

# 40. Investigatory Suspension

Investigatory suspension is not a disciplinary action. An employee who is under investigation either by the Nebraska Supreme Court or other civil authorities for criminal activity or who is alleged to have committed a violation which threatens the safety or health of another person, or a violation of sufficient magnitude that the consequence causes disruption of work, may be suspended with or without pay based on the nature of the alleged offense.

1. Except as provided below, if no immediate danger would result, a supervisor, before suspending an employee under this section, should attempt to verify evidence with the employee and may afford the employee an opportunity to refute this information or present mitigating evidence. If a meeting takes place, the supervisor shall notify the employee prior to such meeting and shall inform the employee of the purpose of the meeting. The employee shall be notified of the general nature of the investigation. The employee shall not be disciplined for refusing to make self-incriminatory statements regarding alleged wrongdoing.

2. Anytime an employee is arrested or cited for a criminal offense classified as a Class I, IA, IB, IC, ID, II, IIA, III, IIIA, or IV felony or a Class I, II, III, or W misdemeanor, the employee shall immediately be placed on an investigatory suspension with pay.

At such time a prosecuting authority files formal charges against the employee for a criminal offense classified as a Class I, IA, IB, IC, ID, II, IIA, III, IIIA, or IV felony or a Class I, II, III, or W misdemeanor, the investigatory suspension may move from a suspension with pay to a suspension without pay at the discretion of the State Court Administrator. During a period of investigatory suspension without pay, an employee shall not be granted vacation, sick, or holiday leave, nor unused compensatory time off, nor shall the employee earn vacation, sick, or holiday leave credit. The investigatory suspension without pay shall remain in effect until such time as the trial court (not an appellate court) makes a final determination of guilt, the charges are dismissed, or the employee resigns. Resignation will only be accepted until such time as a finding of guilt is entered by the trial court.

As Judicial Branch employees are held to a higher ethical standard, and even the appearance of impropriety can bring discredit upon the Judicial Branch, at any time an employee enters a plea of guilty or no contest to a nonwaiverable offense, or a finding of guilt is entered by the trial court, the employee may be dismissed from his/her employment, at the discretion of the State Court Administrator, in accordance with the Nebraska Supreme Court Personnel Policies and Procedures Manual.

3. Based on the relevant facts acquired in the investigation, if an employee is found not guilty or if no judicial action is taken, the employee may or may not be restored to his/her position. If the employee is reinstated, full pay and service credit for the period of his/her suspension shall be granted.

4. If the investigation shows that disciplinary action should be taken, the supervisor shall initiate disciplinary procedures.

5. An investigatory suspension is a grievable action.

*Amended 9-17-03; amended 7-9-15; amended 5-1-19.*

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