



1           (5)(a) A career service employee who has  
2 satisfactorily completed at least a 1-year probationary period  
3 in his or her current position and who is subject to a  
4 suspension, reduction in pay, demotion, or dismissal shall  
5 receive written notice of such action at least 10 days prior  
6 to the date such action is to be taken. Subsequent to such  
7 notice, and prior to the date the action is to be taken, the  
8 affected employee shall be given an opportunity to appear  
9 before the agency or official taking the action to answer  
10 orally and in writing the charges against him or her. The  
11 notice to the employee required by this paragraph may be  
12 delivered to the employee personally or may be sent by  
13 certified mail with return receipt requested. Such actions  
14 shall be appealable to the Public Employees Relations  
15 Commission as provided in subsection (6). Alternatively, a  
16 certified law enforcement officer or correctional probation  
17 officer may seek review by an administrative law judge  
18 assigned by the Division of Administrative Hearings. Written  
19 notice of any application for review ~~such appeal~~ shall be  
20 filed by the employee with the commission or the Division of  
21 Administrative Hearings, as appropriate, within 14 calendar  
22 days after the date on which the notice of suspension,  
23 reduction in pay, demotion, or dismissal is received by the  
24 employee. The division shall develop a standard form to  
25 facilitate applications for review by certified law  
26 enforcement officers and correctional probation officers. The  
27 agency shall provide the employee a copy of the appropriate  
28 application with each notice required by this section.  
29           (b) In extraordinary situations such as when the  
30 retention of a career service employee who has satisfactorily  
31 completed at least a 1-year probationary period in his or her

1 current position would result in damage to state property,  
2 would be detrimental to the best interest of the state, or  
3 would result in injury to the employee, a fellow employee, or  
4 some other person, such employee may be suspended or dismissed  
5 without 10 days' prior notice, provided that written or oral  
6 notice of such action, evidence of the reasons therefor, and  
7 an opportunity to rebut the charges are furnished to the  
8 employee prior to such dismissal or suspension. Such notice  
9 may be delivered to the employee personally or may be sent by  
10 certified mail with return receipt requested. Agency  
11 compliance with the foregoing procedure requiring notice,  
12 evidence, and an opportunity for rebuttal must be  
13 substantiated. Any employee who is suspended or dismissed  
14 pursuant to ~~the provisions of~~ this paragraph may apply for  
15 review ~~appeal to the Public Employees Relations Commission~~ as  
16 provided in subsection (6). Written notice of application for  
17 review ~~any such appeal~~ shall be filed with the commission or  
18 the division by the employee within 14 days after the date on  
19 which the notice of suspension, reduction in pay, demotion, or  
20 dismissal is received by the employee.

21 (6) The following procedures ~~shall~~ apply to  
22 applications for review ~~appeals~~ filed pursuant to subsection  
23 (5) with the Public Employees Relations Commission,  
24 hereinafter referred to as the commission, or with the  
25 Division of Administrative Hearings, hereinafter referred to  
26 as the division:

27 (a) The commission or division must conduct a hearing  
28 within 30 calendar days following the filing of an application  
29 for review ~~a notice of appeal~~. Unless the administrative  
30 tribunal determines that the due-process rights of any party  
31 would be adversely affected, an ~~No~~ extension of time for the

1 hearing may not exceed 30 calendar days, absent exceptional  
2 circumstances, and an ~~no~~ extension of time may not be granted  
3 without the consent of all parties. Discovery may be granted  
4 only upon the showing of extraordinary circumstances. A party  
5 requesting discovery shall demonstrate a substantial need for  
6 the information requested and an inability to obtain relevant  
7 information by other means. Failure of the agency to timely  
8 share with the employee all of the information it has  
9 collected in making and supporting its decisions constitutes  
10 substantial need. Except where inconsistent with the  
11 requirements of this subsection, ~~the provisions of s.~~  
12 ~~447.503(4) and (5) and~~ chapter 120 applies ~~apply~~ to  
13 proceedings held pursuant to this subsection.

14 (b) A person may represent himself or herself in  
15 proceedings before the commission or division or may be  
16 represented by legal counsel or by any individual who  
17 qualifies as a representative pursuant to rules adopted by the  
18 tribunal ~~commission~~.

19 (c) If the administrative tribunal ~~commission~~ finds  
20 that sufficient cause did not exist to justify ~~for~~ the  
21 discipline imposed by the agency action, it ~~the~~ ~~commission~~  
22 shall reverse the decision of the agency head, and the  
23 employee shall be reinstated with or without back pay. If the  
24 administrative tribunal ~~commission~~ finds that sufficient cause  
25 existed to justify ~~for~~ the agency action, it ~~the~~ ~~commission~~  
26 shall affirm the decision of the agency head. If sufficient  
27 cause exists to justify the penalty, the administrative  
28 tribunal ~~commission~~ may not reduce the penalty imposed by the  
29 agency head, except in the case of law enforcement or  
30 correctional officers, firefighters, and professional health  
31 care providers, if the administrative law judge ~~commission~~

1 makes specific written findings of mitigation. Every award of  
2 back pay must be reduced by any mitigating interim earnings of  
3 the employee which exceed legal expenses in seeking review.  
4 The administrative law judge shall be otherwise bound by the  
5 common law of this state in fixing the amount of back pay.

6 (d) The administrative tribunal's order is final  
7 agency action. The final ~~A recommended~~ order shall be issued  
8 ~~by the hearing officer~~ within 30 days following the hearing.  
9 ~~Exceptions to the recommended order shall be filed within 5~~  
10 ~~business days after the recommended order is issued. The final~~  
11 ~~order shall be filed by the commission no later than 30~~  
12 ~~calendar days after the hearing or after the filing of~~  
13 ~~exceptions or oral arguments if granted.~~

14 (e) Final orders issued by an administrative tribunal  
15 ~~the commission~~ pursuant to paragraph (d) shall be reviewable  
16 as provided in s. 447.504 or s. 120.68.

17 Section 2. Subsection (8) of section 447.207, Florida  
18 Statutes, is amended to read:

19 447.207 Commission; powers and duties.--

20 (8) The commission or its designated agent shall, in  
21 appropriate cases, hear appeals arising out of any suspension,  
22 reduction in pay, demotion, or dismissal of any permanent  
23 employee in the State Career Service System in the manner  
24 provided in s. 110.227.

25 Section 3. This act shall take effect July 1, 2006.

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SENATE SUMMARY

Provides that suspension or dismissal of a public employee may be for just cause only. Transfers the authority to review actions of employers which impose discipline on certified law enforcement officer and correctional officers from the Public Employees Relations Commission to administrative law judges. Provides that an agency's failure to share information with the employee constitutes "substantial need" for purposes of compelling discovery. Provides certain constraints on awards of back pay.