. § 38-531(5).

Arizona Revised Statutes § 38-532(B) requires an employee’s disclosure to a public body alleging a violation of law, mismanagement, gross waste of monies, or abuse of authority to be in writing and to contain the following information:

1. The date of the disclosure;
2. The name of the employee making the disclosure;
3. The nature of the alleged mismanagement, violation of law, gross waste of monies, or abuse of authority; and
4. If possible, the date or range of dates on which the alleged violation of law, mismanagement, gross waste of monies, or abuse of authority occurred.

An employer must provide an employee with a copy of A.R.S. § 38-532 (prohibited personnel practice relating to disclosure of information by public employees) upon request or any time that an employee alleges that disciplinary action has been taken against him or her for disclosing information. A.R.S. § 38-532(G). Any employee who believes that disciplinary action has been taken against him or her for disclosing information may file a complaint with the Personnel Board. A.R.S. § 38-532(H). The complaint must be filed within ten days of the disciplinary action’s effective date. *Id.*

The Personnel Board must determine the validity of the complaint and whether the disciplinary action was taken as a result of the employee’s disclosure. *Id.* An employee does not commit a prohibited personnel practice if he or she takes disciplinary action against an employee for disclosing information in a manner prohibited by law or for disclosing information prescribed as confidential by law. A.R.S. § 38-532(E). The complaining employee, the employee alleged to have committed the prohibited personnel practice, and the employer may be represented by counsel during the hearing. A.R.S. § 38-532(J).

If the Personnel Board determines that the employee’s complaint is valid and that the disciplinary action was taken as a result of the disclosure, it must rescind the

disciplinary action and order that all lost pay and benefits be returned to the employee. A.R.S. § 38-532(I). The employee may also recover attorney's fees, costs, back pay, and general and special damages. A.R.S. § 38-532(D). The Personnel Board must also order the employee who committed the prohibited personnel practice to pay a civil penalty of up to ten thousand dollars, and the employer must take appropriate disciplinary action against the employee who committed the prohibited personnel practice. A.R.S. § 38-532(C). The complaining employee, the employee alleged to have committed the prohibited personnel practice, and the employer may appeal the Personnel Board's decision to the superior court. A.R.S. § 38-532(I).

The Arizona Court of Appeals has ruled that the administrative procedure described above is not mandatory and that an employee may file a complaint in Superior Court without first seeking a hearing before the Personnel Board. *Walters v. Maricopa County*, 195 Ariz. 476, 481, 990 P.2d 677, 682 (App. 1999). The Court of Appeals has also ruled that a nonclassified employee may bring a whistleblower complaint pursuant to A.R.S. § 23-1501. Under that statute, an employee may file a complaint against an employer for dismissing him or her in retaliation for making an oral or written disclosure to

either the employer or a representative of the employer who the employee reasonably believes is in a managerial or supervisory position and has the authority to investigate the information . . . and to take action to prevent further violations of the [law] or an employee of a public body or political subdivision of this state or any agency of a public body or political subdivision.

A.R.S. § 23-1501(3)(c)(ii) (emphasis added).

But in *Mullenau v. Graham County*, 207 Ariz. 1, 82 P.3d 362 (App. 2004), the court of appeals stated that a classified employee's failure to exhaust the administrative remedies that the county's grievance procedures provided made his action for wrongful discharge and breach of contract premature. The court rejected the employee's argument that the county's exhaustion statute was permissive rather than mandatory. *Id.* at 4-5, 82 P.3d at 365-66. It also rejected the employee's claim that A.R.S. § 23-1501 or A.R.S. § 38-532 provided an independent statutory ground for his wrongful discharge claim. *Id.* at 6-7, 82 P.3d at 367-68. It acknowledged that A.R.S. §§ 23-1501 (which provides public or private employees with a cause of action for termination against their employers under certain circumstances) and 38-532 (which provides public employees with a cause of action for termination against their employers under certain circumstances) appeared to be inconsistent with the county's exhaustion statute because they provided for direct causes of action in superior court. *Id.* at 6, 82 P.3d at 367. It harmonized all of the statutes by holding that employees must exhaust their administrative remedies under the county's exhaustion statute but that they can then file an action in superior court under A.R.S. § 23-1501 or A.R.S. § 38-532 and assert any

claims that the administrative process did not completely resolve or preclude. *Id.* at 7, 82 P.3d at 368.

3.5 Employee Grievances. Each agency that has one or more covered employees shall adopt a grievance procedure which will afford each covered employee a systematic means of resolving disagreement with the receipt of a disciplinary action that is either a written reprimand, or a suspension of 40 working hours or less if the employee is a full authority peace officer or 80 working hours or less if the employee is a covered employee in any other capacity. A.A.C. R2-5B-402(A). The grievance procedure established in each state agency shall include, as a minimum, the requirements, provisions, and statements set forth in A.A.C. R2-5B-403.

Each agency shall designate an employee of the agency to serve as the agency's grievance coordinator, who shall be responsible for receiving grievances, determining applicability under the grievance system, forwarding the grievance to the appropriate individual within the agency for review or investigation, and tracking the processing of grievances. A.A.C. R2-5B-402(A).

The adopted grievance procedure shall not apply to any matter for which another method of review is provided, including but not limited to retirement, life insurance or health insurance; any classification action; any recruitment, selection, or appointment; any compensation action; for a complaint alleging discrimination or harassment; or for any reduction in force action. A.A.C. R2-5B-402(B). An employee may also not submit a grievance for a disciplinary action that is either a suspension of more than 40 working hours if the employee is a full authority peace officer or for more than 80 working hours if the employee is a covered employee in any other capacity; or for a demotion, or a dismissal. *Id.*

An employee also may not submit a grievance challenging the management rights of an agency head to direct agency employees; to hire, promote, transfer, assign, and retain employees; or to maintain efficiency of government operations and to determine the methods, means, and personnel by which these operations are to be conducted. A.A.C. R2-5B-402(C). An employee may file a charge of discrimination with the Arizona Civil Rights Division of the Attorney General's Office or the Equal Employment Opportunity Commission at any time.

A grievant shall not be allowed the use of state time or state property to prepare a grievance, prepare for a meeting with agency management, or to meet with a representative. Subject to supervisory approval, a grievant may request available compensatory or annual leave for this purpose. A.A.C. R2-5B-402(D).

An agency's grievance procedure shall have two steps for review. As determined by the agency head, the first step in the grievance procedure shall be the employee's second line supervisor, the assistant director or equivalent, or any level of management between the employee's second line supervisor and the assistant director or equivalent. The final step in the grievance procedure shall be the agency head, or

designee. An agency head may choose to incorporate an additional step in the agency grievance procedure after the first step review. A.A.C. R2-5B-402(E).

Once a grievance is submitted to the first step, it may not be amended. A.A.C. R2-5B-402(F). If additional documentation is submitted by the grievant after the initiation of the grievance, the reviewing official may remand the grievance to the appropriate previous level for reconsideration. *Id.*

Each agency head will submit the agency's proposed grievance procedure and any subsequent changes to the Director for approval. A.A.C. R2-5B-402(G).

3.6 Agency Actions Affecting Employees.

3.6.1 Promotional Probation. A permanent status employee who is promoted to a position in covered service must serve a promotional probationary period of six months. A.A.C. R2-5B-203(A). If an employee fails to successfully complete the promotional probationary period, the agency head may either revert the employee to a vacant position in the class in which the employee held permanent status immediately before promotion or offer the employee a similar position in another class at the same grade as the class in which the employee holds permanent status if the employee possesses the qualifications for that position. A.A.C. R2-5B-203(C)(2).

Reversion to a former position or another position for failure to complete the promotional probationary period is not an appealable disciplinary action. A.A.C. R2-5B-203(E); see Form 3.28. However, neither reversion to a former class nor to another position precludes the imposition of disciplinary action. A.A.C. R2-5B-203(D).

3.6.2 Reorganization and Reduction in Force. An agency may reduce its work force when a lack of funds or work, the abolition of a covered position, a material change in duties or organization, or introduction of a cost reduction initiative requires. A.A.C. R2-5B-602(A)(1). The agency head must submit an agency proposal for a reduction in force to the Director of the Department of Administration at least thirty days prior to the effective date of the proposed reduction in force. A.A.C. R2-5B-602(A)(2).

In administering a reduction in force, an agency must first separate temporary, original probationary, and limited appointment employees before taking any reduction in force action affecting permanent status employees. A.A.C. R2-5B-602(B)(1). The agency must then determine the order in which to retain, transfer, reduce, or separate permanent status employees as part of a reduction in force by assigning retention points to employees based on performance. A.A.C. R2-5B-602(B)(2)-(3) and R2-5B-602(C). Employees on promotional probation or special assignment shall compete for retention only in the class in which they hold permanent status. A.A.C. R2-5B-602(B)(4). Employees in an underfill position shall compete for retention in their permanent class status. A.A.C. R2-5B-602(B)(5). Permanent part-time employees shall compete for retention only against other permanent part-time employees who are in the same class. A.A.C. R2-5B-602(B)(6).

The agency must give written notice at least five working days in advance to each employee to be transferred, reduced, or separated as part of a reduction in force unless circumstances beyond its control prevent it from doing so. A.A.C. R2-5B-602(E)(1). Within three working days of receiving the notice, unless a longer period of time is authorized, an employee may request a review of the procedure that resulted in the employee's transfer, reduction, or separation due to a reduction in force. A.A.C. R2-5B-603(B). The request for review must be based on error and must contain specific information supporting the alleged error and a proposed resolution. *Id.* The agency head must review the request and respond to the employee within five working days of receiving the request. A.A.C. R2-5B-603(C)

A reclassification to a lower grade as part of an improper reorganization constitutes a demotion that may be appealed to the State Personnel Board. *Rolfe v. State ex rel. Huerta*, 131 Ariz. 592, 594, 643 P.2d 505, 507 (App. 1982).

3.7 Employee Options.

3.7.1 Voluntary Resignation and Resignation in Lieu of Dismissal. An employee may resign from state service by submitting a written resignation to the agency head at least ten working days prior to the resignation's effective date. A.A.C. R2-5A-1001(A); see also Form 3.24. If the agency intends to accept the resignation, the agency head should immediately do so in writing. See Form 3.25.

If an employee resigns orally, and the agency intends to accept the resignation, the agency head should immediately confirm the resignation in writing. A.A.C. R2-5A-1001(A). An agency head may refuse to accept a written or an oral resignation and may instead dismiss the employee pursuant to A.A.C. R2-5A-1002. A.A.C. R2-5A-1001(A).

When an employee is compelled to choose between immediate resignation and dismissal, a resulting resignation may be found to have been involuntary if the employee was not informed that he or she had the right to appeal a dismissal to the Board and that resignation waives this right. *Arizona Dep't of Econ. Sec. v. Redlon*, 215 Ariz. 13, 20, 156 P.3d 430, 437 (App. 2007). In such a case, the Personnel Board properly accepts jurisdiction to hear such claims. *Id.* Therefore, if an employee attempts to resign (1) while facing any pending disciplinary action that the Personnel Board could hear or (2) while he or she is a party to a lawsuit connected with a disciplinary action, the agency should consult with legal counsel before acting on the request to resign.

3.7.2 Change from Covered to Uncovered Service

Subject to the approval of the agency head and the Director of the Department of Administration, a covered employee may voluntarily elect to become an at will uncovered employee without a change in assignment. A.A.C. R2-5B-205(A).

A covered employee who voluntarily accepts a change in assignment to an uncovered position, regardless of whether the voluntary change is a promotion, demotion, or lateral transfer, is an at will uncovered employee. A.A.C. R2-5B-205(B); see also Forms 3.5(b) and 3.16(b). A covered employee who has a break in service and returns to employment in a state agency in the State Personnel System shall be an at will uncovered employee, unless the appointment is to a covered position. A.A.C. R2-5B-205(C).

3.8 Leave.

3.8.1 Holidays. State service holidays are listed in A.A.C. R2-5A-B601(A). An employee who is regularly scheduled to work on a day on which a state holiday falls is entitled to be absent with pay for the number of hours regularly scheduled to work unless required to work to maintain essential state services. A.A.C. R2-5A-B601(B). An employee who is not scheduled to work on a day on which a state holiday falls shall receive holiday compensation for the number of hours normally worked per day, unless the employee is on leave without pay on the employee's work days immediately preceding or following the state holiday. A.A.C. R2-5A-B601(C). An employee who is required to work on a state holiday shall receive both holiday compensation and one hour of pay for each hour worked if the employee is either FLSA non-exempt or exempt from FLSA and either engaged in law enforcement activities, engaged in firefighting activities, or a full authority peace officer in covered service. A.A.C. R2-5A-B601(D).

3.8.2 Annual Leave. Annual leave is a broad category of leave that includes all periods of approved absence from work with pay that are not chargeable to another category of leave. A.A.C. R2-5A-B602(A)(1). An employee may take annual leave at any time that the agency head approves. A.A.C. R2-5A-B602(E)(1). An agency should reasonably permit an employee to use accrued annual leave during the course of the calendar year. If an agency disapproves an employee's taking annual leave on the ground that the agency's ability to function would be adversely affected by the leave (e.g., when it would leave an insufficient number of employees to provide service), the agency should arrange with the employee an alternative time for use of the leave.

3.8.3 Sick Leave. Sick leave includes any approved period of absence from work with pay due to any of the following:

1. Illness or injury which renders the employee unable to perform the duties of the position;
2. Disability caused by pregnancy, childbirth, miscarriage, or abortion;
3. Examination or treatment by a licensed health care practitioner;
4. Illness, injury, examination, or treatment by a licensed health care practitioner of an employee's spouse, dependent child, or parent. Sick

leave granted for this purpose shall not exceed forty hours per calendar year.

A.A.C. R2-5A-B603(A).

