**Note: Agencies should delete all Inapplicable language from this template. For example, if the employee is not subject to weekly testing as an APPROVED accommodation OR PENDING REQUEST, delete all language referencing testing as part of an APPROVED OR PENDING accommodation REQUEST. PURSUANT TO 6-B dcmr §1618.4, THE NOTICE MUST BE APPROVED AND SIGNED BY A PROPoSING OFFICIAL, WHO MUST BE A MANAGER WITHIN THE EMPLOYEE’S CHAIN OF COMMAND OR A MANAGEMENT OFFICIAL DESIGNATED BY THE PERSONNEL AUTHORITY. AGENCIES SHOULD MODIFY LANGUAGE TO REFLECT THE CIRCUMSTANCES of each case.**

[Agency Department]

March 22, 2022

[Agency Address]

[Local Union Address Block]

Union Rep email

Subject: Notice of Proposed 5-day Suspension – [Employee First Name] [Employee Last Name]. [Agency Abbr.]

Dear [Local Union Salutation],

On [Violation Date], [Employee First Name] [Employee Last Name], [Job Title], with the [Agency], failed to comply with the District government’s vaccination policy outlined in Issuance I-2022-3 and Mayor’s Orders 2021-099 and 2021-147.

The employee was previously verbally counseled for violating the policy on [Date]. This is the employee’s second violation of the policy. Pursuant to Title 6, Subtitle B, Chapter 16 of the DC Municipal Regulations, the [Agency Name] is issuing the employee a notice of proposed five-day suspension from the employee’s position of [Job Title]. In accordance with [CBA Citation] of the [CBA Name], this constitutes written notice to the union of the corrective action against [Empl Prefix] [Employee Last Name].

The specific details and circumstances are outlined in a notice of proposed five-day suspension and attachments, which are being provided to the employee. For more information, please contact [Agency HR Officer], at (202) ###-#### or [email.address@dc.gov](mailto:email.address@dc.gov).

Sincerely,

John Doe

Agency Representative

[Agency Department]

March 22, 2022

[Agency Address]

[Employee First Name][Employee Last Name]**,** [Job Title]

[Street Address]

[City], [State] 20011

Subject: Notice of Proposed 5-day Suspension

Dear [Empl Prefix]. [Employee Last Name]:

The [Agency], is proposing a five-day suspension without pay from your [Job Title] position.

**Disciplinary Cause.** This action is being taken for the following reason(s):

As of [Violation Date], you have not provided proof of full vaccination against COVID-19, or you have failed to submit weekly negative COVID-19 test results as part of an approved or pending accommodation request. (Conduct Prejudicial to the District Government, Failure or Refusal to Follow Instructions, and Safety and Health Violations, in violation of 6-B DCMR §§ 1605.4(a), (d) and (i).)

**Proposed Agency Action: 5-day Suspension.**

The proposed 5-day suspension serves as an independent corrective action for each of the enumerated causes above; however, the 5-day suspension for each cause shall run concurrently. Evidence supporting the above causes can be found in the enclosed attachments to this notice.

In accordance with Mayor’s Orders 2021-099 and 2021-147, and Issuance No. 2022-3, all District government employees must submit proof of full vaccination which includes receipt of a booster within six weeks of being eligible to receive a booster. Employees with an approved or pending accommodation request must submit a weekly COVID-19 test result. Your failure to adhere to this policy violates the standards outlined in the Mayor’s Orders 2021-099 and 2021-147, and DCHR Issuance 2022-3.

Based on the conduct outlined above and in consideration of the relevant *Douglas* factors, we are proposing to suspend you without pay for five days.

**Review Process.** You have the right to challenge this proposed suspension and may secure an attorney or other representative at your own expense. You are encouraged to fully review the accompanying materials supporting this action.

You or your representative can submit a written response to [Agency’s final Deciding Official and contact information], who will serve as the final Deciding Official. With any response, you are encouraged to include affidavits or other documents that you would like considered. Any written response must be received within five workdays of service of this notice. As a written part of your response, you must raise every defense, fact, or matter in extenuation, exculpation, or mitigation which you have knowledge of or reasonably should have knowledge or which is relevant to a reason for which you took an action (or failed to take an action) which is a subject of the notice of proposed suspension action. Your failure to raise a known defense, fact, or matter shall constitute a waiver of such defense, fact, or matter in all subsequent proceedings.

Based on this notice, supporting documentation, and any materials you may provide, the Deciding Official will issue you a final determination.

