

PUBLIC FILE**Civil Servant law of the People's Republic of China****Chapter I General Provisions**

Article 1 The present Law is formulated according to the Constitution with a view to regulating the administration of civil servants, ensuring the legitimate rights and interests of civil servants, strengthening the supervision on civil servants, constructing a high-quality troop of civil servants so as to promote diligent and honest government and enhance working efficiency.

Article 2 The term "civil servant" as mentioned in the present Law refers to those personnel who perform public duties according to laws and have been included into the state administrative staffing with wages and welfare borne by the state public finance.

Article 3 The obligations, rights and administration of civil servants shall be subject to the present Law.

Where there are other provisions on the appointment, dismissal and supervision of leading members of civil servants and on the obligations, rights and administration of judges and inquisitors, such provisions shall prevail.

Article 4 The civil servant system shall take Marxism, Leninism, Mao Zedong Thought and Deng Xiaoping Theory and the important thought of "Three Represents", as its guide. Carry out the basic route of the preliminary stage of socialism and the cadre routes and guidelines of the Chinese Communist Party (CPC), and adhere to the principle that the CPC assumes the administration of cadres.

Article 5 The administration of civil servants shall persist in the principle of openness, equality, competition and selecting the superior ones, and be carried out pursuant to the legal power limits, qualifications, standards and procedures.

Article 6 The administration of civil servants shall adhere to the principle of paying equal attention to supervisory restriction and incentive guarantee.

Article 7 The appointment of civil servants shall adhere to the principle of making appointment on abilities and having both political integrity and professional competence, and attach importance to practical achievements of work.

Article 8 The state shall adopt classified administration on civil servants to enhance the administrative efficiency and level of scientific administration.

Article 9 Any act of a civil servant to perform his duties according to law shall be protected by law.

Article 10 The central competent department of civil servants shall be responsible for the comprehensive administration on civil servants. The local competent departments of civil servants above the county level shall be responsible for the comprehensive administration on civil servants within their respective jurisdictional divisions. The competent department of civil servants at a higher level shall guide the administration on civil servants as carried out by its counterpart at a lower level. The competent department of civil servants at all levels shall guide the administration on civil servants of all organs at the same level.

Chapter II Qualifications, Obligations and Rights of a Civil Servant

Article 11 A civil servant shall satisfy the following qualifications:

- (1) having the nationality of the people's Republic of China;
- (2) reaching the full age of 18;
- (3) upholding the Constitution of the people's Republic of China;
- (4) having good moralities;
- (5) being in a proper health state to perform his functions and duties normally;
- (6) having the educational level and working capacity as required by the post; and
- (7) any other qualification as prescribed by laws.

Article 12 A civil servant shall perform the following obligations:

- (1) playing an exemplary role in observing the Constitution and the law;
- (2) earnestly performing his functions and duties in light of the prescribed power limit and procedure, and making efforts to advance his working efficiency;
- (3) serving people heart and soul, and being subject to the supervision of people;
- (4) safeguarding the security, honor and interests of the state;
- (5) being loyal to his duty, being diligent and pious, obeying and implementing the decisions and orders made by the superior organ;
- (6) keeping the secrets of the state and the secrets relating to his work;
- (7) observing the disciplines, scrupulously abiding by the professional ethics, and playing an exemplary role in observing the social morals;
- (8) being honest and clean, just and upright;
- (9) any other obligations as provided for by laws.

Article 13 A civil servant may enjoy the following rights:

- (1) acquiring the necessary working conditions to perform his functions and duties;
- (2) being subject to no dismissal, demotion, expulsion or punishment without a legally prescribed cause or without following the legal procedures;
- (3) obtaining the remunerations of wages, and enjoying the treatment of welfare and insurance;
- (4) participating in trainings;
- (5) bringing forward criticisms or suggestions on the work or leaders of the organ he works for;
- (6) lodging an appeal or accusation;
- (7) applying for demission; and
- (8) any other right as prescribed by law.

Chapter III Posts and Ranks

Article 14 The state adopts classified system of posts of civil servants.

The posts of civil servants shall, in light of the nature, features and necessities of administration on civil servant posts, be classified into such categories as comprehensive administrators, technological professionals and administrative law enforcers. The State Council may, according to the present Law, add any other category of posts for those with positional peculiarities and in need of separate administration. The scopes of application of the various posts shall be separately prescribed by the state.