Sick leave may be taken when approved by the agency head. A.A.C. R2-5A-B603(D)(1). The agency may require the employee to submit evidence substantiating the need for sick leave. A.A.C. R2-5A-B603(D)(2); see also Form 3.18. If the agency determines that the evidence is inadequate, the absence must be charged to another category of leave or be considered an absence without leave. A.A.C. R2-5A-B603(D)(2). Abuse of sick leave is a basis for disciplinary action.

Under some circumstances, an agency head may require an employee to submit to a medical examination by a licensed health care practitioner whom the agency designates. A.A.C. R2-5A-B603(D)(3); see also Forms 3.19 and 3.20. This is commonly known as a fitness-for-duty examination. The agency pays for the examination, and the employee is not charged leave for time spent traveling to or from or participating in the examination. A.A.C. R2-5A-B603(D)(3)(c). If the practitioner determines that the employee should not work, the agency head may place the employee on sick leave or, if the employee's sick leave is exhausted, charge the absence to another category or leave without pay. A.A.C. R2-5A-B603(D)(3)(a). The agency may require the practitioner's approval before the employee is permitted to return to work. A.A.C. R2-5A-B603(D)(3)(b). Requiring an employee to submit to a medical examination should be considered very carefully. Determining what, if any, action should be taken following the practitioner's assessment likewise requires serious consideration. If possible, the situation should be discussed with the agency's human resources representative or with employment counsel.

If the employee is a law enforcement officer, the referral to a fitness for duty examination must also include the reasons the employee has demonstrated he or she is not able to perform essential job functions, as well as the date, location, time, conditions, and scope of the examination. A.R.S. § 38-1109. The notice must be provided at least ten days in advance of the fitness for duty examination. *Id.* The examination report must be provided to the employee. A.R.S. § 38-1109(C) and (D). The employee then has twenty days to provide an independent medical examination. A.R.S. § 38-1109(D).

3.8.4 Compensatory Leave and Overtime Pay. Compensatory leave is leave that has been earned by an employee under the provisions of A.A.C. R2-5A-404. The Director of the Department of Administration determines which positions are entitled to compensatory leave or overtime pay in accordance with the Fair Labor Standards Act (FLSA), 29 U.S.C. §§ 201 to 219. An employee covered by the FLSA must be compensated for overtime work by either additional pay at the rate of 1 ½ times the employee's regular rate for each excess hour worked or compensatory leave at the rate of 1 ½ hours for each excess hour worked. A.A.C. R2-5A-404(C)(1).

An employee must select either overtime pay or compensatory leave for overtime compensation. A.A.C. R2-5A-404(C)(2). Most agencies require employees to sign a form at the time they are hired, indicating whether they will accept compensatory leave in lieu of overtime pay. Employees may change their decision. If an employee agrees to accept either overtime pay or compensatory leave, the agency head determines whether to compensate the employee for excess hours with overtime pay or compensatory leave unless the employee's compensatory leave balance has reached the maximum allowed in A.A.C. R2-5A-404(E), in which case the agency head must compensate the employee with overtime pay. A.A.C. R2-5A-404(C)(2).

The agency head must approve an employee's request for compensatory time off within a reasonable time after the employee makes the request unless it would unduly disrupt agency operations. A.A.C. R2-5A-B607(B)(1). The agency head may require an employee to use the employee's available compensatory leave during a specific period. A.A.C. R2-5A-B607(B)(2).

Covered employees who are FLSA exempt and either engaged in law enforcement activities, engaged in firefighting activities, or a full authority peace officer, as certified by the Arizona Peace Officer Standards and Training Board and in a position that requires such certification, may receive for each hour of overtime worked, either one hour of additional pay or one hour of compensatory leave at the discretion of the agency head. A.A.C. R2-5A-404(D)(2). If an employee receives compensatory leave, once the employee's compensatory leave balance has reached the maximum allowed in A.A.C. R2-5A-404(E), the agency must compensate the employee with overtime pay at the regular pay rate. A.A.C. R2-5A-404(D)(3).

An agency may pay an employee who transfers to another agency for all unused compensatory time or transfer part or all of the compensatory leave of the employee with the gaining agency's concurrence. A.A.C. R2-5A-B607(D)(1). If the employee has a change in employment status or position that makes the employee ineligible to earn compensatory time, the losing agency must pay the employee for all unused compensatory leave at the rate of pay immediately before the change. A.A.C. R2-5A-B607(D)(2).

Upon separation, any accumulated compensatory leave is paid as provided in A.A.C. R2-5A-B607(E).

3.8.5 Industrial Leave. An agency must place an employee who sustains a job-related disability that is compensable under the Workers' Compensation Law, A.R.S. §§ 23-901 to -1104, on sick leave. A.A.C. R2-5A-D602(A)(1). If the employee exhausts all sick leave, compensatory leave, and annual leave, the agency must place the employee on leave without pay. A.A.C. R2-5A-D602(A)(4). If the employee is on leave under the Workers' Compensation laws and that leave qualifies for Family and Medical Leave Act (FMLA) leave, an agency must count the leave as FMLA leave. A.A.C. R2-5A-D602(A)(2). An agency must apply industrial and FMLA leave concurrently. *Id.*

3.8.6 Leave under the Family and Medical Leave Act. Under the Family and Medical Leave Act (FMLA), an employee may take up to twelve weeks of leave for the following: the birth of a child and caring for the child within one year of birth; the placement of a child for adoption or foster care and caring for the newly placed child within one year of placement; caring for a spouse, child or parent with a “serious health condition”; “a serious health condition” that makes the employee unable to work; or any qualifying exigency arising out of the fact that the employee’s spouse, child or parent is a covered military member on active duty or call to active duty status in support of a contingency operation. A.A.C. R2-5A-D601(D)(1). However, the employee must use available paid leave while on FMLA leave in the order enumerated in A.A.C. R2-5A-D601(F).

Under the FMLA, an employee who is the spouse, son, daughter, parent, or next of kin of a covered service member may take up to 26 work weeks of leave during a single twelve-month period to care for a service member who has a serious injury or illness. A.A.C. R2-5A-D601(D)(2).

A husband and wife who are both state employees are limited in the amount of FMLA leave to a combined total of 12 weeks of leave for the birth and care of a child, placement of a child for adoption or foster care, or to care for a parent with a serious health condition. A.A.C. R2-5A-D601(D)(4). A husband and wife who are both state employees are limited to a combined total of 26 workweeks of leave to care for a covered service member with serious illness or injury. *Id.*

An employee who takes leave covered by the FMLA does not have to specifically request FMLA leave to be placed on FMLA leave if the employee has not already exhausted FMLA leave. A.A.C. 5A-D601(E).

An employee who takes FMLA leave is generally entitled to return to a position that is the same as or is equivalent to the position that he or she held before taking the leave. *Guo v. Maricopa County Med. Ctr.*, 196 Ariz. 11, 18, 992 P.2d 11, 18 (App. 1999) (citing 29 U.S.C.A. § 2614(a)(1)). The provisions of FMLA, not the provisions of A.A.C. R2-5A-C602(C) (leave without pay) shall govern return to work from leave without pay granted to complete a FMLA-qualified leave. A.A.C. R2-5A-D601(H); see also Form 3.12.

3.8.7 Other Leave. Other categories of leave with pay include Administrative Leave (A.A.C. R2-5A-B604), Bereavement Leave (A.A.C. R2-5A-B605), Civic Duty Leave (A.A.C. R2-5A-B606), Educational Leave (A.A.C. R2-5A-B608), Living Donor Leave (A.A.C. R2-5A-B609), National Disaster Medical System Training Leave (A.A.C. R2-5A-B610), Meritorious Leave (A.A.C. R2-5A-B611), Military Leave (A.A.C. R2-5A-D603), and Victim Leave (A.A.C. R2-5A-D604).

3.8.8 Leave Without Pay. Leave without pay must be requested in writing in advance, including the reason for the employee’s request, and be approved by the

agency head. A.A.C. R2-5A-C602(A). Except for military leave, an agency head shall not grant leave without pay in excess of 80 consecutive hours until all annual leave earned for working on day on which a state holiday is observed, all accrued annual leave and, if the leave without pay is for medical reasons, sick leave are exhausted. A.A.C. R2-5A-C602(B).

“An employee who returns to work after a period of leave without pay of 80 consecutive hours or less shall [be] return[ed] to the same position occupied at the start of the leave without pay.” A.A.C. R2-5A-C602(C)(1). Except as provided in subsection (C)(4), an employee who returns to work after a period of leave without pay in excess of 80 consecutive hours may return to a position in the class held at the start of the leave without pay, if a position is available and funded, and if the leave without pay is terminated in accordance with A.A.C. R2-5A-C602(C)(2)(a), (b), or (c). An employee returning to work from leave without pay granted for industrial illness or injury for up to six months shall return to the position occupied at the start of the leave without pay. If this position or a position in the same class is not available and funded, the agency head shall conduct a layoff or, if the employee is covered, a reduction in force in accordance with Subchapter B of Title 2, Chapter 5 of the Arizona Administrative Code. A.A.C. R2-5A-C602(C)(4)(a). An employee returning to work from leave without pay granted as military leave is subject to the provisions of the USERRA regulations incorporated by reference in A.A.C. R2-5A-D603. A.A.C. R2-5A-C602(C)(4)(b). An employee returning to work from leave without pay granted as FMLA leave is subject to the provisions of the FMLA regulations incorporated by reference in A.A.C. R2-5A-D601. A.A.C. R2-5A-C602(C)(4)(c).

If an employee fails to return to work on the first day after the approved period of leave, the agency may consider the employee's failure to return a resignation. A.A.C. R2-5A-C602(C)(3); see Forms 3.14(a) and (b). The agency should contact its human resources representative or employment counsel with any questions, particularly if the employee is unable to return for medical or disability reasons. The agency must consider whether the FMLA or the Americans with Disabilities Act (ADA), 42 U.S.C. §§ 12101 to 12213, applies when deciding what action to take following an employee's failure to return to work on the first day after the approved period of leave without pay.

3.9 Conditions of Employment.

3.9.1 Standards of Conduct. All employees are required to know and to comply with the standards of conduct set forth in A.A.C. R2-5A-501. Violations of the standards of conduct constitute cause for discipline, including dismissal. A.A.C. R2-5A-501(C). Employees are required, for example, to maintain high standards of honesty, integrity, and impartiality and to be courteous and prompt in interactions with and serving the public and other employees. In addition, state employees must conduct themselves in a manner that will not bring discredit or embarrassment to the state. A.A.C. R2-5A-501(A). Employees must also comply with federal and state laws and rules and agency policies and directives. *Id.*

The standards of conduct also contain a gratuity policy that prohibits state service employees from

[a]ccept[ing] or solicit[ing], directly or indirectly, anything of economic value as a gift, gratuity, favor, entertainment, or loan that is, or may appear to be, designed to influence the employee's official conduct. This provision shall not prohibit acceptance by an employee of food, refreshments, or unsolicited advertising or promotional material of nominal value.

A.A.C. R2-5A-501(B)(4).

The standards of conduct also prohibit any employee from taking any disciplinary action against another employee that impedes or interferes with that employee's exercise of any right granted under the law or the personnel system rules. A.A.C. R2-5A-501(B)(7). Any employee found to have acted in reprisal toward another employee for that employee's exercise of his or her rights may be disciplined in accordance with A.A.C. R2-5A-801 through R2-5A-803 or Subchapter B of Title 2, Chapter 5, Article 3 of the Arizona Administrative Code. See A.A.C. R2-5A-501(C).

3.9.2 Conflict of Interest. All employees are required to know the conflict-of-interest laws set forth in A.R.S. §§ 38-501 through -511. The conflict-of-interest laws apply to all public officers and employees (full- or part-time) of incorporated cities or towns, political subdivisions (including all school districts), the State, and any of the State's departments, commissions, agencies, bodies, or boards. A.R.S. §§ 38-501 and 38-502(2) and (5). The purpose of the conflict-of-interest laws is to protect the public from self-dealing by public employees. *Maucher v. City of Eloy*, 145 Ariz. 335, 338, 701 P.2d 593, 596 (App. 1985). For example, school district employees are required to engage in public competitive bidding in making purchases regardless of the cost involved or the source of funding. Op. Att'y Gen. 106-002 at 1.

Any public officer or employee who has, or whose relative has, a substantial interest in any contract, sale, purchase, or service to a public agency or in any decision of a public agency, must make that interest known in the public agency's official records and is prohibited from participating in any manner in any contract, sale, purchase, or decision. A.R.S. § 38-503(A) and (B). The officer or employee must make the interest known by signing and filing a paper that fully discloses the substantial interest(s) or by filing a copy of the public agency's official minutes that fully discloses the substantial interest(s). A.R.S. § 38-502(3). "Substantial interest" means any pecuniary or proprietary interest, either direct or indirect, other than a remote interest." A.R.S. § 38-502(11). The prohibition includes participating in any discussions, study groups, or decisions where an actual or potential conflict is present. Op. Att'y Gen. 103-005 at 1-2. If a conflict is not disclosed, any affected contract is voidable. See A.R.S. § 38-506(A).

Employees are prohibited from representing another person before an agency that currently employs them or that employed them within the preceding twelve months on any matter in which employees personally participated by a substantial and material exercise of discretion. A.R.S. § 38-504(A). Employees are also prohibited from disclosing or using for personal profit any confidential information acquired in the course of official duties during their employment and for two years thereafter. A.R.S. § 38-504(B). Employees are also prohibited from using or attempting to use their positions for personal gain, A.R.S. § 38-504(C), and from receiving direct or indirect compensation other than as provided by law for any service rendered in any matter pending before the agency that employs the employee, A.R.S. § 38-505(A). Penalties for violating any of the conflict-of-interest laws include forfeiture of public employment and possible prosecution. A.R.S. § 38-510(A) and (B).

See Chapter 8 for a more detailed review of conflict-of-interest law or contact legal counsel if there are additional questions.