Sincerely,

|  |
| --- |
| **/s/ Agency Compliance Manager** |
| John Doe, Agency Compliance Manager, Proposing Official | |

**CERTIFICATE OF SERVICE**

On \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a copy of this notice of proposed 5-day suspension, along with supporting materials was provided to [Employee First Name] [Employee Last Name], [Street Address], [City], [State] [ZIP/Postal Code], via:

Hand Delivered

USPS Certified Mailed (USPS No.\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_)

FedEx Next Day (FedEx No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_)

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  |  |  | |  |
|  | SUPERVISING OFFICIAL  (printed name) |  | SUPERVISING OFFICIAL  (signature) |

**EMPLOYEE RECEIPT**

I received a copy of this notice of proposed 5-day suspension, along with the identified supporting materials. My signature below serves only to acknowledge receipt.

|  |  |
| --- | --- |
|  |  |
|  | [Employee First Name] [Employee Last Name] |

|  |  |
| --- | --- |
|  |  |
|  | Date |

# Establishing the Appropriate Action

Consistent with 6B DCMR § 1606, the following factors were considered by the [**insert agency name]** when establishing the suspension action in this case:

**NOTE:** Agencies must conduct a separate penalty factor analysis for each cause. Therefore, the factor analysis below is required for each enumerated cause supporting the discipline. If an agency wishes to use one Douglas Factor sheet, then each analysis section must enumerate each independent cause and analysis based on that relevant factor.

|  |  |  |
| --- | --- | --- |
| 1606.2 | Description | Analysis |
|  | **Nature and seriousness of the misconduct or performance deficit, and its relationship to the employee’s duties, position, and responsibilities, including whether the offense was intentional, technical or inadvertent; was committed maliciously or for gain; or was frequently repeated** | On [Date], [Employee Name] failed for a second time to comply with the District government’s vaccination policy described in I-2022-3, and Mayor’s Orders 2021-099 and 2021-147 by failing to [CHOOSE ONE: [provide proof of full vaccination] [failing to submit a negative weekly test for COVID-19 as part of an approved or pending accommodation request].  [Employee Name] serves as a [Position Title]. Primary duties include [Position Duties].  This factor is considered: Choose an item. |
|  | **Job level and employment type, including supervisory or fiduciary role, contacts with the public, and prominence of the position** | Serves as a grade [Grade] [Position Title]. [Add any other relevant language about employment type]  This factor is considered: Choose an item. |
|  | **Disciplinary record** | \*\* Indicate any prior discipline\* Ensure to include the prior verbal counseling under this policy\*\*  This factor is considered: Choose an item. |
|  | **Work record** **(including length of service, performance, ability to get along with colleagues, and dependability)** | This employee has worked with the agency for XX years. [Include any relevant language based on factor criteria in description column].  Over the past three years, the employee has received XXX performance ratings.  This factor is considered: Choose an item. |
|  | **The effect of the offense upon the employee’s ability to perform at a satisfactory level and its effect upon the confidence in the employee’s ability to perform assigned duties** | The District government’s vaccination policy is critical to internal safety and security protocols. Employees put others at risk and are unable to perform their duties if they are in violation of requirements established by Mayor’s Orders 2021-099 and 2021-147; and I-2022-3.  This factor is considered: Choose an item. |
|  | **Consistency of the penalty with those imposed upon other employees for the same or similar offenses** | A 5-day suspension is the penalty for a second offense of the vaccination policy in I-2022-3.  This factor is considered: Choose an item. |
|  | **Consistency of the penalty with the table of illustrative penalties (§ 1607)** | A five day suspension is within the range of penalties established in DPM Chapter 16 for the charges identified in this action.  This factor is considered: Choose an item. |
|  | **The notoriety of the offense or its impact upon the reputation of the agency or the District government** | As a matter of policy publicly issued by the Mayor, all District government employees must be fully vaccinated and boosted if eligible, or submit to weekly testing if they have an approved or pending accommodation request. The reputation of the District government is adversely impacted as your noncompliance with this policy means you have failed to adhere to a Mayoral Order imposing requirements related to safety and health. The District government’s reputation is undermined when employees fail to adhere to health and safety related measures.  This factor is considered: Choose an item. |
|  | **Clarity with which employee was on notice of any rules that were violated in committing the offense, or had been warned about the conduct in question** | Employee received notice of the requirement on [Date] and was verbally counseled for their initial violation on [Date].  This factor is considered: Choose an item. |
|  | **Potential for employee’s rehabilitation** | The employee has previously been disciplined for failure to comply with this policy. However, the vaccination policy provides agencies shall dismiss a proposed suspension should an employee become fully vaccinated before a final decision is issued regarding this matter.  OR  [Employee must provide negative weekly COVID-19 testing as part an approved or pending accommodation request. The employee has failed to submit a weekly test on [# of times employee has failed to submit weekly test] occurrences prior to the issuing of this proposed suspension.]  [If applicable, insert any potential for rehabilitation language unique to circumstances of employee case]  This factor is considered: Choose an item. |
|  | **Mitigating circumstances surrounding the offense** | \*As these are fact specific, agencies should list any mitigating circumstances that would be relevant to an employee’s failure to comply with this policy based on the unique circumstances of that employee’s case\* Please refer to 1606.2(k) for examples.  This factor is considered: Choose an item. |
|  | **Adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others.** | The agency previously verbally counseled the employee on [Date], which is a lesser sanction than currently proposed. Moreover, this penalty is in accordance with the disciplinary steps in Issuance 2022-3. The employee’s continued noncompliance is indicative that progressive discipline under the policy is warranted.  This factor is considered: Choose an item. |