

Civil Service Commission



Commission's Role in Employee Grievances

- Conduct a hearing
- Issue a decision
- Appealable to circuit court

The Commission

The function of the Civil Service Commission is made up of seven members appointed by the Governor. Generally, they are not lawyers. Three members have to have law enforcement experience.

Types of Employees

■ Temporary Employees

- Temporary employees can be terminated for any reason (except a discriminatory one) at any time.

■ Probationary Employees

- During the first 1,040 hours (not including overtime), employees are probationary employees who can be terminated for any reason (except a discriminatory one) at any time.

■ Exempt Employees

- Exempt employees can be terminated for any reason (except a discriminatory one) at any time.

■ Civil Service or Status Employees

- Civil Service employees have a property right in their position and can only be disciplined for:
 - Unsatisfactory Job Performance
 - Just Cause or Misconduct

Forms of Discipline

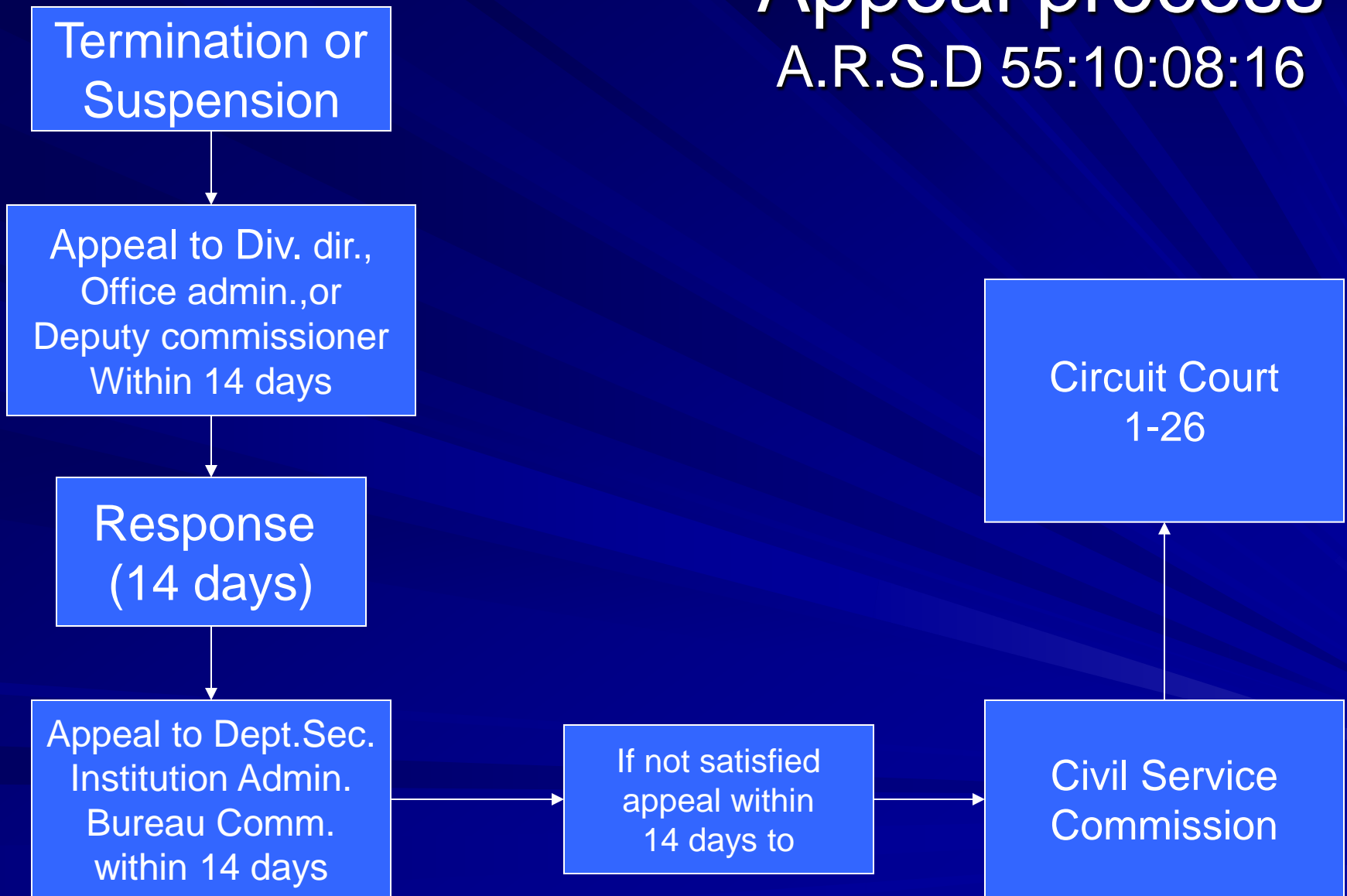
- **Work improvement plan (not appealable)**
- Letters of reprimand (not appealable)
- Suspension without pay
- Dismissal
- Demotion
- Reduction in salary

