



social development

Department:
Social Development
PROVINCE OF KWAZULU-NATAL

POLICY ON SUSPENSION

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1. INTRODUCTION

Suspension is required as a precautionary measure to allow the department to conduct and finalise investigations into alleged misconduct. Suspension should not be confused with a sanction, for it is only a precautionary suspension with full benefits in accordance with the provisions on the Policy on Management of Discipline.

Suspension as a precautionary measure applies where serious offences are alleged to have been committed.

2. PURPOSE

The purpose of the Policy is to:-

- (a) provide guidelines and procedures to follow when removing an employee, who is alleged to have committed a misconduct from his/her workplace; and
- (b) promote best practice in giving effect to suspensions.

3. OBJECTIVE

The objective of the Policy is to:-

- (a) ensure that the investigations proceed smoothly without the alleged employee interfering with the investigation; and
- (b) facilitate the uniform processes of suspending an employee from performing his/her duties pending the completion of the investigation or disciplinary action.

4. SCOPE OF APLICABILITY

The Policy on Suspension applies to all employees of the Department.

5. LEGISLATIVE FRAMEWORK

- 5.1 Labour Relations Act, 1995 (Act No. 66 of 1995) as amended;
- 5.3 Public Service Act, 1994 (Proclamation No.103 of 1994);
- 5.3 Public Service Coordinating Bargaining Council (PSCBC), Resolution 1 of 2003;
- 5.4 Public Service Regulations, 2001; and
- 5.5 White paper on Human Resource Management in the Public Service.

6. DEFINITIONS, ABBREVIATIONS AND ACRONYMS

- 6.1 **“Department”** means the KwaZulu-Natal Provincial Department of Social Development;
- 6.2 **“Employee”** means any person in the employ of the Department, as defined in terms of Section 1 of the Public Service Act;
- 6.3 **“PSCBC”** stands for Public Service Coordinating Bargaining Council; and
- 6.4 **“Suspension”** means temporarily removing the employee in question from his/her workplace, while the investigation continues

7. PRINCIPLES

- 7.1 The rules of Administrative justice must be observed prior to taking a decision whether to suspend an employee or not;
- 7.2 Investigation must be initiated with immediate effect in order to avoid unnecessary delays;
- 7.3 An employee to be suspended shall be given an opportunity to make representations within the period of 24 hours to state why he/she should not be suspended; **(refer to Annexure “A” Notice of intention for precautionary suspension/transfer).**
- 7.4 Suspensions which are longer than the prescribed period of sixty days (60) must be avoided at all cost and precautionary transfers should always be preferred; **(refer to Annexure “B” Notice of precautionary transfer).**
- 7.5 The suspension of an employee pending a disciplinary enquiry is not per se unfair, but it is unfair if it is done to victimize an employee;
- 7.6 If it is decided to suspend an employee, a formal written notice of suspension must be given to the employee concerned and signed by the person with authority or delegated to suspend; **(refer to Annexure “C” Notice of precautionary Suspension).**
- 7.7 The decision to suspend/transfer an employee must be taken after the consideration of facts and circumstances pertaining to each case in that:-
 - 7.7.1 the employee concerned can unduly interfere with the investigation;
 - 7.7.2 the employee concerned has a potential to tamper with evidence;
 - 7.7.3 there is a potential for Departments' witnesses being unduly influenced, threatened or blackmailed; and
 - 7.7.4 there is a potential for an employee engaging in the same or other misconduct.

8. PROCEDURES RELATING TO SUSPENSION

8.1 It must have been alleged that the concerned employee committed a serious offence, in terms of the Labour Relations Act, 1995 (Act No.66 of 1995), Schedule 8 item 3.4 of Code of Good Practice.

- (a) The Head of Department or his/her designee shall inform the employee concerned about the intentions of the Department to suspend him/her;
- (b) The employee concerned must be given an opportunity to make representations, in line with the principle of administrative justice;
- (c) On receipt of the response from the employee concerned, the Head of Department or his/her designee shall make a decision whether to proceed with the suspension or not;
- (d) If the employee concerned does not respond within 24 hours after receipt of intention by the Department; the Head of Department or his/her designee shall enforce suspension with immediate effect;
- (e) If the employee is suspended or transferred as a precautionary measure, the employer must hold a disciplinary hearing within sixty (60) days, depending on the complexity of the matter and the length of the investigation. The chair of the hearing must then decide on any further postponement;

8.2 Conditions of suspension

The letter of suspension should state conditions of suspension, i.e.:-

- (a) the employee concerned should avail himself or herself when needed by the Department since he/she is still the employee of the Department;
- (b) the employee should furnish the Department with the address and contact numbers of places where he/she will be stationed. That implies that it is the responsibility of the employee to supply the mentioned details; and
- (c) the employee shall not perform any remunerative duties or work for another employer during the period of suspension.