Article 15 The state shall establish a sequence of civil servant posts according to the categories thereof.

Article 16 The posts of civil servants are divided into leading posts and non-leading posts.

The levels of leading posts are classified into chiefs at the state level, deputies at the state level, chiefs at the provincial and ministerial level, deputies at the provincial and ministerial level, chiefs at the department and bureau level, deputies at the department and bureau level, chiefs at the county and section level, deputies at the county and section level, chiefs at the township and sub-division level and deputies at the township and sub-division level.

The levels of non-leading posts shall be set up below the department and bureau level.

Article 17 The leading posts of comprehensive administrators shall be decided and established according to the Constitution, relevant laws, post levels and organizational specifications.

The non-leading posts in the category of comprehensive administration shall be inspectors, deputy inspectors, researchers, deputy researchers, division directors, deputy division director, division personnel and clerks.

The sequence of civil servant posts other than the category of comprehensive administration shall be otherwise prescribed by the state according to the present Law.

Article 18 All organs shall, according to decided functions, specifications, staffing quota and structural proportion, set up specific posts for civil servants within their respective organ, and decide the functions and duties of each post and the qualifications for assuming the post.

Article 19 The posts of civil servants shall be matched with the corresponding ranks. The corresponding relationship between the posts and ranks of civil servants shall be prescribed by the State Council.

The post and rank of a civil servant are the basis to decide the salary and any other treatment thereof.

The rank of a civil servant shall be decided by the post he assumes, the moral status and abilities thereof, the practical achievements of his work and his seniority. For the civil servants assuming a same post, the promotion of ranks thereof may be made according to the provisions of the state.

Article 20 The state may establish the corresponding ranks, according to the particularities of the work concerned, for those posts as assumed by such civil servants as the people's police and those working in the customs houses or in the institutions of foreign affairs stationed abroad.

Chapter IV Employment

Article 21 The employment of civil servants with the posts lower than the division director or in any other non-leading post at the corresponding level shall adopt measures of open examination, strict inspection, equal competition and employment on the basis of competitive selection.

Where there is any employment of civil servants in an autonomous region according to the provisions of the foreside paragraph, the applicants of ethnic minorities shall be given appropriate preferential treatment according to laws and other relevant provisions.

Article 22 The employment of civil servants in the state organs of the Central Government and the institutions directly under them shall be organized by administrative department of civil servants of the Central Government. The employment of civil servants in local state organs at all levels shall be organized by the administrative departments of civil servants at the provincial level. When necessary, the administrative department of civil servants at the provincial level may authorize the administrative department of civil servants in the districted cities to do it.

Article 23 Anyone entering for the examination for civil servants shall, besides the requirements as prescribed by Article 11 of the present Law, satisfy the qualifications for the would-be posts as prescribed by the administrative departments of civil servants above the provincial level.

Article 24 Anyone under the following circumstances shall not be employed as a civil servant:

- (1) having been imposed on a criminal punishment;
- (2) having been dismissed from public office; and
- (3) any other circumstance as prescribed by laws, under which one shouldn't be employed as a civil servant.

Article 25 Where anyone is to be employed as a civil servant, he shall be within the prescribed staffing quota, and there is a corresponding post vacancy.

Article 26 A notice of recruiting civil servants through examination shall be publicized for the employment of civil servants. The posts, quota, qualifications for the said examination, application materials needed to be submitted and other points of attention for examination application shall be indicated in the notice.

The employing organ shall take measures to facilitate the examination application of citizens.

Article 27 The employing organ shall conduct inspection on the examination application in light of the qualification requirements for the applicants. The application materials as submitted by the applicants shall be true and accurate.

Article 28 The employment examination of civil servants shall be carried out in written form and

by interviews. The examination content shall be decided respectively according to the basic capabilities of civil servants as required and the different categories of posts.

Article 29 The employing organ shall decide candidates to be inspected pursuant to the results of examination, and shall conduct a re-examination over the application qualifications of applicants, make an inspection and health checkup.

The items and standard of health checkup shall be decided by the requirements of corresponding posts. The specific measures shall be provided for by the administrative department of civil servants of the Central Government in collaboration with the administrative department of sanitation of the State Council.

Article 30 The employing organ shall, according to examination results and results of inspection and health checkup, bring forward a name list of candidates to be employed and publicize it to the general public.

