



**STATE OF ILLINOIS
STATE UNIVERSITIES CIVIL SERVICE SYSTEM**

Frequently Asked Questions (FAQ)

Information for Civil Service Employees in Discharge Proceedings

The State Universities Civil Service System ("University System") has developed this informational resource in response to employees' frequently asked questions about the process of being discharged from a civil service status position.

Discharge proceedings are governed by the State Universities Civil Service Act ("Act") (110 ILCS 70/36o) and the Civil Service Rules ("Rules") (80 Ill. Adm. Code §250.110(f)). Discharge hearings are convened by the University System under the authority of the University Civil Service Merit Board ("Merit Board").

You are encouraged to read the Act and the Rules carefully to inform yourself of your rights in relation to your employer's decision to start discharge proceedings against you. You are solely responsible for reviewing the Act and Rules in full and deciding how you would like to proceed. You may consult an attorney to advise and represent you in this process, at your own expense.

The University System can answer procedural questions about the Act or Rules, but neither your employer's human resource staff nor the University System can give you legal advice. This means they cannot interpret the Act or Rules as they apply to the facts of your case and suggest your next steps.

Information about the Options Available after Service of Written Charges

1. Have I been discharged?

No. Your employer did not discharge you. Only the Merit Board has the authority to discharge a civil service employee. By filing and serving the Written Charges for Discharge, your employer has started discharge proceedings against you. This means that your employer believes that they can prove there is just cause to discharge you from your employment.

After the hearing, the Merit Board will decide if there is just cause to discharge you from your position. See Rules 250.110(f)(3) and (12).

2. What are my options, and how much time do I have to decide what to do next?

You have three options:

- Request a hearing - you can request a hearing where you will have an opportunity to respond to your employer's charges. You have 15 calendar days from the date listed in the "Proof of Service on Employee" section of the Written Charges for Discharge to request a hearing. This deadline cannot be extended. A hearing must be requested in writing, and it occurs at no cost to you. See Rules 250.110(f)(4) and (5).
- Resign in writing - you may resign from your position at any time by writing to your employer. If you do, you waive your right to a hearing. See Rule 250.110(a).

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- Do nothing - if you take no action, you will waive your right to a hearing and be discharged from your employment. Your discharge will be final and effective at the end of the 15 calendar days from the date listed in the "Proof of Service on Employee" section of the Written Charges for Discharge. See Rule 250.110(f)(4).

Employers sometimes mistakenly refer to a discharge hearing before the Merit Board as an "appeal", but that is inaccurate. Because you have not been discharged, there is nothing to appeal. The option available to challenge your employer's decision is to request a hearing.

3. How do I request a discharge hearing, and what happens next?

To request a discharge hearing, you must submit a written request to the University System within 15 calendar days from the date listed in the "Proof of Service on Employee" section of the Written Charges for Discharge. See Rule 250.110(f)(5)(A).

Submit your written request to the University System by:

- Email: hearingrequest@sucss.illinois.gov
- Mail or in person: State Universities Civil Service System
1717 Philo Road, Suite 24
Urbana, Illinois 61802-6099

Once your request is received, the University System will schedule a hearing. Hearings are typically scheduled to take place within the next 3-5 weeks. During this time, both you and your employer have an opportunity to prepare your case.

Information about Discharge Hearings

4. Who is involved in a discharge hearing?

- Employer: Responsible for presenting evidence, call and question witnesses, and proving (a) that the charges are more likely true than not and (b) that there is just cause to discharge you.
- Employee: May present evidence, call and question witnesses, and testify on your own behalf to contest the charges or demonstrate why the charges should not be considered just cause for discharge.
- University System: The University System facilitates the logistics of the hearing and appoints the Hearing Officer. Multiple University System employees may attend the hearing to satisfy these responsibilities.
- Hearing Officer: Responsible for conducting the pre-hearing conference and the hearing. During the hearing, the Hearing Officer rules on motions and decides what evidence will be admitted. After the hearing, they prepare the Findings of Fact, which are used by the Merit Board in making the final decision.
- Court Reporter: Creates a verbatim transcript of the hearing and appends all admitted exhibits. This transcript becomes part of the Certified Record and is used by the Merit Board in making the final decision.

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- Witnesses: Each party may invite people to attend the hearing and answer questions about what happened. These people must have knowledge related to the charges for discharge or be able to speak to whether the charges should be considered just cause for discharge. Each party must disclose the names of any witnesses they plan to invite at least five workdays before the hearing.

5. Where will my hearing take place?

Discharge hearings typically occur remotely via Microsoft Teams. For remote hearings, each person attending must be visible and audible and able to view exhibits that may be shared during the hearing. A telephone connection alone is not sufficient.

6. What happens during a discharge hearing?

During the hearing, your employer will present evidence to support the allegations contained in the Written Charges for Discharge. They have the burden of proof and must prove their case by a preponderance of the evidence. This means that your employer will have to prove that it is more likely true than not that:

- You engaged in the behavior they have alleged; and
- Your behavior amounts to just cause for discharge (see below).