8.3 Should there be no grounds to charge the employee concerned, the employee should be informed in writing and be allowed back to his/her workplace without prejudice.

9. ROLES AND RESPONSIBILITIES

9.1 Supervisors are responsible for:-

- (a) providing necessary training and communication to employees of the department relating to this Policy; and
- (b) following the processes outlined in this Policy.

9.2 Employees are responsible for:-

- (a) behaving in a best ethical and professional manner at all times

10. MONITORING, EVALUATION AND REVIEW

10.1 The Human Resource Management Component is responsible for communicating the provisions of this Policy to all employees; and

10.2 The Policy will be monitored, evaluated and reviewed every three years or as when the need arises.

11. NON COMPLIANCE

An employee who fails to comply with this this Policy shall be guilty of an act of misconduct.

12. EFFECTIVE DATE

This Policy is to be effective on the date of approval.

13. TITLE OF THE POLICY

This Policy shall be called Policy on Suspension.

14. POLICY APPROVAL

This Policy supersedes all other policies on Suspension promulgated before. This Policy is approved with effect from the 05 day of November in the year 2015.



.....
Ms NG KHANYILE
HEAD OF DEPARTMENT
DEPARTMENT OF SOCIAL DEVELOPMENT



“ANNEXURE A”

NOTICE OF INTENTION FOR PRECAUTIONARY SUSPENSION/TRANSFER

NAME OF THE EMPLOYEE: _____

PERSAL NUMBER OF EMPLOYEE: _____

JOB TITLE: _____

1. You are hereby informed of the department’s intention to precautionary suspend/transfer you from your work station pending the finalisation of investigation to the allegations of misconduct against yourself.
2. The reasons for the above-mentioned decision is as a result of the following allegations:
.....
(State allegations and attach copies of documents, where applicable)
3. You may submit written representations within twenty four (24) hours calculated on working days upon receipt of this letter to show cause as to why you should not be suspended/transfer.
4. Failure to respond within 24 hours calculated working days after receipt of this letter, the Department shall enforce the suspension/transfer with immediate effect.

Head of Department

Date: _____

Signature of employee

Date: _____

Signature of witness (if applicable)

Date: _____



“ANNEXURE B”

NOTICE OF PRECAUTIONARY TRANSFER

NAME OF THE EMPLOYEE: _____

PERSAL NO OF EMPLOYEE: _____

JOB TITLE: _____

1. Having considered your representations, you are hereby informed of the department's decision to transfer you as a precautionary measure from your work station pending the finalisation of investigation to the allegations of misconduct against yourself, in terms of PSCBC Resolution 1 of 2003.
2. You are therefore directed to report for duty at..... **(specify place of work and date)**
 to..... **(name of supervisor)**, who shall be responsible for the assignment of duties.
3. **The conditions attached to your precautionary transfer are as follows:-** *(insert applicable conditions)*
 - 3.3.1
 - 3.3.2
 - 3.3.3
4. Failure to comply with the above conditions may affect the disciplinary process.

 Head of Department

Date: _____

 Signature of employee

Date: _____

 Signature of witness (if applicable)

Date: _____



“ANNEXURE C”

NOTICE OF PRECAUTIONARY SUSPENSION

NAME OF THE EMPLOYEE: _____

PERSAL NO OF EMPLOYEE: _____

JOB TITLE: _____

1. Having considered your representations, you are hereby informed of the department's decision to suspend you as a precautionary measure from your work station pending the finalisation of investigation to the allegations of misconduct against yourself, in terms of PSCBC Resolution 1 of 2003.
2. The Conditions of your precautionary suspension are as follows:-
 - 2.1 you shall avail yourself when needed by the Department since you are still an employee;
 - 2.2 you shall furnish the Department with the address and contact numbers of places where you will be stationed;
 - 2.3 you shall not perform any remunerative duties or work for another employer during the period of precautionary suspension;
 - 2.4 you may not make contact with anyone in the department and you may not to enter the premises of the department unless otherwise directed;
 - 2.5 you are requested to hand over all departmental resources or assets that are in your possession to your immediate supervisor, and furnish him/her with your personal details.

Your precautionary suspension is with immediate effect with full emoluments.

Head of Department

Date: _____

Signature of employee

Date: _____

Signature of witness (if applicable)

Date: _____