

Chapter: Suspension and Separation	Effective Date: 1/1/15
Title: Suspension Pending Investigation Outcome or Termination	Page: 1 of 5
ACA: N/A	Replaces: PRS.11.11, 4/1/12
Statutes: N/A	PRS.11.13, 12/1/11

(a) **Policy.**

The Texas Juvenile Justice Department (TJJD) may suspend an employee pending the outcome of an investigation when there is good cause to do so. The suspension may continue until the employee is notified of the final decision regarding disciplinary action resulting from the investigation.

In addition, TJJD suspends employees pending termination as a result of failure to have a negative alcohol/drug test result or whenever an employee has been administered a reasonable suspicion drug test.

(b) **Definitions.**

For definitions of certain terms used in this policy, see the [PRS Glossary](#).

(c) **General Provisions.**

(1) **Suspension without Pay.**

- (A) An employee **must** be suspended without pay when:
 - (i) the designated employer representative (DER) receives notification from a collection site or medical review officer that an employee has failed to have a negative alcohol/drug test result; or
 - (ii) an employee has been administered a reasonable suspicion drug test.
- (B) An employee **may** be suspended without pay pending the outcome of an investigation only if:
 - (i) the appropriate disciplinary action for a confirmed allegation would generally be termination; and
 - (ii) the alleged misconduct is so severe that the employee's continued presence in the workplace could present a safety and/or security risk to youth, employees, or property.
- (C) While an employee is suspended without pay, he/she:
 - (i) must use available holiday, compensatory, and administrative leave (in that order) before being placed in an unpaid leave status; and
 - (ii) then uses available vacation and/or overtime leave (in that order) before being placed in an unpaid leave status, unless he/she:
 - (I) is missing work due to an on-the-job injury and elected to not use vacation leave in accordance with [PRS.28.02](#); and/or
 - (II) provides written notice to his/her supervisor or the employee relations coordinator (ERC) that he/she does not want to use available vacation and/or overtime leave.
- (D) During a suspension without pay, sick leave is available for use only when the reason for leave qualifies as sick leave and any medical certification requirements are met.

(2) Suspension with Pay.

- (A) An employee may be placed on suspension with pay pending an investigation outcome only when there is good cause and other options are not in the best interest of the agency. The following circumstances are considered good cause:
- (i) to protect the integrity of the investigation;
 - (ii) to protect a complainant or witness from potential retaliation; and/or
 - (iii) suspension without pay has been requested but not yet approved.
- (B) An employee is not required to use accrued leave balances while on suspension with pay.

(d) Procedures.**(1) Suspension without Pay.****(A) Relating to Alcohol/Drug Testing.**

- (i) If the DER is on-site and the employee is at work, the DER completes a Suspension without Pay Notice Due to Alcohol/Drug Testing, [HR-124a](#), issues the form to the employee in person, and returns the original form to the ERC after obtaining the employee's signature.
- (ii) If the DER is not on-site but the employee is at work, the DER instructs a designee to complete and issue the form.
- (iii) If the employee is on leave when the DER receives the results of a verified positive random drug test, the DER mails the form to the employee.

(B) Pending Investigation Outcome.

- (i) The supervisor submits the recommendation and supporting evidence to the appropriate employee relations coordinator (ERC). The supervisor does not suspend the employee without pay until the ERC has notified the supervisor that all required approvals have been obtained.
- (ii) The ERC must receive approval via email from:
 - (I) the employee relations specialist;
 - (II) the [chief local administrator \(CLA\)](#); and
 - (III) the Office of General Counsel (OGC).

Note: The employee relations specialist coordinates obtaining approval from the OGC.

- (iii) After obtaining the required approvals to suspend the employee without pay, the ERC provides a Suspension Notice Pending Investigation Outcome, [HR-124b](#), to the employee's immediate supervisor for signature and instructs the supervisor to:
 - (I) issue the form to the employee in person and return the original form to the ERC after the employee signs the form; or
 - (II) return the form to the ERC for mailing to the employee because the employee is on leave.

(C) Placement on Unpaid Leave.

If the employee is placed on unpaid leave, the HRA must notify the Payroll Department as soon as reasonably possible and process a Personnel Action Request – Pay/Benefit Change form, [HR-002-D](#).