3.9.3 Restricted Political Activity. Arizona Revised Statutes Section 41-752 limits both covered and uncovered employees' participation in political activities unless exempted under A.R.S. § 41-742. A.R.S. § 41-752 provides that state employees, State Personnel Board members and Law Enforcement Merit System Council members may not

1. Be a "member of any national, state or local committee of a political party;"
2. Be "an officer or chairman of a committee of a partisan political club;"
3. Be "a candidate for nomination or election to any paid public office;"²
4. "[H]old any paid, elective public office" (one for which compensation is provided regardless of whether the compensation is accepted);
5. "[T]ake any part in the management or affairs of any political party;" or
6. "[Take any part] in the management of any partisan or nonpartisan campaign or recall effort."

Arizona Revised Statutes Section 41-752 further provides that employees may not "[u]se any political endorsement in connection with any appointment to a position in the state service" or "[u]se or promise to use any official authority or influence for the purpose of influencing the vote or political action of any person or for any consideration." A.R.S. § 41-752(B).

² The provisions of A.R.S. § 41-752 do not apply "to school board elections or community college district governing board elections, and an employee may serve as a member of the governing board of a common or high school district or as a member of a community college district governing board." A.R.S. § 41-752(F).

However, one does not become a “candidate” under A.R.S. § 41-752(C) until nomination papers are filed. A.R.S. § 16-311. Up to the point of filing, an employee may take other preliminary steps such as filing petitions or forming campaign committees without resigning his or her position.

None of the A.R.S. § 41-752 restrictions on political activity, however, are to “be construed as denying any employee or board member his civil or political liberties as guaranteed by the United States and Arizona Constitutions.” A.R.S. § 41-752(J). Thus, employees are permitted to wear buttons, to place bumper stickers on their personal vehicles, and to participate in initiative, referendum, and other ballot measure campaigns without restriction. See Ariz. Att’y Gen. Ops. I90-054 at 4-5, I87-028 at 2-3.

Employees are further permitted to do the following:

1. Express opinions.
2. Attend meetings for the purpose of becoming informed concerning the candidates for public office and the political issues.
3. Cast votes and sign nomination or recall petitions.
4. Make contributions to candidates, political parties, or campaign committees contributing to candidates or advocating the election or defeat of candidates.
5. Circulate candidate nomination petitions or recall petitions.
6. Engage in activities to advocate the election or defeat of any candidate.
7. Solicit or encourage contributions to be made directly to candidates or campaign committees contributing to candidates or advocating the election or defeat of candidates.

A.R.S. § 41-752(C). However, with the exception of expressing opinions or being absent from work for the purpose of voting pursuant to A.R.S. § 16-402, employees may not engage in permissible political activities “while on duty, while in uniform, or at public expense.” A.R.S. § 41-752(A).

Section 41-752 prohibits any person from soliciting employees to engage or not to engage in permitted activities “with the direct or indirect use of any threat, intimidation or coercion including threats of discrimination, reprisal, force or any other adverse consequence including the loss of any benefit, reward, promotion, advancement or compensation.” A.R.S. § 41-752(D). It also prohibits any person from subjecting employees who engage in or who choose not to engage in permitted activity “to any

direct or indirect discrimination, reprisal, force, coercion, intimidation or any other adverse consequence.” A.R.S. § 41-752(D).

An employee who engages in restricted political activity is subject to suspension of not less than 30 days or dismissal. A.R.S. § 41-752(G). An employee who violates A.R.S. § 41-752(D) is guilty of a class 6 felony. A.R.S. § 41-752(H)(1). An employee who violates any other provision of A.R.S. § 41-752 is guilty of a class 1 misdemeanor. A.R.S. § 41-752(H)(2). In addition to any other penalty, any person soliciting or encouraging a contribution in a manner that A.R.S. § 41-752 prohibits is subject to a civil penalty of up to three times the amount of the contribution plus costs, expenses, and reasonable attorney fees. A.R.S. § 41-772(I).

When interpreting A.R.S. § 41-752, one must construe its provisions in accordance with its underlying policy. It specifically provides as follows:

It is the public policy of this state, reflected in this section, that government programs be administered in an unbiased manner and without favoritism for or against any political party or group or any member in order to promote public confidence in government, governmental integrity and the efficient delivery of governmental services and to ensure that all employees are free from any express or implied requirement or any political or other pressure of any kind to engage or not engage in any activity permitted by this section.

A.R.S. § 41-772(K).

A.R.S. § 41-752 restrictions on political activity do not apply to the following:

1. An elected state officer. An elected state officer means only elected officials and does not include the employees of elected state officers unless expressly provided.
2. Members of boards and commissions who are appointed by the Legislature or the Governor, board members appointed pursuant to Section 41-619.52 unless otherwise prescribed by law, employees of the Arizona Legislative Council, employees appointed or employed by the Legislature, any legislative agency or either house of the Legislature and employees of the Arizona Supreme Court and the Court of Appeals.
3. The Arizona Board of Regents, officers or employees of state universities and personnel of the Arizona State Schools for the Deaf and the Blind.
4. Patients or inmates employed in state institutions.

5. Officers and enlisted personnel of the National Guard of Arizona and employees of the Department of Emergency and Military Affairs who occupy Arizona National Guard positions identified as mobilization assets.
6. The Cotton Research and Protection Council.
7. The Department of Public Safety.
8. The Arizona Peace Officer Standards and Training Board.

A.R.S. § 41-742(D).

Provisions of A.R.S. § 41-742 regarding open competition for state positions and the political affiliation of candidates do not apply to the following:

1. Employees of the Governor's office.
2. Employees of offices of elected officials who either:
 - (a) Report directly to the elected official.
 - (b) Head a primary component or report directly to the head of a primary component of the office of the elected official.
 - (c) As a primary duty, determine or publicly advocate substantive program policy for the office of the elected official.
3. The state agency head and each deputy director, or equivalent, of each state agency and employees of the state agency who report directly to either the state agency head or deputy director.
4. Each assistant director, or equivalent, of each state agency and employees in the state agency who report directly to an assistant director.
5. Attorneys in the Office of the Attorney General.
6. Employees in investment related positions in the State Retirement System or plans established by Title 38, Chapter 5, Article 2, 3, 4 or 6.

A.R.S. § 41-742(F).

Finally, any of the provisions of Title 41, Chapter 4, Article 4 (A.R.S. §41-741 et seq.) which conflict with provisions of federal law governing federally funded state positions are superseded by the federal law. See 5 U.S.C. § 7324. Supervisors and

managers who administer programs subject to these restrictions should inform the affected employees. A.R.S. § 41-744.

3.9.4 Employment of Relatives. Employment of relatives is restricted in accordance with A.R.S. § 38-481 and A.A.C. R2-5A-305. State, county, and city officials are prohibited from appointing or voting for the appointment of a relative to any clerkship, office, position, employment, or duty in any department of the state, district, county, city, or municipal government of which the officer is a member. A.R.S. § 38-481(A). An agency should direct questions about this subject to legal counsel.

3.10 Inquiries about State Employees. Access to an employee's personnel file is limited by A.A.C. R2-5A-105(C)(3) to the following persons:

1. The employee, the employee's attorney or another person with written authorization from the employee to review the personnel file;
2. Agency personnel designated by the agency head as having a need for such information;
3. Department officials in the normal line of duty;
4. Officials acting in response to court orders or subpoenas;
5. Officials of an agency to which the employee has applied;
6. An official of an agency of the federal government, state government or any of their political subdivisions, if the agency head of the employing agency deems access to the file to be appropriate to a proper function of the official requesting access.

For purposes of determining access to personnel files, an "official" is defined as "one who provides identification verifying that he is exercising powers and duties on behalf of the chief administrative head of a public body." A.A.C. R2-5A-105(C)(3). The documents to be maintained in an employee's personnel file are specified in A.A.C. R2-5A-105(C). This includes records of disciplinary actions, as well as the employee's responses thereto, which are deemed to be public records under A.R.S. § 39-128.

Although certain information about state employees is considered public information under A.A.C. § R2-5A-105(D)(2), when additional information is requested or when an agency is otherwise concerned about releasing information about an employee, the agency should contact legal counsel before releasing the information.

3.11 Equal Employment Opportunity. The State of Arizona and its agencies and instrumentalities are equal opportunity employers. The State, as an employer, may not discriminate against applicants for employment or employees with regard to hiring;

discipline; discharge; compensation; or terms, conditions, or privileges of employment because of an individual's race, color, religion, sex, national origin, age, disability or genetic information. See *generally* Chapter 15. The Attorney General's Office is available to assist agencies with questions and problems that arise in the area of equal employment opportunity. Specifically, the Attorney General's Office will provide training and will evaluate programs and practices to ensure that agencies are compliant. It will also defend agencies against charges of discriminatory action.

3.11.1 General Considerations Regarding Discrimination Complaints.

3.11.1.1 Procedure upon Receipt of a Notice of Charge of Discrimination.

The Equal Employment Opportunity Commission (EEOC), a federal agency, enforces Title VII of the Civil Rights Act of 1964, as amended; the Americans with Disabilities Act (ADA); the Age Discrimination in Employment Act (ADEA); and the Genetic Information Nondiscrimination Act of 2008 (GINA). 29 U.S.C. § 626; 42 U.S.C. §§ 2000e-5, 2000f-6, 12117. The Arizona Attorney General's Office enforces the Arizona Civil Rights Act, A.R.S. §§ 41-1401 to -1493.04.

An employee may file a complaint with either the Civil Rights Section of the Attorney General's Office, see Chapter 15, or the EEOC. The EEOC investigates complaints filed with the Civil Rights Section against state employers. When a complaint is filed with the EEOC, the EEOC will contact the state agency involved. The EEOC may inquire if the agency is interested in conciliation or it may request a statement of position and documentation in support of the agency's position. A copy of any charge of discrimination should immediately be sent to the Chief Counsel of the Employment Law Section of the Attorney General's Office and to the Department of Administration, Division of Risk Management. They will either process the charge or assist the agency. Contact employment counsel for any questions or assistance on discrimination matters not yet filed with investigative agencies.

3.11.1.2 Confidentiality. Discrimination complaints must be handled in a confidential manner. A.R.S. § 41-1481(A); A.A.C. R10-3-103. For this reason, and to ensure against charges of retaliation, information that a discrimination charge has been filed and that an investigation has been undertaken should be discussed only with those who have a need to know. A.R.S. § 41-1464(A). Investigative and charge files should be kept in a secure area separate from the agency's personnel files.

3.11.1.3 Settlement Agreements. Discrimination charges, whether formal or informal, may result in negotiated settlements. The roles of the Attorney General's Office and state agencies in settling cases are set forth in A.R.S. §§ 41-192(B)(4) and -621(N). The roles vary depending on the cause of action asserted. Before any settlement agreement is reached, all entities must comply with the duties imposed by statute.

3.11.1.4 Unlawful Discrimination. Employment discrimination takes many forms, each with different legal bases, proof requirements, and ramifications. See

Chapter 15 of this handbook for a discussion of discrimination law and consult legal counsel for advice on discrimination charges.

3.11.1.5 Retaliation. It is unlawful to retaliate against any employee who files an external or internal discrimination charge or who assists or participates in the investigation of such a charge. 42 U.S.C. §§ 2000e-3(a), 2000ff-6(f), 12203(a); A.R.S. § 41-1464(A); *see also infra* at Section 15.

3.11.1.6 Interviewing. Job applicants should never be asked a question not directly related to the qualifications for employment. *See generally* Chapter 15. For example, an applicant should never be asked about his or her race, color, national origin, religion, age, sex, politics, marital or family status, genetic information, or family medical history. Because employment decisions may not be made upon these bases, A.R.S. § 41-1463, agencies should avoid raising the issues and should decline to discuss these issues if the applicant raises them. Similarly, questions relating to disability should not be discussed until a decision is made that the applicant is otherwise qualified and will be offered the position subject to the applicant's ability to demonstrate that he or she can perform the essential functions of the position with reasonable accommodation. *See infra* at Sections 3.11.5, 15.12 to 15.12.7.

In addition, to ensure that all applicants receive the same consideration, oral interviews should be structured so that the same procedure is used for all applicants, with specific questions prepared in advance. Written notations of the reasons for any employment decision should be made and retained for three years after the employment decision has been made.

3.11.1.7 Nondiscriminatory Work Environment. As an employer, the State has a responsibility to create a nondiscriminatory work environment. 42 U.S.C. § 2000e-2, 2000ff-1; A.R.S. § 41-1463. Supervisors should neither make nor tolerate ethnic, religious, racial, age, disability, or sexual jokes or slurs or otherwise create or tolerate a hostile, intimidating, or offensive work environment. Supervisors should take disciplinary action, up to and including dismissal, against employees for such conduct. Failure to provide a harassment-free environment may create liability for the State and the individuals involved. *See, e.g., infra* at Sections 3.11.3.1, 15.7.2, 15.10.

3.11.1.8 Affirmative Action. "Affirmative action" is generally defined as "a set of actions designed to eliminate existing and continuing discrimination, to remedy the lingering effects of past discrimination, and to create systems and procedures to prevent future discrimination." *Black's Law Dictionary* 60 (7th ed. 1999). Certain federal and state laws may obligate an employer to provide affirmative action plans. *See infra* at Sections 15.16, 15.16.1. For example, such affirmative action obligations may arise from federal contracts or from the receipt of federal funds under the Rehabilitation Act of 1973. *See* 29 U.S.C. §§ 793 and 794. If an agency believes that any provision of this type applies, it should contact legal counsel.

3.11.2 Race, Color, and National Origin Discrimination. An employment decision cannot be based on an applicant's or employee's race, color, or national origin, and employees cannot be treated differently on any of these bases. 42 U.S.C. § 2000e-2; A.R.S. § 41-1463; *see also infra* at Sections 15.4, 15.5. All applicants, employees, and clients shall receive equal consideration and treatment without regard to their race, color, or national origin. Any employee who violates these principles subjects himself or herself, the agency, and the State to legal liability. *See infra* at Section 13.3. Furthermore, any employee who violates these principles may be subject to disciplinary action, including dismissal. *See, e.g.,* A.A.C. R2-5A-104(C), A.A.C. R2-5A-501(C).

