**Section 600.666 Discipline and Discharge**

a) Termination at the Discretion of the Auditor General: Probationary employees who have not obtained certified status in the Office and Executive Employees may be terminated at any time, without notice, cause or any right to a hearing, at the discretion of the Auditor General. Probationary employees who have not obtained certified status in the Office and Executive Employees do not have any right to progressive corrective discipline procedures, as set forth in this Section.

b) Progressive Corrective Discipline

1) Unless grounds clearly are present warranting immediate discharge or suspension pending decision on discharge, employees shall be subject to corrective discipline progressively applied utilizing counseling, warnings, and/or suspensions, as the facts and circumstances dictate, prior to discharge. If an employee's work or work-related conduct remains unacceptable after the application of progressive corrective discipline, the employee may be discharged in accordance with the appropriate rules below. This subsection does not apply to employees subject to subsection (a), above.

2) Grounds warranting immediate discharge or suspension pending decision on discharge shall include, but are not limited to, any violation of the Illinois State Auditing Act or any other law or rule governing the employee's conduct or duties as an employee of State government, this Subpart, any other rule or regulation of the Office or policies promulgated pursuant thereto, or misrepresentation of education, experience or professional qualifications.

c) Discipline − Warnings: A Director or designee may warn an employee either orally or in writing as a disciplinary measure. A copy of any written warning shall be signed by the appropriate Director and placed in the employee's personnel file. A copy of any written warning shall be delivered in person or sent by certified mail, return receipt requested, to the last address of the employee appearing in the personnel file. An employee shall have the right to respond to the warning in writing within ten (10) calendar days of its receipt and any response shall be included in the employee's personnel file.

d) Suspension: A Director may suspend an employee without pay for up to thirty (30) days in any twelve (12) month period. A longer suspension may be approved by the Auditor General. The Director shall provide the employee with written reasons for the suspension in person or by certified mail, return receipt requested, at the employee's last address appearing in the personnel file. The written charges shall be signed by the Director and contain a clear and concise statement of facts showing cause for the suspension. One copy of the notice of suspension shall be placed in the employee's personnel file and one copy shall be delivered to the payroll clerk. Unless delay will result in clear harm or damage to a division, the employee shall be informed in writing of the proposed suspension and the reasons therefor at least four (4) working days prior to the effective date of the suspension. The employee shall have two (2) working days after being informed of the proposed suspension within which to address to the Director written rebuttal to the reasons given for the suspension. The suspension shall be effective unless a decision not to suspend the employee is rendered in writing before the proposed suspension date.

e) Discharge of Certified Employee:

1) Cause for Discharge: Cause for discharge consists of some substantial shortcoming which renders the continuance of an employee in a State position in some way detrimental to the discipline and/or efficiency of the service and which the law or sound public policy recognizes as good cause for the employee no longer being held in that position.

2) Suspension Pending Decision on Discharge: The Office may suspend any employee for up to thirty (30) days pending the decision on whether charges for discharge shall be filed against the employee. The Office shall, at the time of this suspension, provide the employee with written reasons for the suspension in person or by certified mail, return receipt requested, at the employee's last address appearing in the personnel file. The Office shall promptly investigate the facts and circumstances and render its decision. Should the Office determine that the facts and circumstances do not warrant disciplinary suspension or charges for discharge, the employee shall be made whole. Should the Office determine that a disciplinary suspension is appropriate, subsection (d) shall apply in its entirety. Should the Office determine that discharge of the employee is appropriate, subsection (e)(3) shall apply in its entirety.

3) Discharge of Certified Employee:

A) The Auditor General or designee may initiate discharge of a certified employee by filing signed written charges for discharge. Written charges shall contain a clear and concise statement of facts showing good cause for discharge.

B) Before a discharge shall be effective, the certified employee shall receive by certified mail or by delivery in person a written copy of the charges, a copy of the evidence against him or her or a reasonable summary of the evidence designed to give the employee sufficient information to respond to the charges against him or her, and have at least four (4) working days within which to respond to the charges with reasons and evidence why discharge should not occur. The certified employee's response, which should include matters in defense and/or mitigation, may be in writing or orally presented as directed by the Auditor General or his designee before 4:30 p.m. on the fourth working day after the certified employee has received notice of the proposed discharge, counting the day of service as the first day. The certified employee may be suspended pending discharge for these four working days, and, if suspended, shall remain suspended until a final decision on discharge is made.

