

Delaware County

Subject	Effective	Supersedes	This Sheet	Total
Pre-Disciplinary Hearing Involuntary Termination	6/28/2004	New	1	3

1.0 Purpose

A formalized and systematic Involuntary Termination Procedure in order to ensure compliance with due process requirements and ensure the safety of Delaware County's employees.

2.0 Scope

This policy pertains to all employees involved in an involuntary termination.

3.0 Distribution

To all departments operating under the authority of the Board of County Commissioners.

4.0 Definition

Loudermill Hearing - *Cleveland Board of Education vs. Loudermill*, 470 U.S. 532, (1985) is the United States Supreme Court case that explained a public employee's due process right to receive notice and an opportunity to respond to charges before disciplinary action takes place. This hearing is also referred to as a pre-disciplinary hearing.

5.0 Policy

It is our policy at Delaware County to provide a procedure that ensures employees a respectable and safe exit for all parties involved. All supervisors should consult with the Human Resources Department prior to implementing an involuntary termination procedure.

The steps outlining the involuntary termination process are described in detail below.

STEP 1 – Initial Discussion/Interview with Employee

During all private discussions with the exiting employee, the Supervisor must create a safe environment for himself/herself including: hold the meeting in a

room where other employees can hear a call for help and, if necessary, leave the door open a crack; never meet with the employee alone; have a panic button with him if available and seat the employee away from the door and himself closest to the door.

STEP 2 - Delivery of the Pre-disciplinary Meeting (Loudermill) Notice Letter

During the delivery of the pre-disciplinary meeting notice letter another supervisor or management should always accompany the supervisor taking the disciplinary measures if there is a reason to believe the supervisor will be treated violently or with hostility. The letter should be delivered during Delaware County office hours or at another reasonable time convenient to the parties. If the supervisor believes that the employee may react irrationally, the Supervisor should inform the Sheriff's Office of the situation and the messenger should carry a cell phone, Nextel, or panic button at all times.

STEP 3 - Pre-disciplinary (Loudermill) Meeting

The requirements of due process are notice and an opportunity to respond. The employee must be given an opportunity to present reasons, either in person or in writing, and explain why the proposed disciplinary action should not take place. The employee is entitled to oral and written notice (Loudermill notice in Step 2) of the charges against him, an explanation of the employer's findings/evidence against him, and an opportunity to present his/her side of the story, evidence, and witness testimony. The employee may be accompanied by a co-worker or advisor, but that person may not advocate for the employee during the pre-disciplinary meeting and only acts as an advisor.

During the Loudermill hearing, the safety precautions listed in Step 1 should be followed. In addition, if the Supervisor has reason to believe that the employee will act irrationally, the Supervisor should inform the Sheriff's Office in advance of the Hearing in order to have prompt assistance if necessary. If the situation necessitates, a Sheriff's Deputy will be contacted to escort the employee out of the building.

STEP 4 – Public Hearing to Terminate Employee

If there is reason to believe the employee will react inappropriately or violently, the Sheriff's Office should be informed of the personnel action and will station a Deputy outside of the Hearing Room. A panic button will be placed in the Hearing Room during the meeting.

STEP 5 – Removal of Employee's Personal Items

The Supervisor will determine a time for the employee to return to his/her former office to remove his/her personal items. The supervisor will inform the employee

of the date and time to return for his/her belongings at the Hearing. The appointment will be set during off hours. The Supervisor and, if warranted, a Sheriff's Deputy will be present during the employee's presence on Delaware County property. If the employee appears to be in a volatile state at the time of the Hearing and safety is of great concern, the supervisor and manager will pack and remove the employee's personal belongings and will arrange for the items to be delivered to the employee's home by a law enforcement officer.