3.11.3 Sex Discrimination. An employment decision may not be based on an applicant's or an employee's sex. 42 U.S.C. § 2000e-2; A.R.S. § 41-1463; *see also infra* at Sections 15.7, 15.7.1, 15.7.2. Sex discrimination includes discrimination based on pregnancy, childbirth, or related medical conditions. 42 U.S.C. § 2000e(k); *see also infra* at Section 15.7.1. In addition, an employer may not pay an employee of one sex less than it pays an employee of the opposite sex when the two perform substantially equal work. 29 U.S.C. § 206(d). (See Section 15.8 for a more detailed discussion of this federal statute.)

Dress codes and hair-length requirements generally are not considered sex discrimination even though different standards may be applied to males and females. *Jespersion v. Harrah's Operating Co.*, 444 F.3d 1104, 1109-10 (9th Cir. 2006). However, dress codes that *prescribe* uniforms for females while specifying "normal business attire" for males have been found to be unlawful as perpetuating sexual stereotypes. *Carroll v. Talman Fed. Sav. & Loan Ass'n*, 604 F.2d 1028, 1029-30 (7th Cir. 1979).

3.11.3.1 Sexual Harassment. It is unlawful to use one's position to obtain sexual favors or to imply that any term or condition of employment depends upon or is related to the receipt of sexual favors. *See infra* at Section 15.7.2. Requests for sexual favors or verbal or physical conduct of a sexual nature that has the purpose or effect of interfering with an employee's work performance or creating an intimidating, hostile, or offensive environment are likewise unlawful. *See id.*, Section 3.11.1.7. Sexual harassment is cause for discipline up to and including dismissal. Supervisors who are aware that sexual harassment is occurring but who take no action to stop it may be subject to disciplinary action as well as to legal liability. If the problem is so widespread that, for example, supervisory employees should have known of the conduct, the employer may be liable even though no employee has specifically complained. *See infra* at Section 15.7.2.

Every state agency should promulgate a formal policy prohibiting sexual harassment. The policy should incorporate the EEOC guidelines at 29 C.F.R. §§ 1604.1 to 1604.11. The agency should also develop a training program that explains the various forms of sexual harassment, the agency policy prohibiting it, and the procedure for reporting incidents.

3.11.4 Religious Discrimination. Actions by state employees that either promote the establishment of a specific religion (or religion in general) or prohibit or interfere with the free exercise of religion violate both the Federal and State Constitutions. See *infra* at Section 15.6. Accordingly, all applicants, employees, and clients of the State must be treated equally and without regard to the presence or absence of religious belief.

When an employee's religious beliefs conflict with his or her job responsibilities, the employee has a responsibility to alert his or her supervisor. The supervisor then has a duty to "reasonably accommodate" the employee's religious beliefs. Such accommodation might include a change in the employee's work schedule or a modification of the employee's responsibilities. However, the employer need not incur more than minimal costs or permit the observance of religious tenets if to do so would unreasonably interfere with the performance of the agency's responsibilities and create undue hardship. 42 U.S.C. § 2000e(j); A.R.S. § 41-1461(13); *Trans World Airlines, Inc. v. Hardison*, 432 U.S. 63, 84 (1977); see also *infra* at Section 15.6.

The reasonable accommodation required for religion is less than that required for a disability. See *infra* at Sections 3.11.5 and 15.12.1. Supervisors should keep detailed records of each religious conflict brought to their attention and all steps taken to accommodate the religious belief. Such records should be kept separate from the employee's personnel file. If problems arise in this area, the agency should consult with employment counsel.

3.11.5 Disability Discrimination. The ADA prohibits discrimination against a "qualified individual with a disability." 42 U.S.C. § 12112. A "qualified individual with a disability" is a person who has a disability, but who can, either without any accommodation or with a reasonable accommodation, "perform the essential functions of the employment position." 42 U.S.C. § 12111(8). The language of the Arizona Civil Rights Act parallels that of the ADA, forbidding discrimination against a "qualified individual" who, with or without reasonable accommodation, can perform the position's essential functions. A.R.S. §§ 41-1461(11) and 41-1463(F). The ADA and the Arizona Civil Rights Act do not apply if no accommodation will enable the employee to perform an essential function of a job. The questions of whether an individual is disabled, whether an accommodation is reasonable, and whether a function is essential are determined on a case-by-case basis, taking into consideration all relevant factors. Thus, if an agency has a question regarding the applicability of either federal or state disability law, it should contact legal counsel.

Certain federal statutes may obligate the State to take affirmative action to employ and advance qualified individuals with disabilities. 29 U.S.C. §§ 793, 794; see also *infra* at Sections 15.12 to 15.12.7. The affirmative action requirements may include taking reasonable steps to modify tests, examinations, and job responsibilities or obtaining specialized equipment that will permit applicants or employees with disabilities to perform the job in question. See *id.*

3.11.6 Age Discrimination. The Federal Age Discrimination in Employment Act (ADEA), 29 U.S.C. §§ 621 to 634, and the Arizona Civil Rights Act, A.R.S. § 41-1463, prohibit age discrimination. The age discrimination prohibitions are limited to individuals who are at least forty years of age. In general, an agency cannot make decisions to hire, promote, or discharge based upon an applicant's or employee's age. See *infra* at Section 15.11. An agency can require that applicants and employees meet the requirements of performing a particular job, provided that *all* applicants and employees are required to demonstrate that they can meet those requirements and that the same test or evaluation procedures are applied to each applicant or employee regardless of age. See *infra* at Sections 15.11, 15.11.1, and 15.25 for a more thorough analysis of the law in this area.

3.11.7 Genetic Information Discrimination. The Genetic Information Nondiscrimination Act of 2008 (GINA), 42 U.S.C. § 2000ff, prohibits discrimination based on genetic information. Genetic information includes information about an individual's or an individual's family members' genetic tests, as well as information about an individual's or an individual's family members' participation in genetic services or research. Genetic information also includes information about an individual's family medical history. An agency may not use genetic information in making employment decisions, including those involving hiring, firing, pay, job assignments, promotions, layoffs, training, fringe benefits, and any other term or condition of employment. Under GINA, employers cannot request, require, or purchase genetic information and the disclosure of genetic information is strictly limited.

3.11.8 Discrimination Complaints. An employee may submit a complaint alleging discrimination in accordance with the agency's complaint procedures. A.A.C. R2-5A-901 to R2-5A-902. Any employee who is not satisfied with an agency head's decision on a complaint alleging discrimination may submit the complaint to the Director of the Department of Administration. A.A.C. R2-5A-902(B)(1)-(2). Any employee who has a complaint alleging discrimination that A.R.S. § 41-1463 prohibits and who is not satisfied with the final complaint resolution will be referred to the appropriate entity by the Director. A.A.C. R2-5A-902(B)(3).

3.12 Workers' Compensation.

3.12.1 Workers' Compensation Defined. The workers' compensation system strives to compensate individuals who are injured on the job. See *generally* A.R.S. Title 23, Chapter 6, Workers' Compensation. The State of Arizona is a self-insured entity. Workers' compensation benefits for state employees are provided through the Arizona Department of Administration, Risk Management Division. The workers' compensation system is a "no fault" system. See, e.g., A.R.S. § 23-1021. Therefore, neither the negligence of the worker nor the negligence of the employer is considered in assessing the compensability of an injured worker's claim. With rare exceptions, an injured State worker cannot recover in tort against the State because workers' compensation is the exclusive remedy. See A.R.S. §§ 23-906(A), A.R.S. §§ 23-1022(A).

3.12.2 Workers Covered by the Workers' Compensation System. Under Arizona's workers' compensation law, an injured worker bears the burden of proving a compensable industrial injury. See, e.g., *Lapare v. Indus. Comm'n*, 154 Ariz. 318, 319, 742 P.2d 819, 820 (App. 1987). Generally, the injured worker is required to establish that (1) the worker is an employee covered under the workers' compensation law, (2) the injury or illness arose out of his or her employment, and (3) the injury or illness occurred within the course and scope of his or her employment.

3.12.3 Employer Responsibility for Notification of Industrial Injuries of Employees. Upon receiving notice that a state employee has sustained an industrial injury, the employer must within ten days file an "Employer's Report of Industrial Injury" with both the Arizona Industrial Commission and Risk Management. A.R.S. § 23-1061(E). If a fatality occurs, the employer must immediately notify the Industrial Commission and Risk Management. A.A.C. R20-5-110.

3.12.4 Risk Management's Role. The State of Arizona is a self-insured entity for workers' compensation liability. Risk Management must accept or deny a claim within 21 days of receiving notification of the claim from the Arizona Industrial Commission. A.R.S. § 23-1061(M). If a claim is accepted, Risk Management may be responsible for paying medical, surgical, and hospital benefits; temporary compensation benefits; and permanent compensation benefits. Risk Management is responsible for administering state industrial claims.

3.12.5 The Attorney General's Role. Assistant Attorneys General defend State agencies and Risk Management in statewide litigation before the Arizona Industrial Commission Administrative Law Judge Division and at the Arizona appellate courts. They work closely with and provide legal advice to Risk Management adjusters regarding the proper processing of claims, claim settlement and subrogation issues, and related legal matters.

Form 3.1

Administrative Leave Pending Investigation
(Section 3.8.7)

(COPY TO AGENCY LETTERHEAD)

Date

Name

Address

City, State, Zip Code

Dear Mr./Ms. (Last Name):

This letter is official notice that pursuant to State Personnel System Rule R2-5A-B604(A)(2), you have been placed on Administrative Leave with Pay pending the results of an investigation. Your leave will begin at (time) on (date), and will continue until further notice.

While you are on Administrative Leave, you remain an employee of the State of Arizona and must continue to observe all rules and regulations regarding the conduct of State service employees. You will continue to accrue all rights and benefits as an employee.

During your leave, you are directed to remain at your residence during the regular work hours of (time) to (time), (day) through (day). You must be available to provide information or services during these hours as directed by your supervisor. You must call your supervisor each work day between (time) and (time). You may leave your residence during your regular lunch break from (time) to (time). To leave your residence at any other time during the regular work hours cited above, you must request sick leave or annual leave. If your supervisor approves your request for sick leave or annual leave, you may leave your residence during the period of approved leave.

You are instructed not to enter the premises of your regular duty areas unless specifically authorized in advance by your supervisor.

You may be contacted at your residence during your regular work hours. If you are not at your residence and your supervisor has not approved sick or annual leave for this time, you will be considered to be absent without leave and will be given unauthorized leave without pay.

Failure to comply with all of the directives in this letter will subject you to disciplinary action, up to and including dismissal from State employment.

Sincerely,

(Name of Approving Authority)
(Title of Approving Authority)

cc: Office Administrator
Agency Personnel Manager

Form 3.2

Return from Administrative Leave
(Section 3.8.7)

(COPY TO AGENCY LETTERHEAD)

Date

Name

Address

City, State, Zip Code

Dear Mr./Ms. (Last Name):

On (date), you were placed on Administrative Leave pending the results of an investigation. The investigation has been completed, and you are instructed to return to work.

You are to report to your immediate supervisor, (supervisor's name), on (date) at (time). Your reporting place is your regular duty station.

Sincerely,

(Name of Approving Authority)

(Title of Approving Authority)

cc: Office Administrator
Agency Personnel Manager

Form 3.3(a)

**Covered Permanent Status Employee, Full Authority Peace Officer
Involuntary Demotion
(Section 3.3.5)**

(COPY TO AGENCY LETTERHEAD)

Date

Name

Address

City, State, Zip Code

Dear Mr./Ms. (Last Name):

This letter is official notice of your demotion from (classification), grade (grade), at an annual salary of \$(amount), to (classification), grade (grade), at an annual salary of \$(amount), effective (date).

This action is taken under the authority of State Personnel Rule R2-5A-801, for cause as outlined in A.R.S. § 41-773, and R2-5B-304. (Note: If appropriate, also cite R2-5A-501, Standards of Conduct).

As a (position title) with the Department of (agency name), you are (describe primary duties). You have been an employee of the State of Arizona since (employee's hire date).

On (date), you were issued a Notice of Charges that contained allegations of misconduct. It also advised you that disciplinary action was being considered based upon those allegations and provided you with an opportunity to respond to the allegations and present facts which were pertinent to them and to provide any mitigating circumstances you wished the Department to consider. (Option #1) Your response to the Notice of Charges did not, in our judgment, disprove the allegations contained therein and it did not provide sufficient mitigating circumstances; therefore, a decision was made to proceed with the disciplinary action. (OR, Option #2) You did not respond to the Notice of Charges; therefore, a decision was made to proceed with the disciplinary action.

The specific reasons for your demotion are:

1. On (date), (explain the reasons for the demotion, specifically outlining what the employee did or failed to do).

(Include any additional information that would show the seriousness of the employee's action/inaction.) (Include any additional information that identifies any adverse impact on clients or other employees that resulted from the employee's action/inaction.)

2. On (date), (explain the reasons for the demotion, specifically outlining what the employee did or failed to do).

(Include any additional information that would show the seriousness of the employee's action/inaction.) (Include any additional information that identifies any adverse impact on clients or other employees that resulted from the employee's action/inaction.)

Your actions violated (cite specific statutory subsections, personnel rules, other rules or policies violated).

In issuing this notice, consideration has also been given to the following facts:

- On (date), you received a (type of corrective/disciplinary action or, if applicable, performance rating) for (briefly describe reason for action).
- On (date), you received a (type of action) for (briefly describe reason for action).

Your actions constitute a serious violation of Department policies and procedures. Continued violations will result in more severe disciplinary action including dismissal.

