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PRE-DISCIPLINARY DUE PROCESS CHECKLIST

1. Does the employee have a property interest [check labor agreement, policies, statutes, regulations, practice . . .]? If yes, go to step 2.

If no, evaluate whether the employee is entitled to a liberty interest “name clearing hearing.” If so, provide that hearing.

2. Is it the type of action that triggers pre-disciplinary due process rights?

- a. Is the proposed discipline for more than a 5-day suspension? If yes, go to step 3.

If no, does the labor agreement, policy, regulation, charter, statute or practice nevertheless require pre-disciplinary due process? If yes, go to step 3.

- b. If no to 2 and 2.a., do the charges implicate a liberty interest “name clearing hearing?”

If yes, provide the name clearing hearing.

If no, the agency can proceed to notify the employee of the disciplinary action and effective date; however, the agency may be required to provide post-disciplinary due process (e.g. suspension of five days or less).

3. Provide a Written Notice of Proposed Disciplinary Action

- Specify the proposed disciplinary action;
- Specify the policies/rules violated;
- Specify the factual basis for the proposed disciplinary action; and
- Determine whether to offer the opportunity to respond in person or writing.



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- Specify the means by which the employee may respond (i.e. by submitting a written response or attending a meeting with a specified person); and
 - Specify the deadline for response or the date and time of the Skelly meeting.
 - If Skelly meeting is offered, advise bargaining unit employee that he/she may arrange to have union representation at the meeting.
 - Specify the date the disciplinary action will take effect if no response is received; and
 - Attach documents upon which the discipline is based and list them either in the letter or as the first page to the packet of documents.
4. Skelly Officer should consider employee's written response and/or hold meeting and consider response.
5. Skelly Officer should reach a written decision concerning whether to uphold, reverse or reduce the proposed discipline. Need not be a long response.
- If the decision upholds or allows some level of discipline, specify the effective date; and specify the labor provision, rule or statute that provides an appeal mechanism and deadline for any such appeal (Consider attaching to the letter the applicable rule or other provision with the appeal provision).
6. If employee submits a timely appeal, proceed to provide post-disciplinary due-process.