(2) Suspension with Pay.**(A) Decision to Recommend Suspension with Pay.**

- (i) Before recommending suspension with pay, the supervisor must consider whether other options would be more practical and in the best interest of the agency. Examples of other options include:
 - (I) temporary reassignment to a different work station or shift; and
 - (II) cautioning the accused employee in a written counseling memo that TJJJ does not tolerate any form of retaliation against a complainant, witness, investigator, or any other person involved in a complaint or investigation.
- (ii) When deciding whether another option is practical or in the best interest of the agency, the supervisor must consider:
 - (I) whether the option would adequately reduce the potential for harm to youth or other employees; and
 - (II) additional factors having a potentially negative impact to agency operations or interests, such as:
 - (-a-) how long the suspension will likely last (based on the time required for completing the investigation and imposing any disciplinary action); and
 - (-b-) the fiscal and/or operational impact of suspension with pay (e.g., salary of the employee while on suspension with pay, workload burdens, and overtime accruals for other employees).

(B) Recommendation and Approval Process.

- (i) **Suspension with Pay for Remainder of Shift/Workday or on a Weekend/Holiday.**
 - (I) If warranted by circumstances that will result in at least a preliminary investigation into alleged, severe misconduct, a supervisor, administrative duty officer (ADO), or higher authority may notify an employee verbally or by memo that the employee is suspended with pay:
 - (-a-) for the remainder of an employee's shift or workday; or
 - (-b-) for the remainder of a weekend or holiday, up to the close of business on the next business day.
 - Note: If the employee is notified by memo, the supervisor must maintain a copy of the memo and provide a copy to the ERC.
 - (II) Before suspending the employee, the supervisor must consult with the ERC or the ADO if the ERC is not at work when the supervisor is considering the suspension.
 - (-a-) If the ERC agrees that suspension is appropriate, he/she obtains approval via email from the CLA or designee before advising the supervisor to proceed with the suspension.
 - (-b-) If the ADO is consulted and agrees that suspension is appropriate, the supervisor must send an email before leaving work to the ERC with a copy to the CLA. The email must:

(-1-) describe:

- the period of suspension;
- whether the employee was notified verbally or by memo; and
- the alleged misconduct justifying the suspension with pay;

(-2-) explain why no other options were practical; and

(-3-) advise whether the supervisor:

- is requesting approval for suspension with pay to be extended for a longer period; or
- does not yet know if requesting an extension for the suspension with pay is appropriate (e.g., if the supervisor needs to collect more evidence or has reason to believe that additional evidence will support suspension without pay).

(ii) **Suspension with Pay for Longer Period.**

(I) Before suspending an employee with pay for longer than the end of the employee's current shift/workday or beyond the first regular business day following a weekend or holiday, the supervisor must:

(-a-) send an email to the ERC with the information described in [\(d\)\(2\)\(B\)\(i\)\(II\)\(-b-\)](#) above if such an email has not already been sent, and

(-b-) receive notification from the ERC that all required approvals have been obtained.

(II) The ERC must receive approval via email from:

(-a-) the employee relations specialist;

(-b-) the CLA; and

(-c-) the appropriate division director.

Note: The employee relations specialist coordinates obtaining approval from the division director.

(III) After obtaining the required approvals to suspend an employee with pay for longer than a shift/workday or weekend/holiday, the ERC provides a [HR-124b](#) to the employee's immediate supervisor for signature and instructs the supervisor to:

(-a-) issue the form to the employee in person and return the original form to the ERC after the employee signs the form; or

(-b-) return the form to the ERC for mailing to the employee because the employee is on leave.

(C) **Monitoring Employee Status; Investigation Process.**

After an employee is issued an HR-124b form notifying him/her of placement on suspension with pay, it is important to monitor the employee's status and the investigation process to reduce the suspension with pay period and resulting fiscal and operational impacts as much as possible.

(i) **Supervisor's Responsibilities.**

The supervisor is responsible for:

- (I) monitoring the employee's status and related circumstances (e.g., monitoring the length of time the employee is on suspension and the employee's cooperation with the ERC); and
- (II) identifying other options that may become available during the employee's absence, including suspension without pay.

(ii) **ERC's Responsibilities.**

When the investigation is an [official investigation](#), the ERC:

- (I) sends an email to the investigating authority:
 - (-a-) informing him/her that the employee has been suspended with pay pending the investigation outcome;
 - (-b-) requesting that the investigation be expedited to the extent possible;
 - (-c-) requesting periodic updates via email regarding the status of the investigation; and
 - (-d-) requesting immediate notification if evidence indicates that the misconduct is more severe than initially thought and might justify subsequent placement on suspension without pay; and
 - (II) notifies the supervisor of the status of the investigation based on the periodic updates.
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