Where the duration of public announcement expires, the employing organ at the central level shall report the name list to the administrative department of civil servants of the Central Government for archival filing. The employing organs at the local level shall report the name list to the administrative department of civil servants at the provincial level or in the districted cities for examination and approval.

Article 31 As for the employment of civil servants for any special post, the procedures thereof may, upon the approval of the administrative department of civil servants at the provincial level or above, be simplified and other measures for test and appraisal may be adopted.

Article 32 The probation term of newly employed civil servants is 1 year. Anyone who is qualified at the expiration of the probation term may take the post. For anyone who is disqualified, the employment thereof shall be canceled.

Chapter V Assessment

Article 33 The assessment of a civil servant shall be managed according to the power limit of administration, and shall examine the morality, capability, diligence, achievement and uprightness thereof in an all-round manner and focus on the practical achievements of his work.

Article 34 The assessment of a civil servant includes assessment in usual days and periodical assessment. The periodical assessment shall be based on the assessment in usual days.

Article 35 The periodical assessment of a non-leader civil servant shall be conducted in the form of annual examination. First, the individual concerned shall make a summary in light of the post and duties thereof and relevant requirements. Then the leader-in-charge shall, after soliciting the opinions of the masses, bring forward a suggestion of assessment grade, and the person-in-charge of the organ concerned or the authorized assessment committee shall decide the assessment grade.

As for those leading members of civil servants, the periodical assessment shall be conducted by

the administrative organ thereof according to relevant provisions.

Article 36 The results of periodical assessment shall be divided into four grades: excellent, competent, basically competent and incompetent.

The civil servant concerned shall be notified of the periodical assessment result thereof in written form.

Article 37 The result of periodical assessment shall be considered as the basis for the adjustment of post, rank, wage, reward, training and dismissal of a civil servant.

Chapter VI Appointment and Dismissal

Article 38 The employment system through selection and the employment system through appointment shall be adopted for the posts of civil servants.

The tenure system shall be adopted for the posts of leading members according to the provisions of the state.

Article 39 The civil servant by the employment system through selection may assume the post upon the enforcement of selection result thereof. No one may continue to assume his post when his tenure expires. The tenure of a post shall be terminated where anyone resigns his post or is dismissed or removed during his tenure.

Article 40 For a civil servant employed by the employment system through appointment, if he is found to qualified at the expiration of his probation term, or his post is changed, or he no longer assumes the post as a civil servant or is under any other circumstance where a dismissal is necessary, the appointment and dismissal thereof shall be decided in light of the power limit of administration and the prescribed procedures.

Article 41 The post assumption of a civil servant shall be carried through within the prescribed staffing quota and the amount of posts, and meets a corresponding post vacancy.

Article 42 A civil servant, who has a part-time job out of his organ due to his work, shall be subject to the approval of the relevant organs and shall not draw any reward from his part-time job.

Chapter VII Promotion and Demotion

Article 43 For the promotion of a civil servant, he shall satisfy the requirements in such aspects as the ideological and political qualifications, working capability, educational level and working experience.

The promotion of a civil servant shall be conducted grade by grade. Those, who are particularly excellent or are needed in work due to special reasons, may enjoy the exception of waiving conventional constraints or being promoted by two ranks according to relevant provisions.

Article 44 The promotion of a civil servant to a leading post shall be subject to the following

procedures:

- (1) deciding the candidate to be inspected by democratic recommendation;
- (2) organizing an inspection, bringing forward suggestion on appointment through deliberation and making preparation within a certain range where it is necessary;
- (3) discussing the decision according to the power limit of administration; and
- (4) going through the formalities of position according to the provisions. The promotion of a civil servant to a non-leading post shall be subject to the procedures as prescribed in the preceding paragraph.

Article 45 Where there is any vacancy of a leading post lower than the chief at the department and bureau level in an entity of an organ, the candidate may be selected through competitive post bidding within the foresaid organ or within the staff members thereof.

Where there is any vacancy of a leading post lower than the chief or higher than the deputy researcher at the department and bureau level or any other vacancy of non-leading post at the corresponding level, the candidate thereof may be selected through an open selection from the society.

The candidate of a judge or public procurator for the first time shall be selected through open selection from those who have obtained the relevant qualifications through the judicial examination as uniformly organized by the state.

Article 46 The system of public announcement before assuming the post and the system of probation for assuming the post shall be adopted in the promotion of a civil servant to a leading post according to relevant provisions.