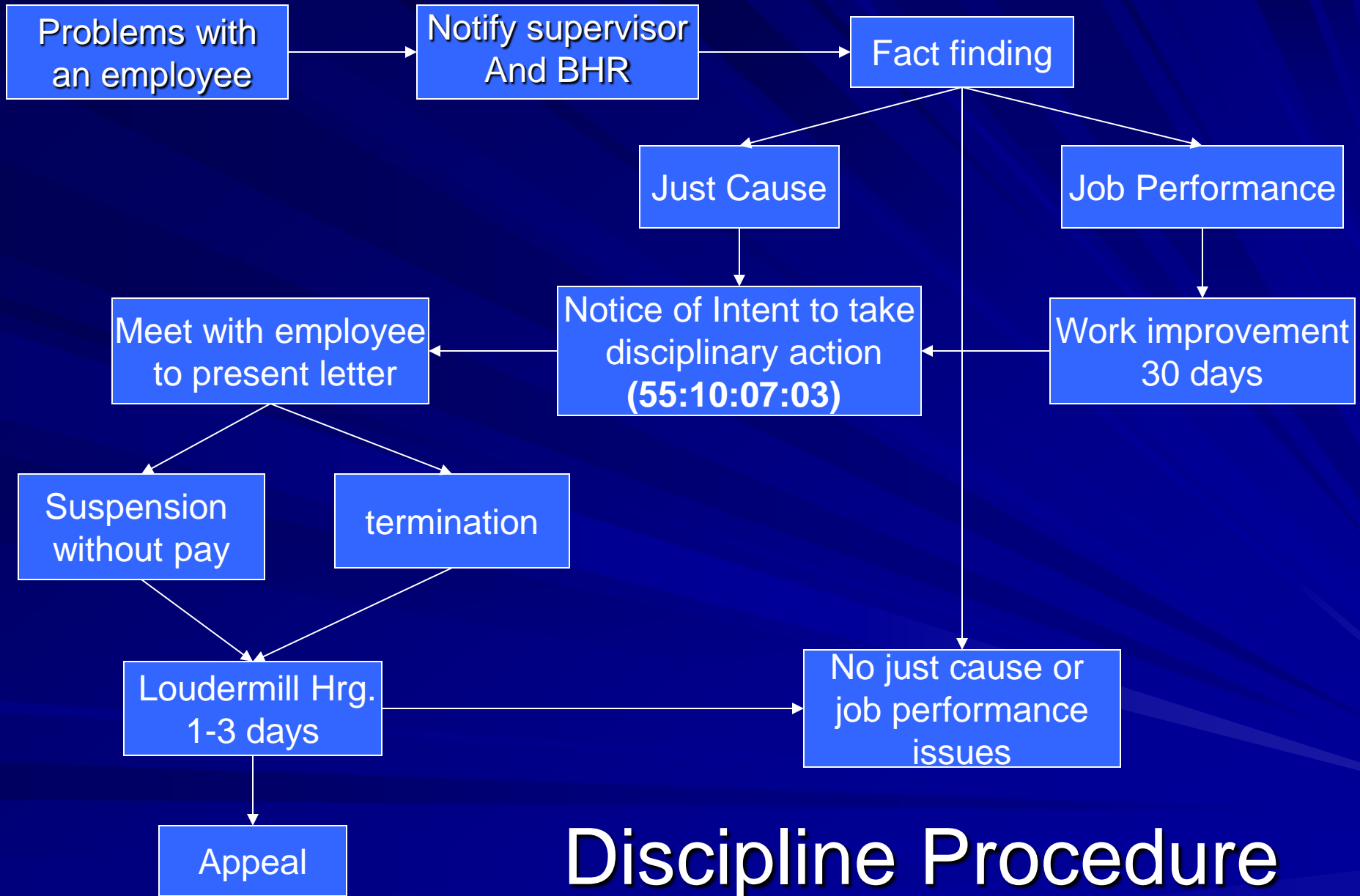
Just Cause vs. Poor Performance

- Disciplinary action may be taken for:
Just Cause (55:10:07:04, Causes for disciplinary action)
Also referred to as “good cause”. Employee can be terminated immediately, at any time.
- **Job Performance** (55:10:07:02, Work improvement.)
Incompetence arising from a course of conduct or a series of incidents. It is habitual failure. A person who performs substantially less than others regularly so employed. If the termination is for job performance, the employee is entitled to a work improvement plan and 30 days to remedy his/her deficiencies.

