

1108.0.0 DHS PROCEDURES FOR A NAME-CLEARING HEARING

1108.1.0 Purpose

These procedures must be followed when an employee of DHS working on a full or part-time basis is involuntarily discharged from employment and the employee contends that, in relation to the termination, stigmatizing false statements that are damaging to the employee's reputation have been made public. The purpose of such procedures is to afford the former employee an opportunity to clear his or her name by responding to the public statements. **These procedures will not serve as an appeal of any disciplinary action or to gain reinstatement.**

1108.2.0 Definitions

1108.2.1 DHS - The Arkansas Department of Human Services, its divisions, offices and programs.

1108.2.2 Former Employee – An employee of DHS working on a full or part-time basis who was involuntarily discharged from employment.

1108.2.3 Stigmatizing Statement - A statement is “stigmatizing” if it involves allegations of dishonesty, immorality or other conduct which may damage the former employee's reputation among associates and impair his or her ability to obtain other employment. Examples of stigmatizing statements include falsifying records, misappropriating state property or funds, mental instability or statements that the former employee is untruthful, untrustworthy, and unethical or is demonstrative of poor judgment, or has committed a crime or other immoral act.

1108.3.0 When a Hearing Must be Offered

1108.3.1 A name-clearing hearing is not required every time an employee is terminated. Such a hearing is required only when any statement relating to the termination “stigmatizes” the former employee's reputation, and the former employee denies the truth of the statements. A name-clearing hearing must be offered whenever the following three conditions are met:

- (1) An employee is terminated;
- (2) The employee contends that stigmatizing statements have been placed in the employee's personnel file or otherwise made public; and
- (3) The employee asserts that the statements are untrue.

1108.3.2 If the former employee has filed an action pursuant to DHS Policy 1086 DHS Mediation/Grievance Policy, then those proceedings will function as the name clearing hearing.

1108.4.0 Notice to Former Employees

When an employee is terminated, the department from which the employee was discharged must notify the employee in writing that a name-clearing hearing will be arranged if the employee requests it and a name-clearing hearing is required under this policy.

1108.5.0 Request for Hearing

1108.5.1 Former employees must submit a written request for a name-clearing hearing within fifteen calendar days from the effective date of the termination of employment. The request must be made to the former employee's DHS supervisor and identify:

- (1) The specific statements that he/she contends are false;
- (2) The manner in which the false statements were made public; and
- (3) The basis upon which the former employee asserts that the statements were stigmatizing.

1108.5.2 The failure of a former employee to timely request a name clearing hearing, or to submit a timely request that complies with the requirements above, is a waiver of the former employee's right to any name-clearing process.

1108.6.0 Selection of Hearing Officer:

The appropriate Division Director may preside over the hearing, or may designate a DHS employee to serve as the presiding official.

1108.7.0 Place of Hearing

The presiding official shall designate the place of the hearing.

1108.8.0 The Hearing:

1108.8.1 If the former employee submits a request for a name clearing hearing in compliance with this policy, the presiding official shall convene the hearing within sixty (60) calendar days of receipt of the former employee's request.

1108.8.2 The hearing shall be conducted in an informal manner. **The hearing will not consist of or result in the formulation of any conclusions or the reevaluation or nullification of any particular employment action or any recommendations in that regard. The sole purpose of the hearing is to provide an opportunity for an employee to clear his/her name.**

1108.8.3 The former employee shall be allowed to present testimony and documents to support the employee's allegations that the statements in question are untrue, were

made public, and were stigmatizing to the former employee. The former employee may designate witnesses who are current employees to testify. If the division director/designee challenges any witness by asserting that the witness has no relevant evidence to offer, the hearing official shall determine whether the witness must testify. In addition to accepting live testimony, the hearing officer may also accept written statements and other documents which are relevant to the proceeding.

1108.9.0 Conclusion of the Hearing:

Within thirty calendar days after the hearing concludes, the hearing officer will issue a written report summarizing the evidence presented. The hearing officer's report shall state clearly that **the report has no bearing or effect on the employee's status with DHS**. A copy of the hearing officer's report shall be placed immediately in the employee's personnel file and mailed to the individual that requested the name-clearing hearing.

1108.10.0 ORIGINATING SECTION/DIVISION CONTACT

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