Article 47 Where a civil servant is assessed as incompetent during the periodical assessment, he shall be demoted to a lower-level post according to the prescribed procedures.

Chapter VIII Rewards

Article 48 Those civil servants or a collective of civil servants, who have made outstanding working performances, noticeable achievements and contributions or other outstanding deeds, shall be rewarded. And the awarding shall uphold the principle of combining spiritual rewards and material rewards with the focus on spiritual rewards.

The rewards for the collective of civil servants shall apply to those institutions as established according to the staffing sequence or those work collectives as formed to accomplish a special task.

Article 49 A civil servant or a collective of civil servants shall, under any of the following circumstances, be rewarded:

- (1) being loyal to his duties, working actively and having noticeable achievements;
- (2) observing disciplines, being clean-fingered in performing his official duties, working in an upright way, playing an outstanding exemplary role;
- (3) having any invention or creativity or having raised any reasonable suggestion in work, or having achieved obvious economic benefits or social benefits;
- (4) having made outstanding contributions to promoting ethnic solidarity and safeguarding

social stability;

(5) having made outstanding achievements in cherishing public property and saving state assets;

(6) having meritorious acts in preventing or eliminating accidents so that the interests of the state and the masses are prevented from loss or the loss thereof is reduced;

(7) defying personal danger and making contributions under such special circumstances as rushing to deal with an emergency or providing disaster relief;

(8) having made achievements in fighting against any illegal or rule-breaking act;

(9) having won honors and interests for the state in foreign affairs; or

(10) having any other outstanding achievement.

Article 50 The rewards are divided into Commendation, Third-grade Merit, Second-grade Merit, First-grade Merit and being conferred an honorary title.

A civil servant who is rewarded or a collective of civil servants who is commended shall be given a one-off bonus or any other treatment.

Article 51 The rewards as conferred to a civil servant or a collective of civil servants shall be decided in light of the prescribed power limit and procedures, or shall be subject to examination and approval.

Article 52 The reward of a civil servant or a collective of civil servants shall be canceled under any of the following circumstances:

(1) practicing fraud or cheating to obtain rewards;

(2) concealing any serious mistake when filing an application for rewards, or severely violating the prescribed procedures; or

(3) any other circumstance as prescribed by laws or regulations, under which the rewards thereof shall be canceled.

Chapter IX Punishments

Article 53 A civil servant shall observe disciplines and shall not have any of the following acts: (1) disseminating any expression that damages the state reputation, organizing or participating in activities such as assembling, procession and demonstration that aims to oppose the state;

(2) organizing or participating in any illegal organization, or organizing or participating in any strike;

(3) neglecting his duties so that the work thereof is bungled;

(4) refusing to carry out the decision or order as made by the superior thereof;

(5) suppressing criticism or taking revenge;

(6) practicing fraud in order to mislead or cheat the leader thereof or the general public;

(7) being corrupt, giving or accepting bribes, making use of the post to seek personal gains for himself or others;

(8) violating the financial and economic disciplines and wasting state assets;

(9) abusing his power to infringe on the legitimate rights and interests of any citizen, legal person or any other organization;

(10) discovering any state secret or work secret;

(11) damaging the state reputation or interests in foreign affairs;

(12) participating in or supporting activities such as eroticism, drug abuse, gambling and superstition, etc.;

(13) acting against professional ethics or public morality;

(14) undertaking or participating in any profit-making activity, or holding a concurrent post in an enterprise or any other profit-making organization;

(15) being absent from work or in the event of a business trip or a leave, failing to return at expiration of the leave of trip without any justifiable reason; or

(16) any other act in violation of disciplines.

Article 54 Where a civil servant, when performing official duties, deems that there is something wrong with the decision or order of his superior, he may make a suggestion on correcting or canceling the said decision or order. Where the superior refuses to change the decision or order, or requires immediate performance, the civil servant concerned shall fulfill the decision or order. The superior shall be responsible for the consequences of the performance of duties, and the civil servant shall not be subject to any liability. However, where a civil servant fulfills any decision or order that is obviously illegal, he shall be subject to the corresponding liabilities according to law.

Article 55 In case a civil servant is subject to disciplinary liability due to any illegal act or disciplinary breach, he shall be given a punishment according to the present Law. For those disciplinary acts with lenient circumstances, he may be immune from punishment after he has made corrections upon criticism and education.