Appeal process

A.R.S.D 55:10:08:16





Discipline Procedure

Who are the people involved in
the process?

The Commission

The Civil Service Commission serves in a very part time capacity to review disputes between civil service employees and state agencies.

Its function is to conduct a hearing to determine if good cause exists for the action(s) taken by the agency.

The Employee

As the person filing the appeal with the Commission, they are referred to as either an “appellant” or “grievant.”

The Hearing Officer

In most cases, the Commission will appoint an attorney as their hearing officer. The hearing officer will serve as their legal advisor, ruling on questions of law, the admissibility of evidence and objections and will draft any legal documents needed at the conclusion of the hearing. The hearing officer does not have a vote on any commission decisions.

The Court Reporter

In most cases, a court reporter will be present to prepare a transcript of the hearing. The transcripts are available in the event an appeal is made to Circuit Court. The reporter records all the discussion during the hearing. Therefore, it is important that all participants speak clearly and that only one person talks at a time. The reporter may ask a participant to repeat a statement so that he or she can ensure the accuracy of the record.

The Agency

The agency involved in the dispute will generally be represented by a staff person and an attorney. The agency attorney will present the case for the agency and question the employee and their witnesses.

Witnesses

Each side is entitled to call witnesses. Witnesses will be asked questions in the following order:

- By the party calling them (called “direct”);
- By the opposing party (called “cross examination”);
- Follow-up questions by the party calling the witness (called “redirect”); and
- Follow-up questions by the opposing party (called “re-cross”).

Sequestered Witnesses

Witnesses may be “sequestered” which means that they cannot be in the hearing room before they testify. This is to avoid the possibility that witnesses may modify their testimony based on a prior witness’ testimony. As the “appellant,” you and the agency staff representative may be present throughout the hearing even if they plan to testify.

The Public

Since a civil service hearing is an open hearing, the public and the media may also be in attendance.

The Procedure

PRE-HEARING PROCEDURE

A pre-trial hearing is usually scheduled and conducted by the hearing officer prior to the commission hearing. The purpose of the hearing is to review the list of witnesses that each party will call, the exhibits they will present and any legal issues that might arise. The pre trial hearing is often held by telephone. The hearing is held so that:

- Parties will not be surprised by last-minute rulings.
- The parties can focus on the important issues.
- The Commission can remain an unbiased fact-finder. Pre-hearing matters could potentially prejudice the Commission's decision.

**PROCEDURE FOLLOWED
AT HEARING**

Opening Statements

The grievant will be asked to make a brief statement about what you intend to prove at the hearing. The statement should summarize their case. It is not intended to go into detail at this point.

Presentation of Evidence:

- The Employee has the opportunity to present their case. They use this time to enter documents which tend to prove your side of the issue. All evidence must be relevant to the grievance. You may call witnesses at this time. Everything you have to say about your grievance should be presented at this time. You may not be given another chance to introduce evidence. The agency will also be given the opportunity to present evidence.

Summation

Both sides are called to offer a summation. No new evidence can be presented at this time. The summation should show how the evidence that has been presented proves their side of the question. Once the summations are done, the hearing is over.

Commission's Decision

The Commission members may make a decision on the grievance immediately following the hearing or they may choose to make the decision at a later date.

Typically, a written record of the decision will be made. The written record may include Findings of Fact (listing critical points made at the hearing which lead to the decision), Conclusions of Law (addressing each point of the grievance and indicating whether the agency acted correctly in each case), and a "Decision" (a short statement listing the outcome of the grievance).

EX PARTE COMMUNICATIONS

The parties may not communicate directly or indirectly with members of the Commission or the hearing examiner regarding the grievance unless the opposing side is present or copied on written correspondence. These prohibited conversations are called ex parte (without the other party) communications and are not allowed.

Rescheduling

If a party requests a different hearing date than the one originally scheduled, the Commission has the right to review the reasons for the request and make a decision whether or not to grant the request.