C) After receipt of the certified employee's written or oral response to the proposed discharge, the Auditor General or his designee shall carefully consider all matters submitted by the employee. The Auditor General or his designee shall make a decision within a reasonable time after receipt of the employee's response, or after the expiration of the four (4) working days if no response is received. If more than ten (10) working days to make a decision is required, the employee shall be notified of that fact in writing by certified mail or hand delivery. The final notice of discharge shall contain a statement that the response of the certified employee was considered before a final decision was made, or that no response was submitted.

D) Notice of approved charges for discharge shall be served on the employee by the Auditor General or his designee, in person or by certified mail, return receipt requested, at the employee's last address appearing in the personnel file.

E) Upon receipt by the employee of charges for discharge, the employee shall leave the place of employment and return to the Auditor General or his designee any State identification, keys, supplies, tools or other property.

f) Discharge of Probationary Employee: The Auditor General may approve the discharge or suspension of a probationary employee who has not obtained certified status in the Office and Executive Employees. Written notice of discharge or suspension shall be delivered to the employee in person or by certified mail, return receipt requested, at the employee's last address appearing in the personnel file.

g) Hearing − Certified Employees: Certified employees who have been served with approved charges for suspension or discharge may appeal to the Grievance Review Committee as provided in Section 600.670 of this Part.

h) Reinstatement From Suspension or Discharge: An employee reinstated for the period for which he or she was suspended or discharged shall receive full compensation for that period. Full compensation shall mean compensation the suspended or discharged employee would have earned in the position during the period of suspension or discharge less amounts earned by the employee from any other source and any unemployment compensation payments received during that period.

i) Suspension/Discharge Resulting from Arrest or Criminal Indictment

1) The arrest or criminal indictment of any employee shall not be grounds for suspension or discharge. The facts in support of either an arrest or criminal indictment may be grounds for suspension or discharge if they meet one or more of the following criteria:

A) resulted from an employee's conduct in the course of employment duties, including a failure to perform those duties; or

B) occurred on or proximate to State premises and as a result of the employee's conduct thereon; or

C) raises reasonable doubt concerning the employee's suitability for continued State employment in the present assignment or position.

2) The Auditor General may, under the circumstances set forth above, suspend an employee, without pay, pending a final court determination of innocence or guilt.

3) The following shall control the suspension pending judicial verdict:

A) An affected employee may be in jail, free on bond or in some other similar status at the time the suspension is imposed.

B) The arrest or indictment of an employee shall be cause for State or Federal criminal or civil charges, or charges brought in a foreign country, which raise reasonable doubt concerning the employee's suitability for continued employment in the current position. Traffic violations are not sufficient cause for suspension except where the employee temporarily loses driving privileges if the license is a requirement for work as contained in the job description or position classification.

C) Any proposed suspension pending judicial verdict requires approval by the Auditor General or his designee and will include a complete and detailed statement of the reason(s) for the suspension and a copy of any official document, such as charges, indictment or arrest record, which supports the suspension.

D) The suspension shall have no designated expiration date, depending on the length of the initial judicial process. The suspension ends with the return of the employee to work, discharge or termination of employment. This suspension will not be continued while the employee appeals an initial guilty verdict through higher courts.

E) An approved suspension pending judicial verdict will be served on the employee in person or by certified mail, return receipt requested, to the employee's last address appearing in the personnel file. It will be the responsibility of the employee to notify the agency of any change of address.

F) Upon a finding of not guilty or the dismissal of the charges for any reason, the employee, upon application, will be restored to the same or similar position in the agency and work location held at the time the suspension was issued.

G) The employee may or may not be entitled to back pay depending upon the circumstances surrounding a finding of not guilty or a dismissal of the charges. The Auditor General shall make a final determination with respect to whether back pay shall be granted.

H) If any officer or government employee is placed on leave, either voluntarily or involuntarily, pending the outcome of a criminal investigation or prosecution and that officer or employee is removed from office or employment due to his or her resultant criminal conviction, then the officer or employee is indebted to the State for all compensation and the value of all benefits received during the leave and must forthwith pay the full amount to the State.

(Source: Amended at 33 Ill. Reg. 1704, effective March 10, 2009)