You have the right to appeal this involuntary demotion under A.R.S. § 41-1830.16 if you wish. Your appeal must be made in writing to the Law Enforcement Merit System Council, 2102 W. Encanto Boulevard, MD 1290, Phoenix, Arizona 85005. You must file your appeal within ten working days from the effective date of this action and must state the facts with specificity upon which your appeal is based, along with the action you request of the Council.

Sincerely,

(Name of Approving Authority)
(Title of Approving Authority)

c: Employee Personnel File
Agency Personnel Manager

I, _____, acknowledge receipt of this notice of demotion on _____.
(Employee's signature) (Date)

Form 3.3(b)

**Covered Permanent Status Employee, Non-Full Authority Peace Officer
Involuntary Demotion
(Section 3.3.3)**

(COPY TO AGENCY LETTERHEAD)

Date

Name

Address

City, State, Zip Code

Dear Mr./Ms. (Last Name):

This letter is official notice of your demotion from (classification), grade (grade), at an annual salary of \$(amount), to (classification), grade (grade), at an annual salary of \$(amount), effective (date).

This action is taken under the authority of State Personnel Rule R2-5A-801, for cause as outlined in A.R.S. § 41-773, and R2-5B-304. (Note: If appropriate, also cite R2-5A-501, Standards of Conduct).

As a (position title) with the Department of (agency name), you are (describe primary duties). You have been an employee of the State of Arizona since (employee's hire date).

On (date), you were issued a Notice of Charges that contained allegations of misconduct. It also advised you that disciplinary action was being considered based upon those allegations and provided you with an opportunity to respond to the allegations and present facts which were pertinent to them and to provide any mitigating circumstances you wished the Department to consider. (Option #1) Your response to the Notice of Charges did not, in our judgment, disprove the allegations contained therein and it did not provide sufficient mitigating circumstances; therefore, a decision was made to proceed with the disciplinary action. (OR, Option #2) You did not respond to the Notice of Charges; therefore, a decision was made to proceed with the disciplinary action.

The specific reasons for your demotion are:

1. On (date), (explain the reasons for the demotion, specifically outlining what the employee did or failed to do).

(Include any additional information that would show the seriousness of the employee's action/inaction.) (Include any additional information that identifies any adverse impact on clients or other employees that resulted from the employee's action/inaction.)

2. On (date), (explain the reasons for the demotion, specifically outlining what the employee did or failed to do).

(Include any additional information that would show the seriousness of the employee's action/inaction.) (Include any additional information that identifies any adverse impact on clients or other employees that resulted from the employee's action/inaction.)

Your actions violated (cite specific statutory subsections, personnel rules, other rules or policies violated).

In issuing this notice, consideration has also been given to the following facts:

- On (date), you received a (type of corrective/disciplinary action or, if applicable, performance rating) for (briefly describe reason for action).
- On (date), you received a (type of action) for (briefly describe reason for action).

Your actions constitute a serious violation of Department policies and procedures. Continued violations will result in more severe disciplinary action including dismissal.

You have the right to appeal this involuntary demotion under A.R.S. § 41-783 if you wish. Your appeal must be made in writing to the State Personnel Board, 1400 W. Washington, Suite 280, Phoenix, Arizona 85007. You must file your appeal within ten working days from the effective date of this action and must state the facts with specificity upon which your appeal is based, along with the action you request of the Board.

Sincerely,

(Name of Approving Authority)
(Title of Approving Authority)

c: Employee Personnel File
Agency Personnel Manager

I, _____, acknowledge receipt of this notice of demotion on _____.
(Employee's signature) (Date)

Form 3.4

Involuntary Demotion—Uncovered Employee

(COPY TO AGENCY LETTERHEAD)

Date

Name

Address

City, State, Zip Code

Dear Mr./Ms. (Last Name):

This letter is official notice of your demotion from (classification), grade (grade), at an annual salary of \$(amount), to (classification), grade (grade), at an annual salary of \$(amount), effective (date).

You are expected to report to (location) at (time) on (date). Your supervisor is (supervisor name) and he/she can be reached at (phone number).

As an uncovered employee, you do not have the right to grieve this action or the right to appeal this action to either the Law Enforcement Merit System Council or the State Personnel Board.

Sincerely,

(Name of Approving Authority)

(Title of Approving Authority)

c: Employee Personnel File
Agency Personnel Manager

I, _____, acknowledge receipt of this notice of demotion on _____.
(Employee's signature) (Date)

Form 3.5(a)

**Voluntary Demotion Request Letter
(Voluntarily Requesting a Change in Assignment)
- For Appointments Effective After September 29, 2012 –
Current Covered Employee to Covered Position
(Section 3.3.3)**

Date

Name

Name of Agency

Address

City, State, Zip Code

Dear Mr./Ms. (Last Name):

I am voluntarily submitting a request for a demotion from a (present classification title) to a position as a (new classification title) effective (date).

I understand that in accordance with the State Personnel Rule R2-5A-402(G), this voluntary demotion will result in a decrease in salary. As we discussed, my new annual salary will be \$(amount). [OR, if position is hourly: hourly rate will be \$(amount) per hour.]

By voluntarily accepting a demotion to a position that is in covered service, I acknowledge that I will remain a covered employee.

Sincerely,

Name of Employee

cc: Employee's Personnel File

Form 3.5(b)

**Voluntary Demotion Request Letter
(Voluntarily Requesting a Change in Assignment)
- For Appointments Effective After September 29, 2012 –
Current Covered Employee to Uncovered Position
(Sections 3.3.3 and 3.72)**

Date

Name

Name of Agency

Address

City, State, Zip Code

Dear Mr./Ms. (Last Name):

I am voluntarily submitting a request for a demotion from a (present classification title) to a position as a (new classification title) effective (date).

I understand that in accordance with the State Personnel Rule R2-5A-402(G), this voluntary demotion will result in a decrease in salary. As we discussed, my new annual salary will be \$(amount). [OR, if position is hourly: hourly rate will be \$(amount) per hour.]

By voluntarily accepting a demotion to a position that is not in covered service, I acknowledge that I will become an at-will uncovered employee. As an at-will uncovered employee, I understand that I will serve at the pleasure of the (agency name) and that I cannot grieve or appeal this action.

Sincerely,

Name of Employee

cc: Employee's Personnel File

Form 3.5(c)

**Voluntary Demotion Request Letter
(Voluntarily Requesting a Change in Assignment)
- For Appointments Effective After September 29, 2012 –
Current Uncovered Employee to Uncovered Position**

Date

Name

Name of Agency

Address

City, State, Zip Code

Dear Mr./Ms. (Last Name):

I am voluntarily submitting a request for a demotion from a (present classification title) to a position as a (new classification title) effective (date).

I understand that in accordance with the State Personnel Rule R2-5A-402(G), this voluntary demotion will result in a decrease in salary. As we discussed, my new annual salary will be \$(amount). [OR, if position is hourly: hourly rate will be \$(amount) per hour.]

By voluntarily accepting a demotion to a position that is not in covered service, I acknowledge that I will remain an at-will uncovered employee. As an at-will uncovered employee, I understand that I will serve at the pleasure of (agency) and that I cannot grieve or appeal this action.

Sincerely,

Name of Employee

cc: Employee's Personnel File

Form 3.6(a)

**Voluntary Demotion Acceptance Letter
(Voluntarily Accepting a Change in Assignment)
- For Appointments Effective After September 29, 2012 –
Current Covered Employee to Covered Position
(Section 3.3.3)**

(COPY TO AGENCY LETTERHEAD)

Date

Name

Address

City, State, Zip Code

Dear Mr./Ms. (Last Name):

This letter is confirmation that your request for a voluntary demotion from a (present classification title and grade) to a (new classification title and grade) is hereby accepted. The effective date of this action is (date).

In accordance with the State Personnel Rule R2-5A-402(G), this voluntary demotion will result in a decrease in salary. Your new annual salary will be \$(amount). [OR, if position is hourly: hourly rate will be \$(amount) per hour.]

By accepting a voluntary demotion to a position that is in covered service, you will remain a covered employee.

Since this demotion is voluntary and because you have an excellent (or acceptable) record of State Service, I will place this letter in your personnel file to indicate that this demotion is not as a result of disciplinary action, but was at your request.

Please report to (supervisor's name) on (date) at (time) to review your new duties and responsibilities.

If you have any questions, please contact me at (phone number).

Sincerely,

(Name of Appointing Authority)
(Title of Appointing Authority)

cc: Employee's Personnel File

Form 3.6(b)

**Voluntary Demotion Acceptance Letter
(Voluntarily Accepting a Change in Assignment)
- For Appointments Effective After September 29, 2012 –
Current Covered Employee to Uncovered Position
(Section 3.3.3)**

(COPY TO AGENCY LETTERHEAD)

Date

Name

Address

City, State, Zip Code

Dear Mr./Ms. (Last Name):

This letter is confirmation that your request for a voluntary demotion from a (present classification title and grade) to a (new classification title and grade) is hereby accepted. The effective date of this action is (date).

In accordance with the State Personnel Rule R2-5A-402(G), this voluntary demotion will result in a decrease in salary. Your new annual salary will be \$(amount). [OR, if position is hourly: hourly rate will be \$(amount) per hour.]

By accepting a voluntary demotion to a position that is not in covered service, you will become an at-will uncovered employee. As an at-will uncovered employee, you serve at the pleasure of the (agency name). The employment terms in this letter supersede any other agreements or promises made to you by anyone, whether written or oral.

Since this demotion is voluntary and because you have an excellent (or acceptable) record of State Service, I will place this letter in your personnel file to indicate that this demotion is not as a result of disciplinary action, but was at your request.

Please report to (supervisor's name) on (date) at (time) to review your new duties and responsibilities.

If you have any questions, please contact me at (phone number).

Sincerely,

(Name of Appointing Authority)
(Title of Appointing Authority)

cc: Employee's Personnel File

Form 3.6(c)

**Voluntary Demotion Acceptance Letter
(Voluntarily Accepting a Change in Assignment)
- For Appointments Effective After September 29, 2012 –
Current Uncovered Employee to Uncovered Position**

(COPY TO AGENCY LETTERHEAD)

Date

Name

Address

City, State, Zip Code

Dear Mr./Ms. (Last Name):

This letter is confirmation that your request for a voluntary demotion from a (present classification title and grade) to a (new classification title and grade) is hereby accepted. The effective date of this action is (date).

In accordance with the State Personnel Rule R2-5A-402(G), this voluntary demotion will result in a decrease in salary. Your new annual salary will be \$(amount). [OR, if position is hourly: hourly rate will be \$(amount) per hour.]

By accepting a voluntary demotion to a position that is in uncovered service, you will remain a uncovered employee. As an at-will uncovered employee, you serve at the pleasure of (agency). The employment terms in this letter supersede any other agreements or promises made to you by anyone, whether written or oral.

Since this demotion is voluntary and because you have an excellent (or acceptable) record of State service, I will place this letter in your personnel file to indicate that this demotion is not as a result of disciplinary action, but was at your request.

Please report to (supervisor's name) on (date) at (time) to review your new duties and responsibilities.

If you have any questions, please contact me at (phone number).

Sincerely,

(Name of Appointing Authority)
(Title of Appointing Authority)

cc: Employee's Personnel File

Form 3.7(a)

**Dismissal—Covered Permanent Status Employee,
Full Authority Peace Officer
(Section 3.3.5)**

(COPY TO AGENCY LETTERHEAD)

Date

Name

Address

City, State, Zip Code

Dear Mr./Ms. (Last Name):

This letter is official notice of your dismissal from the Department of (agency name) effective (date) at (time).

This action is taken under the authority of State Personnel Rule R2-5A-801, for cause as outlined in A.R.S. § 41-773, and R2-5B-305. (Note: If appropriate, also cite R2-5A-501, Standards of Conduct).

As a (position title) with the Department of (agency name), you are (describe primary duties). You have been an employee of the State of Arizona since (employee's hire date).

On (date), you were issued a Notice of Charges that contained allegations of misconduct. It also advised you that disciplinary action was being considered based upon those allegations and provided you with an opportunity to respond to the allegations and present facts which were pertinent to them and to provide any mitigating circumstances you wished the Department to consider. (Option #1) Your response to the Notice of Charges did not, in our judgment, disprove the allegations contained therein and it did not provide sufficient mitigating circumstances; therefore, a decision was made to proceed with the disciplinary action. (OR, Option #2) You did not respond to the Notice of Charges; therefore, a decision was made to proceed with the disciplinary action.

The specific reasons for your dismissal are:

1. On (date), (explain the reasons for the dismissal, specifically outlining what the employee did or failed to do).

(Include any additional information that would show the seriousness of the employee's action/inaction.) (Include any additional information that identifies

any adverse impact on clients or other employees that resulted from the employee's action/inaction.)

2. On (date), (explain the reasons for the dismissal, specifically outlining what the employee did or failed to do).

(Include any additional information that would show the seriousness of the employee's action/inaction.) (Include any additional information that identifies any adverse impact on clients or other employees that resulted from the employee's action/inaction.)

Your actions violated (cite specific statutory subsections, personnel rules, other rules or policies violated). Your actions constitute a serious violation of Department policies and procedures. Such misconduct calls for appropriate disciplinary measures. In arriving at the decision that dismissal was the appropriate disciplinary action to take in this matter, consideration was also given to the following facts:

- On (date), you received a (type of corrective/disciplinary action or, if applicable, performance rating) for (briefly describe reason for action).
- On (date), you received a (type of action) for (briefly describe reason for action).

Please return all state property immediately.

You have the right to appeal this dismissal under A.R.S. § 41-1830.16 if you wish. Your appeal must be made in writing to the Law Enforcement Merit System Council, 2102 W. Encanto Boulevard, MD 1290, Phoenix, Arizona 85005. You must file your appeal within ten working days from the effective date of this dismissal and must state the facts with specificity upon which your appeal is based, along with the action you request of the Council.