Article 56 The punishments are divided into warning, demerit, gross demerit, demotion, dismissal from post and expulsion.

Article 57 The punishment upon a civil servant shall be made with the bases of clear facts, irrefutable evidence, accurately determined nature, proper treatment, legal procedure and complete formalities.

For the discipline breach of a civil servant, the organ that makes the decision on punishment shall carry out an investigation into the disciplinary breach of the civil servant, and shall notify the civil servant concerned of the fact as acknowledged through investigation and the basis for the proposed punishment. The civil servant concerned may have rights to state and defend.

Where the organ that makes the decision of punishment deems that a civil servant shall be subject to a punishment, it shall, within the prescribed time limit, make a decision on punishment in light of the power limit of administration and the prescribed procedure. The civil servant concerned shall be notified of the decision on punishment in written form.

Article 58 A civil servant may not enjoy any post promotion or rank promotion during the duration of punishment. In particular, the civil servant who is given a demerit, gross demerit, demotion or dismissal may not enjoy any elevation of wage grade.

The durations of punishments are: 6 months of warning, 12 months of demerit, 18 months of gross demerit, 24 month of demotion/dismissal.

Anyone who is imposed upon punishment of dismissal shall be demoted according to relevant provisions.

Article 59 Where a civil servant who is imposed upon any punishment other than expulsion shows repentance during the duration of punishment and has committed no more disciplinary breach, the organ that has made the punishment decision shall relieve the punishment at the expiration of the term of punishment and inform the civil servant concerned in written form.

Where a punishment is relieved, the elevation of wage grade, promotion in rank and post shall no longer be affected by the former punishment. However, the removal of such punishment as demotion or dismissal shall not be deemed as a renewal of the original rank or post.

Chapter X Trainings

Article 60 An organ shall, pursuant to the functions and duties of civil servants or the requirements to improve the qualities of civil servants, conduct categorized and rank-based trainings to civil servants.

The state shall establish special institutions for the training of civil servants. The organs may, when necessary, entrust any other training institution to carry out trainings for civil servants.

Article 61 The organs shall carry out trainings for those newly-employed civil servants who assume their posts for the first time. Those civil servants who have been promoted to leading posts shall be given trainings before assuming their posts or within 1 year after assuming their posts. Those civil servants who are engaged in special work shall be given special trainings. In-service trainings shall be carried out to all civil servants so as to upgrade their knowledge and improve their working capacities. In particular, those civil servants taking posts of special technologies shall, in light of the requirements of further education for special technical personnel, be given special technical trainings.

The state shall reinforce the training for reserve leading personnel in a planned manner.

Article 62 The registration administration shall be carried out in civil servant trainings.

The time for a civil servant to participate in trainings shall be decided by the administrative department of civil servants according to the provisions of Article 61 of the present Law.

The trainings and academic achievements shall be a kind of content of the civil servant examination and a basis for appointment and promotion.

Chapter XI Intercommunication and Avoidance

Article 63 The civil servant intercommunication system is adopted by the state.

Civil servants may communicate within the troop of civil servants or may communicate with those personnel undertaking public office in state-owned enterprises, public institutions, people's associations or private organizations.

The forms of intercommunication include transferring to another post, changing to another post

and working out by assuming a temporary leading position in an inferior entity.

Article 64 Those personnel, who are engaged in public office of state-owned enterprises, public institutions, people's associations or private organizations, may be transferred to the state organs to hold leading posts or non-leading posts above the deputy researcher level, or hold any other non-leading post at the corresponding level. The person transferred shall satisfy the qualification requirements of the suggested posts as prescribed in Article 11 of the present Law, and shall not have any circumstance as prescribed in Article 24 of the present Law. The state organ to which such person is transferred shall conduct a strict inspection over the candidates for deployment, carry out examination and approval in light of the power limit of administration, and, when necessary, conduct an examination over the candidates for transfer.

Article 65 As for the transfer of a civil servant between different posts, he shall satisfy the qualifications for the suggested post, and the transfer of post shall be carried out with the prescribed staffing quota and number of posts.

As for those leading members below the level of provincial and ministerial chief, the transfer to another post between different regions or departments shall be carried out in a planned and focused way.

For a civil servant who assumes a leading post in an entity of a state organ or assumes a non-leading post with special work features, the transfer to another post thereof shall be carried out within the organ in a planned manner.