You will have the opportunity to defend yourself. You may do so by:

- Cross-examining the employer's witnesses;
- Submitting evidence that disproves the allegations; or,
- Providing evidence to show that the behavior does not amount to just cause for discharge.

The way you and your employer will be expected to present your evidence is outlined in detail in the rule. You will be expected to follow these rules during the hearing, even if you do not have an attorney. See Rules 250.110(f)(6) through (10).

7. How can I prepare for my discharge hearing?

To prepare for your discharge hearing, carefully review the Written Charges for Discharge and any supporting documents. Reviewing these documents can help you decide:

- What documents you may want to request from your employer before the hearing;
- What documents you may want to request from other people before the hearing;
- What information you may wish to present during the hearing;
- Whether you will testify on your own behalf;
- Which witnesses you want to testify on your behalf; and
- What questions you want to ask the witnesses, including yours and the employer's.

The rules govern the process of preparing for a discharge hearing. Some parts of the rule are time sensitive, and it is important that you review the rule carefully and begin preparing your defense as early as possible. See Rule 250.110(f)(5).

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8. If my employer or someone else has documents that may help me prove my case, can I request a copy before the hearing? If another employee or someone else witnessed the events at issue, can I request that they testify at the hearing?

Yes. The rules provide several tools that allow each party to request information from the other in preparation for the hearing. These tools include requests for documents, subpoenas of witnesses, and more.

The rules explain how each tool must be used, and some rules contain deadlines by which the tool must be used (or waived) by either party. The rules also specify deadlines by which each party must provide documents and witnesses to the University System and the other party before the discharge hearing. Failure to follow the rule on time may result in you not being able to use that information in your defense. See Rule 250.110(f)(5)(C) through (F).

9. Will the Merit Board receive a copy of each document I request, send to the other party, or file with the University System?

No, documents that you request as you prepare for the hearing, and the documents that you send to the other party or file with the University System before the hearing are not automatically shared with the Merit Board.

The Merit Board will only see documents admitted into evidence by the Hearing Officer during the hearing. This means that to show documents to the Merit Board, you must disclose them in advance, present them at the hearing, and ask the Hearing Officer to admit them into evidence. The rules will guide the Hearing Officer in their decision about whether to grant your request to admit a document into evidence, and you are encouraged to review each rule carefully before the hearing. See Rules 250.110(f)(5)(F) and (f)(8).

10. What if I request a discharge hearing and then change my mind?

After you request a hearing, you can withdraw your request for any reason, such as having chosen to resign or having reached an agreement with your employer. If you withdraw your request, the hearing will be canceled, and you will not be able to request another hearing.

If you request a hearing and fail to appear for it without having withdrawn your request before the hearing begins, the hearing will proceed in your absence and you may lose the opportunity to present a defense.

See Rules 250.110(a) (resignation), 250.110(f)(11) (settlement), and 250.110(f)(10) (failure to appear).

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Information about the Decision of the Merit Board

11. What can the Merit Board do after a discharge hearing?

The Merit Board has three choices after a discharge hearing (Rule 250.110(f)(12)). After reviewing the Findings of Fact, transcript, and evidence admitted during the hearing ("hearing record"), the Merit Board can determine that:

- There is not just cause for discharge, and your behavior does not warrant disciplinary action. Then, the Merit Board can reinstate you to your classification without loss of compensation;
- There is not just cause for discharge but that your behavior warrants disciplinary action. Then, the Merit Board can reinstate you after an unpaid suspension of 3-120 calendar days; or
- There is just cause for discharge. Then, the Merit Board can discharge you.

See Rule 250.110(f)(12).

12. How will the Merit Board decide if I should be discharged?

The Merit Board can only discharge you from your employment if they find that there is just cause to do so. The rules define just cause and provide examples of conduct that may be considered just cause for discharge.

The Merit Board can only consider the information in the hearing record. Any information you want them to know must be presented during the hearing. Anything else, such as a conversation during the pre-hearing conference or information you gave your employer but did not present to the Hearing Officer, will not be given to the Merit Board, and they will need to make their decision without it.

See Rules 250.110(f)(12)(A) (definition), (f)(1) (examples), and (f)(e)(3) (examples if the conduct is repeated).

13. If I request a hearing, how long will I have to wait for the Merit Board's decision?

This discharge hearing process can take several months to complete because:

- A hearing must start (or "be convened") within 45 days of the date of service of the Written Charges for Discharge. See 110 ILCS 70/360(b).
- After the hearing is over, there are various steps that the Hearing Officer and University System need to finish to prepare the hearing record. See Rules 250.110(f)(6)(G) and 250.110(f)(6)(I).
- Once the hearing record is complete, the parties have 14 days to review it and file any necessary motions before it is provided to the Merit Board for consideration. See Rules 250.110(f)(8)(G) and (f)(9)(K).
- After that, the Merit Board reviews the hearing record, discusses the matter, and makes a decision at a public meeting. Meeting dates are available on the University System website: <https://www.sucss.illinois.gov/>. See Rule 250.110(f)(13).

This process usually takes approximately 5-8 months for a final decision after a hearing is requested, but it may take longer, depending on scheduling.

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