Sincerely,

(Name of Approving Authority)
(Title of Approving Authority)

c: Employee Personnel File
Agency Personnel Manager

I, _____, acknowledge receipt of this notice of dismissal on _____.
(Employee's signature) (Date)

Form 3.7(b)

**Dismissal—Covered Permanent Status Employee,
Non-Full Authority Peace Officer**
(Section 3.3.4)

(COPY TO AGENCY LETTERHEAD)

Date

Name

Address

City, State, Zip Code

Dear Mr./Ms. (Last Name):

This letter is official notice of your dismissal from the Department of (agency name) effective (date) at (time).

This action is taken under the authority of State Personnel Rule R2-5A-801, for cause as outlined in A.R.S. § 41-773, and R2-5B-305. (Note: If appropriate, also cite R2-5A-501, Standards of Conduct).

As a (position title) with the Department of (agency name), you are (describe primary duties). You have been an employee of the State of Arizona since (employee's hire date).

On (date), you were issued a Notice of Charges that contained allegations of misconduct. It also advised you that disciplinary action was being considered based upon those allegations and provided you with an opportunity to respond to the allegations and present facts which were pertinent to them and to provide any mitigating circumstances you wished the Department to consider. (Option #1) Your response to the Notice of Charges did not, in our judgment, disprove the allegations contained therein and it did not provide sufficient mitigating circumstances; therefore, a decision was made to proceed with the disciplinary action. (OR, Option #2) You did not respond to the Notice of Charges; therefore, a decision was made to proceed with the disciplinary action.

The specific reasons for your dismissal are:

1. On (date), (explain the reasons for the dismissal, specifically outlining what the employee did or failed to do).

(Include any additional information that would show the seriousness of the employee's action/inaction.) (Include any additional information that identifies

any adverse impact on clients or other employees that resulted from the employee's action/inaction.)

2. On (date), (explain the reasons for the dismissal, specifically outlining what the employee did or failed to do).

(Include any additional information that would show the seriousness of the employee's action/inaction.) (Include any additional information that identifies any adverse impact on clients or other employees that resulted from the employee's action/inaction.)

Your actions violated (cite specific statutory subsections, personnel rules, other rules or policies violated). Your actions constitute a serious violation of Department policies and procedures. Such misconduct calls for appropriate disciplinary measures. In arriving at the decision that dismissal was the appropriate disciplinary action to take in this matter, consideration was also given to the following facts:

- On (date), you received a (type of corrective/disciplinary action or, if applicable, performance rating) for (briefly describe reason for action).
- On (date), you received a (type of action) for (briefly describe reason for action).

Please return all state property immediately.

You have the right to appeal this dismissal under A.R.S. § 41-783 if you wish. Your appeal must be made in writing to the State Personnel Board, 1400 Washington, Suite 280, Phoenix, Arizona 85007. You must file your appeal within ten working days from the effective date of this dismissal and must state the facts with specificity upon which your appeal is based, along with the action you request of the Board.

Sincerely,

(Name of Approving Authority)
(Title of Approving Authority)

cc: Employee Personnel File
Agency Personnel Manager

I, _____, acknowledge receipt of this notice of dismissal on _____.
(Employee's signature) (Date)

Form 3.8

Dismissal—Covered Original Probation Employee
(Section 3.2.3)

(COPY TO AGENCY LETTERHEAD)

Date

Name

Address

City, State, Zip Code

Dear Mr./Ms. (Last Name):

This letter is notice of your dismissal as an original probationary employee from employment with the Department of (agency name). You are dismissed effective (date) at (time).

This action is taken under the authority of State Personnel Rule R2-5B-202(C)(2)(a).

As an original probationary employee, you have no right to grieve this action or to appeal to the State Personnel Board. [**OR, if position is a full authority peace officer:** or to appeal to the Law Enforcement Merit System Council.]

Please return all state property immediately.

Sincerely,

(Name of Approving Authority)

(Title of Approving Authority)

cc: Employee Personnel File
Agency Personnel Manager

Form 3.9

Dismissal—Uncovered Employee
(Section 3.2.1)

(COPY TO AGENCY LETTERHEAD)

Date

Name

Address

City, State, Zip Code

Dear Mr./Ms. (Last Name):

This letter is official notice that your services are no longer needed with the Department of (agency), effective (date) at (time).

As an uncovered employee, you do not have the right to grieve this action or the right to appeal this action to either the Law Enforcement Merit System Council or the State Personnel Board.

Please return all state property immediately.

Sincerely,

(Name of Approving Authority)

(Title of Approving Authority)

cc: Employee Personnel File
Agency Personnel Manager

Form 3.10

Dismissal—Temporary Employee
(Section 3.2.4)

(COPY TO AGENCY LETTERHEAD)

Date

Name
Address
City, State, Zip Code

Dear Mr./Ms. (Last Name):

This letter is official notice of your dismissal from the Department of the (agency name), effective (date) at (time).

Please return all state property immediately.

Sincerely,

(Name of Supervisor)
(Title)

cc: Employee Personnel File
Office Administrator

Form 3.11

End of Assignment—Temporary Employee
(Section 3.2.4)

(COPY TO AGENCY LETTERHEAD)

Date

Name

Address

City, State, Zip Code

Dear Mr./Ms. (Last Name):

This is to inform you that your temporary assignment will be ending on (date) at (time). Your efforts in assisting this office in meeting its objectives have been fully noted and appreciated.

[(Optional) Please note that, as a temporary employee, your job performance has been recorded as (satisfactory or excellent).]

Please return all state property immediately.

Sincerely,

(Name of Supervisor)

(Title)

cc: Employee Personnel File
Office Administrator

Form 3.12

Expiration of FMLA Leave

(Section 3.8.6)

(COPY TO AGENCY LETTERHEAD)

Date

Name

Address

City, State, Zip Code

Dear Mr./Ms. (Last Name):

This letter is to notify you that your FMLA leave will expire effective (date) at (time). You are expected to return to work on (date) at (time). You may request leave without pay to begin at the expiration of your current leave; however, there is no guarantee your request will be granted.

Sincerely,

(Name of Approving Authority)

(Title of Approving Authority)

cc: Employee Personnel File
Agency Personnel Manager

(NOTE: Before issuing this letter, ensure that any obligations under the personnel rules, the Family and Medical Leave Act, and the Americans with Disabilities Act have been met.)

Form 3.13

**Expiration of Leave Without Pay—Covered or Uncovered Employee,
Return or Request Additional Time
(Section 3.8.9)**

(COPY TO AGENCY LETTERHEAD)

Date

Name

Address

City, State, Zip Code

Dear Mr./Ms. (Last Name):

This letter is to notify you that your leave without pay will expire effective (date) at (time). You are expected to return to work on (date) at (time).

You may request additional leave; however there is no guarantee your request will be granted. If you do not return on (date) or request additional leave prior to the expiration of your current leave period, you will be separated from employment with the Department of (agency name).

Sincerely,

(Name of Approving Authority)

(Title of Approving Authority)

cc: Employee Personnel File
Agency Personnel Manager

(NOTE: Before issuing this letter, ensure that any obligations under the personnel rules, the Family and Medical Leave Act, and the Americans with Disabilities Act have been met.)

Form 3.14(a)

Expiration of Leave without Pay—Covered Employee, Separation Letter
(Section 3.8.9)

(COPY TO AGENCY LETTERHEAD)

Date

Name

Address

City, State, Zip Code

Dear Mr./Ms. (Last Name):

Your leave without pay was approved through (date) at (time). (**Option #1**) This letter is official notice that your request for additional leave without pay has been denied; therefore, effective today's date you are being separated from State employment pursuant to State Personnel Rule R2-5A-1001. (**Option #2**) You failed to return to work and you did not request additional leave; therefore, effective today's date you are being separated from State employment pursuant to State Personnel Rule R2-5A-1001.

Please return all state property immediately.

Sincerely,

(Name of Approving Authority)

(Title of Approving Authority)

c: Employee Personnel File
Agency Personnel Manager

(NOTE: Before issuing this letter, ensure that any obligations under the personnel rules, the Family and Medical Leave Act, and the Americans with Disabilities Act have been met.)

Form 3.14(b)

Expiration of Leave without Pay—Uncovered Employee, Separation Letter
(Section 3.8.9)

(COPY TO AGENCY LETTERHEAD)

Date

Name

Address

City, State, Zip Code

Dear Mr./Ms. (Last Name):

Your leave without pay was approved through (date) at (time). (**Option #1**) This letter is official notice that your request for additional leave without pay has been denied; therefore, effective today's you are being separated from State employment. (**Option #2**) You failed to request additional leave; therefore, effective today's date, you are being separated from State employment.

Please return all state property immediately.

Sincerely,

(Name of Approving Authority)

(Title of Approving Authority)

c: Employee Personnel File
Agency Personnel Manager

(NOTE: Before issuing this letter, ensure that any obligations under the personnel rules, the Family and Medical Leave Act, and the Americans with Disabilities Act have been met.)

Form 3.15

Job Abandonment—Separation Letter

(COPY TO AGENCY LETTERHEAD)

Date

Name

Address

City, State, Zip Code

Dear Mr./Ms. (Last Name):

Since (date), you have been absent from duty for three consecutive workdays without proper authorization. Therefore, you are considered to have voluntarily resigned from State employment.

You will be separated from State employment effective (date) at (time) in accordance with the State Personnel System Rule R2-5A-1001(B).

Please return all state property immediately.

Sincerely,

(Name of Appointing Authority)

(Title of Appointing Authority)

cc: Employee's Personnel File

Form 3.16(a)

**Lateral Transfer (Voluntarily Accepting a Change in Assignment)
– For Appointments Effective After September 29, 2012 –
Current Covered Employee to Covered Position**

(COPY TO AGENCY LETTERHEAD)

Date

Name

Address

City, State, Zip Code

Dear Mr./Ms. (Last Name):

This letter is to confirm your lateral transfer to the position of (classification title) with (agency name). We have agreed that the effective date of the transfer will be (date).

In accordance with State Personnel Rule R2-5A-402(H), there will be no change in your current annual salary of \$(amount). [**OR, if position is hourly:** your current hourly rate of \$(amount) per hour.]

By voluntarily accepting a change in assignment to another position in covered service, you will remain a covered employee. As a lateral transfer employee, you are ineligible for an increase to your base salary during the first six months in your new position.

Please report to (supervisor's name) on (date) at (time) to review your new duties and responsibilities.

I look forward to having you as part of our team. If you have any questions, please do not hesitate to contact me at (phone number).

Sincerely,

(Name of Appointing Authority)

(Title of Appointing Authority)

Please indicate your understanding and acceptance of the terms of this transfer by signing and returning the attached copy of this letter.

(Employee Signature)

Date

cc: Employee's Personnel File

NOTE: The appointing authority shall provide two copies of the letter to the employee (one to be signed and returned and the other for the appointee's records) and track the document to make sure the employee returns the signed copy.

Form 3.16(b)

**Lateral Transfer (Voluntarily Accepting a Change in Assignment)
– For Appointments Effective After September 29, 2012 –
Current Covered Employee to Uncovered Position
(Section 3.7.2)**

(COPY TO AGENCY LETTERHEAD)

Date

Name

Address

City, State, Zip Code

Dear Mr./Ms. (Last Name):

This letter is to confirm your lateral transfer to the position of (classification title) with (agency name). We have agreed that the effective date of the transfer will be (date).

In accordance with State Personnel Rule R2-5A-402(H), there will be no change in your current annual salary of \$(amount). [OR, if position is hourly: your current hourly rate of \$(amount) per hour.]

By voluntarily accepting a change in assignment to a position that is not in the covered service, you will become an at-will uncovered employee. As an at-will uncovered employee, you serve at the pleasure of the (agency). The employment terms in this letter supersede any other agreements or promises made to you by anyone, written or oral. As a lateral transfer employee, you are ineligible for an increase to your base salary during the first six months in your new position.

Please report to (supervisor's name) on (date) at (time) to review your new duties and responsibilities.

I look forward to having you as part of our team. If you have any questions, please do not hesitate to contact me at (phone number).

Sincerely,

(Name of Appointing Authority)

(Title of Appointing Authority)

Please indicate your understanding and acceptance of the terms of this transfer by signing and returning the attached copy of this letter.

(Employee Signature)

Date

cc: Employee's Personnel File

NOTE: The appointing authority shall provide two copies of the letter to the employee (one to be signed and returned and the other for the appointee's records) and track the document to make sure the employee returns the signed copy.

Form 3.16(c)

**Lateral Transfer (Voluntarily Accepting a Change in Assignment)
– For Appointments Effective After September 29, 2012 –
Current Uncovered Employee to Uncovered Position**

(COPY TO AGENCY LETTERHEAD)

Date

Name

Address

City, State, Zip Code

Dear Mr./Ms. (Last Name):

This letter is to confirm your lateral transfer to the position of (classification title) with (agency name). We have agreed that the effective date of the transfer will be (date).

In accordance with State Personnel Rule R2-5A-402(H), there will be no change in your current annual salary of \$(amount). [**OR, if position is hourly:** your current hourly rate of \$(amount) per hour.]

As an at-will uncovered employee, you serve at the pleasure of the (agency). The employment terms in this letter supersede any other agreements or promises made to you by anyone, written or oral. As a lateral transfer employee, you are ineligible for an increase to your base salary during the first six months in your new position.

Please report to (supervisor's name) on (date) at (time) to review your new duties and responsibilities.

I look forward to having you as part of our team. If you have any questions, please do not hesitate to contact me at (phone number).

Sincerely,

(Name of Appointing Authority)

(Title of Appointing Authority)

Please indicate your understanding and acceptance of the terms of this transfer by signing and returning the attached copy of this letter.

(Employee Signature)

Date

cc: Employee's Personnel File

NOTE: The appointing authority shall provide two copies of the letter to the employee (one to be signed and returned and the other for the appointee's records) and track the document to make sure the employee returns the signed copy.