Article 66 According to the needs to train and cultivate civil servants, civil servants may be selected and appointed to the organs at a lower level or at a higher level, organs in other regions, state-owned enterprises or public institutions for practice out by assuming temporary leading positions.

When a civil servant suspends his duties to practice by assuming temporary leading positions in other entities, the personnel relationship with his original organ shall not be changed.

Article 67 A civil servant shall obey the decision on intercommunication as made by his entity.

The application of a civil servant for intercommunication shall be subject to the examination and approval in light of the power limit of administration.

Article 68 Where there is such relationship as husband and wife, lineal descent, collateral consanguinity within three generations or close affinity between civil servants, the persons concerned shall not assume posts immediately subordinate to the same leader in the same organ or hold posts with an relation of immediate superior and subordinator, or engage in such work as organization, human resource, disciplinary investigation, supervision and inspection auditing and finance in the organ where one party concerned holds the leading post.

Where it needs to avoid taking posts due to the peculiarities of region or work features, the avoidance shall be decided by the administrative department of public security above the provincial level.

Article 69 Where a civil servant assumes the leading post in an organ at the township level or

county level or the relevant department thereof, the regional avoidance shall be carried out, unless it is otherwise provided for by laws.

Article 70 When a civil servant performs his duties, under any of the following circumstances, he shall make avoidance:

- 1) Where any of his personal interests is involved;
- 2) Where any of the interests of his relatives as described in paragraph 1 of Article 68 of the present Law is involved; or
- 3) Any other circumstance that may have any impact on the impartiality of duty performance.

Article 71 Where there is any circumstance under which a civil servant shall make avoidance, he shall apply for avoidance by himself. Any interested party may have the rights to apply for avoidance of the civil servant concerned. Other people may report to the organ the circumstances concerning the avoidance of a civil servant.

The organ shall, pursuant to the application of a civil servant himself or any interested party, decide whether or not the civil servant shall make avoidance after making examination or may make a direct decision on avoidance without the civil servant filing an application.

Article 72 Where there is any different provision on the avoidance of a civil servant by law, the provision shall prevail.

Chapter XII Wage, Welfare and Insurance

Article 73 The uniform wage system of the state, which combines posts and ranks together, shall apply to civil servants.

The principle "distribution according to work" shall be carried out in the wage system of civil servants so as to embody factors such as functions, capabilities, concrete achievements and seniorities and maintain a reasonable wage discrepancy between different functions and ranks.

The mechanism for normal wage growth of civil servants shall be established by the state.

Article 74 The wage of a civil servant shall include the basic pay, allowances, subsidies and bonuses.

A civil servant may enjoy the regional additional allowances, difficult and outlying region allowances, subsidy appropriate to particular jobs and other allowances according to the provisions of the state.

A civil servant may enjoy subsidies or allowances such as housing and medicine according to the provisions of the state.

For a civil servant who has been acknowledged as "excellent" or "competent" in a periodical assessment, he may enjoy the year-end bonus according to the provisions of the state.

The wage of a civil servant shall be granted in full amount and in a timely manner.

Article 75 The wage level of a civil servant shall match with the national economic development and conform to the social progress.

The state shall adopt the wage investigation system, investigate and compare the wage levels of

civil servants and the counterparts in enterprises on a periodical base, and the result thereof shall be the basis for adjusting the wage levels of the civil servants.

Article 76 A civil servant may enjoy welfare treatment as provided for by the state. The state shall advance the welfare treatment of civil servants according to the economic and social development.

The working hours system shall apply to civil servants according to the provisions of the state. A civil servant may enjoy holidays as provided for by the state. Where a civil servant works for extra hours beyond the legal workdays, he shall enjoy corresponding deferred holidays.

Article 77 The state shall establish an insurance system for civil servants so as to ensure that a civil servant may get help and compensation under circumstances as retirement, illness, occupational injury, childbirth or unemployment.

In case a civil servant is disabled when performing his duties, he shall be given the treatment for the injured and disabled according to the provisions of the state. In case a civil servant sacrifices his life for his duties, dies for his work or dies from work-related illness, the relatives thereof may enjoy the consolation and preferential treatment as prescribed by the state.

Article 78 No organ may violate the provisions of the state and unlawfully alter the policies on wage, welfare and insurance by itself, or unlawfully raise or reduce the treatment of wage, welfare or insurance for civil servants. No organ may deduct or delay the payment of wage of any civil servant.