Form 3.17

Long-term Disability, Unable to Return to Work—Separation Letter

(COPY TO AGENCY LETTERHEAD)

Date

Name

Address

City, State, Zip Code

Dear Mr./Ms. (Last Name)

You have been on extended medical leave without pay since (date). You have been approved for long-term disability on the basis that you are unable to perform the essential duties of your job.

Since you are unable to return to work, you are separated from state service effective this date pursuant to Arizona State Personnel System Rule R2-5A-C602(C)(3).

Sincerely,

(Name of Approving Authority)

(Title of Appointing Authority)

cc: Employee's Personnel File

Form 3.18

Medical Certification Requirement
(Section 3.8.3)

(COPY TO AGENCY LETTERHEAD)

Date

Name

Address

City, State, Zip Code

Dear Mr./Ms. (Last Name):

On (date), you called your supervisor and reported that you were sick and could not come to work. On that same day, you (describe activity that caused concern regarding abuse or misuse of sick leave).

You are hereby reminded that sick leave may be used only for the reasons listed in State Personnel System Rule R2-5A-B603(A), a copy of which is enclosed for your reference. Abuse or misuse of sick leave can result in discipline up to and including dismissal.

You are advised that for the next (period of time), sick leave requests will not be granted unless accompanied by medical certification that your absence was for one of the reasons set forth in State Personnel System Rule R2-5A-B603(A). Such medical certification will not be placed in your personnel file and will be shared only with those individuals who have a need to know. A copy of the medical certification form is enclosed.

Sincerely,

(Name of Approving Authority)
(Title)

cc: Supervisor's File

Enc.: R2-5A-B603(A)
CertificationForm

Medical Certification for Sick Leave

I, _____, hereby certify that _____ was
Healthcare Provider Employee
absent from work on _____ to _____ due to:

- ☐ Illness or injury that rendered the employee unable to perform the duties of his/her position;
- ☐ Examination or treatment by a licensed health care practitioner;
- ☐ Illness, injury, examination, or treatment by a licensed health care practitioner of the employee's spouse or dependent child.

Signature of Healthcare Provider

Date

Form 3.19

Medical—Fitness-For-Duty Evaluation
(Section 3.8.3)

(COPY TO AGENCY LETTERHEAD)

Date

CONFIDENTIAL

Name

Address

City, State, Zip Code

Dear Dr. (Last Name):

(Name of Employee) is being referred to your office for a fitness-for-duty evaluation. The employee works as a (position title). A current job description for that position is being provided for your reference. In addition, we are providing you with an essential functions matrix showing the job duties and tasks considered essential to the performance of this job.

After the examination, please provide us with a report discussing the employee's ability to perform the essential functions of the position. If the employee has limitations that affect their ability to perform the essential functions, please let us know the extent of the limitations and the prognosis for those limitations. In addition, please include in your report whether the employee's presence in the workplace or continued performance of the described duties could pose a risk to the safety of the employee or any other employee.

[Include if the referral is for an assessment of propensity for violence:

(Name of Employee) is also being referred to you for an examination and assessment of (his/her) propensity for violence in the workplace. This referral is being made based on the following:

1. (Specifically describe the incident or behavior that is the reason for the referral.)

Please include in your report an assessment of this employee's propensity for violence and your assessment of whether allowing this employee to remain in the workplace poses a threat to the employee or to others.]

The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this

law. To comply with this law, we are asking that you not provide any genetic information when responding to this request for medical information. As defined by GINA, “genetic information” includes an individual’s family medical history, the results of an individual’s or family member’s genetic tests, the fact that an individual or an individual’s family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual’s family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.

Sincerely,

(Name of Approving Authority)
(Title)

cc: Employee Medical File

Form 3.20

Medical—Order For Medical Examination
(Section 3.8.3)

(COPY TO AGENCY LETTERHEAD)

Date

CONFIDENTIAL

Name

Address

City, State, Zip Code

Dear Mr./Ms. (Last Name):

You are employed as a (position title). It is your responsibility as a (position title) to (briefly describe responsibilities.) The essential functions of your position include (describe essential functions).

Your recent job performance demonstrates that you may be unable to perform the essential functions of your position for medical reasons. You have been employed in this position for (length of time). During that time, your performance evaluations reflect that you have been performing satisfactorily. Within the last (time period), your performance has dramatically changed. (Describe behavior that prompted this letter.)

The State Personnel System Rules provide that an employee may be referred for a medical examination at the employer's expense to determine whether the employee is medically fit to perform his or her job. See State Personnel Rule R2-5A-B603(D)(3).

You have been scheduled for an appointment with Dr. (Name) on (date), at (time). Dr. (Last Name) is located at (address) and (his/her) telephone number is (area code and phone number). The time for this appointment and travel to and from the examination is considered work time, so there will be no deduction from your sick leave or annual leave. Transportation can be provided at no cost upon request.

After the examination, Dr. (Last Name) will provide the agency with a report indicating whether, in (his/her) opinion, you are able to perform the essential functions of your position as a (position title). This information will be reported to me and shared only with those who need to know. No information concerning this medical examination, including this letter, will be placed in your personnel file.

Your failure to appear for this examination will be considered insubordination, refusal to follow a direct work order, and may result in disciplinary action up to and including dismissal from state service. See State Personnel Rule R2-5A-501.

Sincerely,

(Name of Approving Authority)

(Title)

I, _____ acknowledge receipt of this Order for Medical Examination on
(Employee Signature)

_____.
Date

cc: Employee Medical File

Form 3.21(a)

Memorandum of Concern—Covered Permanent Status Employee
(Section 3.3.1)

M E M O R A N D U M

TO: (Name)
FROM: (Name of Supervisor)
RE: Memorandum of Concern
DATE: (Date)

This Memorandum of Concern is to confirm our verbal discussion in my office on (date), concerning (describe behavior that led to the meeting). The purpose of the meeting was to develop a complete understanding between us as to what behavior is acceptable and to point out specific areas in which you must improve.

(Describe, in specifics, what the employee did or failed to do and include any additional information that would show the seriousness of the employee's actions/inaction)

The issues addressed in this Memorandum of Concern detract from your performance and are contrary to (cite to the statute, rules or policies violated). If these problems continue, they will be addressed further through the Department's disciplinary process.

You do not have the right to appeal or grieve this action. If there is any way that I can assist you in remedying these concerns, please feel free to contact me.

I, _____, acknowledge receipt of this memorandum of concern on
(Employee's signature)

Date

(NOTE: A copy does not go in the employee's personnel file but is retained by the supervisor.)

Form 3.21(b)

Memorandum of Concern—Uncovered Employee
(Section 3.3.1)

M E M O R A N D U M

TO: (Name)
FROM: (Name of Supervisor)
RE: Memorandum of Concern
DATE: (Date)

This Memorandum of Concern is to confirm our verbal discussion in my office on (date), concerning your (describe behavior that led to the meeting). The purpose of the meeting was to develop a complete understanding between us as to what behavior is acceptable and to point out specific areas in which you must improve.

(Describe, in specifics, what the employee did or failed to do and include any additional information that would show the seriousness of the employee's actions/inaction.

The issues addressed in this Memorandum of Concern detract from your performance and are contrary to (cite the statute, rules or policies violated). If these problems continue, they will be addressed further through the Department's disciplinary process.

If there is any way that I can assist you in remedying these concerns, please feel free to contact me. Please note that as an uncovered employee your employment with the Department is at-will.

I, _____, acknowledge receipt of this memorandum of concern on
(Employee's signature)

Date

(NOTE: A copy does not go in the employee's personnel file but is retained by the supervisor.)

Form 3.22

**Notice of Charges of Misconduct—Covered Permanent Status Employee,
Full Authority Peace Officer
or Non-Full Authority Peace Officer**
(Sections 3.3.4 and 3.3.5)

(COPY TO AGENCY LETTERHEAD)

Date

Name

Address

City, State, Zip Code

Dear Mr./Ms. (Last Name):

This letter is notice of charges of misconduct. Pursuant to the State Personnel Rules in Subchapter B, Article 3, the purpose of this letter is to provide you with the following:

1. Notice of allegations set forth below. Disciplinary action up to and including dismissal is being considered based on these allegations, which constitute cause for disciplinary action as outlined in A.R.S. § 41-773 and State Personnel Rule R2-5A-501, Standards of Conduct;
2. An opportunity to respond to the allegations and present facts that are pertinent to them; and
3. An opportunity to inform the Department of any and all mitigating circumstances that you feel should be considered prior to deciding what, if any, disciplinary action should be taken.

As a (position title) with the Department of (agency name), you are (describe primary duties). You have been an employee of the State of Arizona since (employee's hire date).

The specific charges and explanations are as follows:

1. On (date), (explain the reasons for the charge, specifically outlining what the employee did or failed to do).

(Include any additional information that would show the seriousness of the employee's action/inaction.) (Include any additional information that identifies any adverse impact on clients or other employees that resulted from the employee's action/inaction.)

2. On (date), (explain the reasons for the charge, specifically outlining what the employee did or failed to do).

(Include any additional information that would show the seriousness of the employee's action/inaction.) (Include any additional information that identifies any adverse impact on clients or other employees that resulted from the employee's action/inaction.)

Your actions violated (cite specific statutory subsections, personnel rules, other rules or policies violated).

In issuing this notice, consideration has also been given to the following facts:

- On (date), you received a (type of corrective/disciplinary action or, if applicable, performance rating) for (briefly describe reason for action).
- On (date), you received a (type of action) for (briefly describe reason for action).

You may submit a written response to each specific allegation and include appropriate documentation to refute the charges. If you choose to provide a response, the response must be delivered to the office of (name and title) at (address), by (time) on (date).

Sincerely,

(Name of Approving Authority)
(Title of Approving Authority)

c: Employee Personnel File
Agency Personnel Manager

I, _____, acknowledge receipt of this notice of charges on _____.
(Employee's signature) (Date)

Form 3.23(a)

Reprimand—Covered Permanent Status Employee
(Section 3.3.1)

(COPY TO AGENCY LETTERHEAD)

Date

Name

Address

City, State, Zip Code

Dear Mr./Ms. (Last Name):

This letter is an official reprimand for your actions on (date). This action is taken under the authority of State Personnel Rule R2-5A-801 for cause, as outlined in A.R.S. 41-773, and R2-5B-302. (**Note: If appropriate, also cite R2-5A-501, Standards of Conduct.**)

As a (position title) with the Department of (agency name), you are responsible for (describe primary duties). You have been an employee of the State of Arizona since (employee's hire date).

The specific reasons for this reprimand are as follows:

1. On (date) (explain the reasons for the reprimand specifically outlining what the employee did or failed to do).
2. On (date) (explain the reasons for the reprimand specifically outlining what the employee did or failed to do).

Your actions violated, (cite statutes, rules or policies violated).

In issuing this notice, consideration has also been given to the following prior corrective and/or disciplinary actions:

- On (date), you received a (type of action) for (briefly describe reason for action).
- On (date), you received a (type of action) for (briefly describe reason for action).

Your actions constitute a serious violation of Department policies and procedures. Continued violations will result in more severe disciplinary action, including dismissal.

You do not have the right to appeal this action; however, you may utilize the Employee Grievance Procedure if you feel that the reprimand is unjust. Grievances must be filed

within ten working days after the occurrence of the action being grieved. See State Personnel Rules R2-5B-402 and R2-5B-403.

Sincerely,

(Name of Approving Authority)
(Title)

cc: Employee Personnel File
Agency Personnel Manager

I, _____, acknowledge receipt of this reprimand on _____.
Employee's signature Date

Form 3.23(b)

Reprimand—Uncovered Employee

(COPY TO AGENCY LETTERHEAD)

Date

Name

Address

City, State, Zip Code

Dear Mr./Ms. (Last Name):

This letter is an official reprimand for your actions on (date).

As a (position title) with the Department of (agency name), you are responsible for (describe primary duties). You have been an employee of the State of Arizona since (employee's hire date).

The specific reasons for this reprimand are as follows:

1. On (date) (explain the reasons for the reprimand specifically outlining what the employee did or failed to do).
2. On (date) (explain the reasons for the reprimand specifically outlining what the employee did or failed to do).

Your behavior was inappropriate and unacceptable, and does not conform to the standards of conduct for a State employee.

As an uncovered employee, you do not have the right to grieve this action through the employee grievance procedure or the right to appeal this action to either the Law Enforcement Merit System Council or the State Personnel Board.

Sincerely,

(Name of Approving Authority)

(Title)

cc: Employee Personnel File
Agency Personnel Manager

I, _____, acknowledge receipt of this reprimand on _____.
Employee's signature Date

Form 3.24

Resignation
(Section 3.7.1)

Date

Name of Supervisor
Agency Name
Agency Address

Dear Mr./Ms. (Name of Supervisor):

I hereby submit my resignation from my position as (position title) with the Arizona Department of (agency name), effective (date).

Sincerely,

(Name)

(NOTE: In response, write letter either confirming the resignation has been accepted or informing that it has been rejected.)

Form 3.25

Acceptance of Verbal or Written Resignation
(Section 3.7.1)

(COPY TO AGENCY LETTERHEAD)

Date

Name
Address
City, State, Zip Code

Dear Mr./Ms. (Last Name):

This letter confirms your (verbal/written) resignation from the Department of (agency name), effective (date) at (time).

Please return all State property immediately.

Sincerely,

(Name of Approving Authority)
(Title)

cc: Employee Personnel File
Agency Personnel Manager

Form 3.26

Resignation In Lieu of Dismissal
– DO NOT USE PRIOR TO SEEKING LEGAL ADVICE –
(Section 3.7.1)

Date

Name of Supervisor
Agency Name
Agency Address

Dear Mr./Ms. (Name of Supervisor):

I hereby submit my resignation from my position as (position title) with the Arizona Department of (agency name), effective (date), and waive all rights to reinstatement and reemployment in state service.

Sincerely,

(Name)

(NOTE: In response, write letter confirming that resignation in lieu of dismissal has been accepted.)

Form 3.27

Resignation in Lieu of Dismissal—Confirmation of Discussion
(Section 3.7.1)

Date

Name

Address

City, State, Zip Code

Dear Mr./Ms. (Last Name):

This is to confirm our discussion on (date). You were informed that the Department of (agency name) no longer requires your services. We have agreed to allow you to substitute a resignation letter in lieu of termination. Our acceptance of the resignation letter is conditioned upon your compliance with the terms of our understanding.

We agreed that your last work day will be (date). You will remove all of your personal items from the office by the end of this day. You will turn in all state property, including your identification badge, to your supervisor and inform your supervisor of all current passwords you use for your computer or any other state equipment by (time) on (date).

(Include any additional terms discussed with the employee.)

[(Optional) We have agreed to allow you to use annual leave from (date) to (date). No other type of leave will be authorized for that period. After your last work day of (date), you are not authorized to perform any work for the Department of (agency name). If you believe that for any reason you must return to the office during the period of annual leave, contact your supervisor to coordinate the visit to the office. For the purpose of issuing your final check, the operative final employment date will be the last day of annual leave, (date).]

If you have any questions, you are directed to call your supervisor.

Sincerely,

(Name of Approving Authority)

(Title)

cc: Employee Personnel File
Agency Personnel Manager

Form 3.28

Reversion – Failure to Complete Promotional Probation

(COPY TO AGENCY LETTERHEAD)

Date

Name

Address

City, State, Zip Code

Dear Mr./Ms. (Last Name):

This letter is official notice that you have failed to successfully complete your promotional probation and will be reverted. This action is taken under the authority of State Personnel Rule R2-5B-203(C)(2).

You will be reverted from (title, grade) to (title, grade), effective (date). Your new salary will be \$ (amount).

Pursuant to State Personnel Rule R2-5B-203(E), you do not have the right to appeal.
Sincerely,

(Name of Approving Authority)

(Title of Approving Authority)

cc: Employee Personnel File
Agency Personnel Manager

Employee Acknowledgment of Receipt

Date

Form 3.29

**Suspension 40 Hours or Less—Covered Employee,
Full Authority Peace Officer
(Section 3.3.5)**

(COPY TO AGENCY LETTERHEAD)

Date

Name

Address

City, State, Zip Code

Dear Mr./Ms. (Last Name):

This letter is official notice of your suspension without pay from the Department of (agency name).

The period of suspension will begin at (enter the employee's normal work start time, such as 8:00 a.m.) on (date), and continue to (enter the employee's normal work end time, such as 5:00 p.m.) on (date), (enter number of hours being suspended; must be 40 or less) hours. You are to report to work at (enter the employee's normal work start time, such as 8:00 a.m.) on (date), following the suspension.

This action is taken under the authority of State Personnel Rule R2-5A-801, for cause as outlined in A.R.S. § 41-773, and R2-5B-303. (**Note:** If appropriate, also cite R2-5A-501, Standards of Conduct).

As a (position title) with the Department of (agency name), you are (describe primary duties). You have been an employee of the State of Arizona since (employee's hire date).

The specific reasons for your suspension are as follows:

1. On (date), (explain the reasons for the suspension, specifically outlining what the employee did or failed to do).
2. On (date), (explain the reasons for the suspension, specifically outlining what the employee did or failed to do).

Your actions violated (cite statutory subsections, rules or policies violated).

In issuing this notice, consideration has also been given to the following prior corrective and/or disciplinary actions:

- On (date), you received a (type of action) for (briefly describe reason for action).
- On (date), you received a (type of action) for (briefly describe reason for action).

Your actions constitute a serious violation of Department policies and procedures. Continued violations will result in more severe disciplinary action including dismissal.

You do not have the right to appeal this action. However, you may use the employee Grievance Procedure if you feel that the suspension is unjust. Grievances must be filed within ten working days after the effective date of the suspension, which is (date), the first day of the suspension. Please refer to (cite applicable agency grievance policy) and State Personnel Rules R2-5B-401 through R2-5B-403.

Sincerely,

(Name of Approving Authority)
(Title of Approving Authority)

cc: Employee Personnel File
Agency Personnel Manager

I, _____, acknowledge receipt of this notice of suspension on _____.
(Employee's signature) (Date)

Form 3.30

**Suspension Greater than 40 Hours—Covered Permanent Status Employee,
Full Authority Peace Officer
(Section 3.3.5)**

(COPY TO AGENCY LETTERHEAD)

Date

Name

Address

City, State, Zip Code

Dear Mr./Ms. (Last Name):

This letter is official notice of your suspension without pay from the Department of (agency name).

The period of suspension will begin at (enter the employee's normal work start time, such as 8:00 a.m.) on (date), and continue to (enter the employee's normal work end time, such as 5:00 p.m.) on (date), (enter number of hours being suspended; must be greater than 40) hours. You are to report to work at (enter the employee's normal work start time, such as 8:00 a.m.) on (date), following the suspension.

This action is taken under the authority of State Personnel Rule R2-5A-801, for cause as outlined in A.R.S. § 41-773, and R2-5B-303. (**Note:** If appropriate, also cite R2-5A-501, Standards of Conduct).

As a (position title) with the Department of (agency name), you are (describe primary duties). You have been an employee of the State of Arizona since (employee's hire date).

On (date), you were issued a Notice of Charges that contained allegations of misconduct. It also advised you that disciplinary action was being considered based upon those allegations and provided you with an opportunity to respond to the allegations and present facts which were pertinent to them and to provide any mitigating circumstances you wished the Department to consider. (**Option #1**) Your response to the Notice of Charges did not, in our judgment, disprove the allegations contained therein and it did not provide sufficient mitigating circumstances; therefore, a decision was made to proceed with the disciplinary action. (**OR, Option #2**) You did not respond to the Notice of Charges; therefore, a decision was made to proceed with the disciplinary action.

The specific reasons for your suspension are:

1. On (date), (explain the reasons for the suspension, specifically outlining what the employee did or failed to do).

(Include any additional information that would show the seriousness of the employee's action/inaction.) (Include any additional information that identifies any adverse impact on clients or other employees that resulted from the employee's action/inaction.)

2. On (date), (explain the reasons for the suspension, specifically outlining what the employee did or failed to do).

(Include any additional information that would show the seriousness of the employee's action/inaction.) (Include any additional information that identifies any adverse impact on clients or other employees that resulted from the employee's action/inaction.)

Your actions violated (cite specific statutory subsections, personnel rules, other rules or policies violated).

In issuing this notice, consideration has also been given to the following facts:

- On (date), you received a (type of corrective/disciplinary action or, if applicable, performance rating) for (briefly describe reason for action).
- On (date), you received a (type of action) for (briefly describe reason for action).

Your actions constitute a serious violation of Department policies and procedures. Continued violations will result in more severe disciplinary action including dismissal.

You have the right to appeal this suspension under A.R.S. § 41-1830.16 if you wish. Your appeal must be made in writing to the Law Enforcement Merit System Council, 2102 W. Encanto Boulevard, MD 1290, Phoenix, Arizona 85005. You must file your appeal within ten working days from the effective date of this action and must state the facts with specificity upon which your appeal is based, along with the action you request of the Council.

Sincerely,

(Name of Approving Authority)
(Title of Approving Authority)

cc: Employee Personnel File
Agency Personnel Manager

I, _____, acknowledge receipt of this notice of suspension on _____.
(Employee's signature) (Date)

Form 3.31

**Suspension 80 Hours or Less—Covered Employee,
Non-Full Authority Peace Officer
(Section 3.3.2)**

(COPY TO AGENCY LETTERHEAD)

Date

Name

Address

City, State, Zip Code

Dear Mr./Ms. (Last Name):

This letter is official notice of your suspension without pay from the Department of (agency name).

The period of suspension will begin at (enter the employee's normal work start time, such as 8:00 a.m.) on (date), and continue to (enter the employee's normal work end time, such as 5:00 p.m.) on (date), (enter number of hours being suspended; must be 80 or less) hours. You are to report to work at (enter the employee's normal work start time, such as 8:00 a.m.) on (date), following the suspension.

This action is taken under the authority of State Personnel Rule R2-5A-801, for cause as outlined in A.R.S. § 41-773, and R2-5B-303. (**Note:** If appropriate, also cite R2-5A-501, Standards of Conduct).

As a (position title) with the Department of (agency name), you are (describe primary duties). You have been an employee of the State of Arizona since (employee's hire date).

The specific reasons for your suspension are as follows:

1. On (date), (explain the reasons for the suspension, specifically outlining what the employee did or failed to do).
2. On (date), (explain the reasons for the suspension, specifically outlining what the employee did or failed to do).

Your actions violated (cite statutory subsections, rules or policies violated).

In issuing this notice, consideration has also been given to the following prior corrective and/or disciplinary actions:

- On (date), you received a (type of action) for (briefly describe reason for action).
- On (date), you received a (type of action) for (briefly describe reason for action).

Your actions constitute a serious violation of Department policies and procedures. Continued violations will result in more severe disciplinary action including dismissal.

You do not have the right to appeal this action. However, you may use the employee Grievance Procedure if you feel that the suspension is unjust. Grievances must be filed within ten working days after the effective date of the suspension, which is (date), the first day of the suspension. Please refer to (cite applicable agency grievance policy) and State Personnel Rules R2-5B-401 through R2-5B-403.

Sincerely,

(Name of Approving Authority)
(Title of Approving Authority)

cc: Employee Personnel File
Agency Personnel Manager

I, _____, acknowledge receipt of this notice of suspension on _____.
(Employee's signature) (Date)

Form 3.32

**Suspension Greater than 80 Hour—Covered Permanent Status Employee,
Non-Full Authority Peace Officer
(Section 3.3.2)**

(COPY TO AGENCY LETTERHEAD)

Date

Name

Address

City, State, Zip Code

Dear Mr./Ms. (Last Name):

This letter is official notice of your suspension without pay from the Department of (agency name).

The period of suspension will begin at (enter the employee's normal work start time, such as 8:00 a.m.) on (date), and continue to (enter the employee's normal work end time, such as 5:00 p.m.) on (date), (enter number of hours being suspended; must be greater than 80) hours. You are to report to work at (enter the employee's normal work start time, such as 8:00 a.m.) on (date), following the suspension.

This action is taken under the authority of State Personnel Rule R2-5A-801, for cause as outlined in A.R.S. § 41-773, and R2-5B-303. (**Note:** If appropriate, also cite R2-5A-501, Standards of Conduct).

As a (position title) with the Department of (agency name), you are (describe primary duties). You have been an employee of the State of Arizona since (employee's hire date).

On (date), you were issued a Notice of Charges that contained allegations of misconduct. It also advised you that disciplinary action was being considered based upon those allegations and provided you with an opportunity to respond to the allegations and present facts which were pertinent to them and to provide any mitigating circumstances you wished the Department to consider. (**Option #1**) Your response to the Notice of Charges did not, in our judgment, disprove the allegations contained therein and it did not provide sufficient mitigating circumstances; therefore, a decision was made to proceed with the disciplinary action. (**OR, Option #2**) You did not respond to the Notice of Charges; therefore, a decision was made to proceed with the disciplinary action.

The specific reasons for your suspension are:

1. On (date), (explain the reasons for the suspension, specifically outlining what the employee did or failed to do).

(Include any additional information that would show the seriousness of the employee's action/inaction.) (Include any additional information that identifies any adverse impact on clients or other employees that resulted from the employee's action/inaction.)

2. On (date), (explain the reasons for the suspension, specifically outlining what the employee did or failed to do).

(Include any additional information that would show the seriousness of the employee's action/inaction.) (Include any additional information that identifies any adverse impact on clients or other employees that resulted from the employee's action/inaction.)

Your actions violated (cite specific statutory subsections, personnel rules, other rules or policies violated).

In issuing this notice, consideration has also been given to the following facts:

- On (date), you received a (type of corrective/disciplinary action or, if applicable, performance rating) for (briefly describe reason for action).
- On (date), you received a (type of action) for (briefly describe reason for action).

Your actions constitute a serious violation of Department policies and procedures. Continued violations will result in more severe disciplinary action including dismissal.

You have the right to appeal this suspension under A.R.S. § 41-783 if you wish. Your appeal must be made in writing to the State Personnel Board, 1400 W. Washington, Suite 280, Phoenix, Arizona 85007. You must file your appeal within ten working days from the effective date of this action and must state the facts with specificity upon which your appeal is based, along with the action you request of the Board.

Sincerely,

(Name of Approving Authority)
(Title of Approving Authority)

cc: Employee Personnel File
Agency Personnel Manager

I, _____, acknowledge receipt of this notice of suspension on _____.
(Employee's signature) (Date)

Form 3.33

Suspension—Uncovered Employee

(COPY TO AGENCY LETTERHEAD)

Date

Name

Address

City, State, Zip Code

Dear Mr./Ms. (Last Name):

This letter is official notice of your suspension without pay from the Department of (agency name).

The period of suspension will begin at (enter the employee's normal work start time, such as 8:00 a.m.) on (date), and continue to (enter the employee's normal work end time, such as 5:00 p.m.) on (date), (enter number of hours being suspended) hours. You are to report to work at (enter the employee's normal work start time, such as 8:00 a.m.) on (date), following the suspension.

As a (position title) with the Department of (agency name), you are (describe primary duties). You have been an employee of the State of Arizona since (employee's hire date).

The specific reasons for your suspension are as follows:

1. On (date), (explain the reasons for the suspension, specifically outlining what the employee did or failed to do).
2. On (date), (explain the reasons for the suspension, specifically outlining what the employee did or failed to do).

Your behavior was inappropriate and unacceptable, and does not conform to the standards of conduct for a State employee. As an uncovered employee, you do not have the right to appeal this action to either the Law Enforcement Merit System Council or the Personnel Board.

Sincerely,

(Name of Approving Authority)

(Title of Approving Authority)

cc: Employee's Personnel File
Agency Personnel Manager

I, _____, acknowledge receipt of this notice of suspension on _____.
(Employee's signature) (Date)