Article 79 The expenditure for wage, welfare, insurance, retirement pay as well as the employment, trainings, rewards and dismissal and etc. of civil servants shall be listed into the fiscal budget so as to provide guarantee for them.

Chapter XIII Resignation and Dismissal

Article 80 Where a civil servant resigns his public office, he shall submit a written application to the organ in charge of appointment and dismissal, which shall conduct examination and approval within 30 days as of the date of application. Especially for an application of a leading member to resign his public office, the organ shall conduct examination and approval within 90 days as of the date of application.

Article 81 A civil servant, under any of the following circumstances, shall not resign his public office:

- (1) having not reached the minimum term of service as provided for by the state;
- (2) assuming any special post involving secrets of the state, or having not reached the term to open the secret when leaving the aforesaid post;
- (3) having not finished his important public duties, which shall be subject to the continuous work of the civil servant concerned;
- (4) being subject to an auditing or disciplinary examination, or being suspected of crime and the judicial procedure hasn't been concluded;

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(5) any other circumstance as provided for by laws or administrative regulations, under which one shouldn't resign his public post.

Article 82 A civil servant who holds a leading post shall, when it is necessary for him to resign the present post due to the change of work according to the provisions of law, go through the formalities for resignation.

A civil servant who holds a leading post may, due to his personal reason or any other reason, resign his leading post on his own initiative.

Where a leader causes any serious damage or social impact due to his severe mistakes in work or breach of duties, or bears the leading liabilities for any serious accident, he shall take the blame and resign his leading post.

Where any leader shall take the blame and resign his post, or is no longer suitable for the present leading post but does not apply for resignation by himself, he shall be ordered to resign the leading post thereof.

Article 83 A civil servant, under any of the following circumstances, shall be subject to dismissal:

- (1) having been assessed as "incompetent" in the annual assessment for 2 consecutive years;
- (2) failing to be competent for his work and refusing to accept any other arrangement;
- (3) refusing a reasonable arrangement due to the adjustment, withdrawal, merge or reduction of staffing members of the organ where he works;
- (4) failing to perform his duties as a civil servant or abide by the disciplines of civil servants, making no improvement on education, and being unsuitable for continuing his work in the organ nor being proper to be imposed upon the punishment of dismissal; or
- (5) being absent from work or failing to return after the expiration of the term of a business trip or leave for more than 15 days or for an accumulative 30 days within a year.

Article 84 A civil servant, under any of the following circumstances, shall not be dismissed:

- (1) being disabled due to the performance of his duties, and having been acknowledged as losing or partially losing his working ability;
- (2) being ill or injured within the prescribed medical period;
- (3) for female civil servants, during the periods of pregnancy, maternity leave or lactation; or
- (4) any other circumstance as provided for by laws or regulations, under which a civil servant may not be dismissed.

Article 85 The dismissal of a civil servant shall be subject to the determination within the power limit of administration. The civil servant dismissed shall be notified of the decision of dismissal in written form.

The civil servant dismissed may draw the fee for dismissal or enjoy unemployment insurance according to the provisions of the state.

Article 86 The civil servant, who resigns his post or is dismissed, shall go through the hand-over formalities before leaving his post, and, when necessary, shall be subject to auditing according to relevant provisions.

Chapter XIV Retirement

Article 87 A civil servant shall retire, when he reaches the age of retirement as provided for by the state or where he completely loses his working ability.

Article 88 A civil servant may, under any of the following requirements, apply for retirement in advance on his own initiative and retire upon the approval of the organ in charge of appointment and dismissal:

- (1) having worked for 30 years;
- (2) having worked for 20 years and being 5 years younger than the retirement age as provided for by the state;
- (3) any other circumstance as provided for by the state, under which one may retire in advance.

Article 89 A civil servant may, after retirement, enjoy the retirement pay and other treatments as provided for by the state. The state shall provide necessary service and help for the life and health of the retired civil servants and encourages them to give full play to their specialties and participate in social development.

Chapter XV Appeal and accusation

Article 90 Where a civil servant is discontent with any of the following punishments concerned with himself, he may apply to the original organ that has imposed the punishment for an administrative review within 30 days as of the date when he is notified of the foresaid punishment; where he is discontent with the result of the administrative review, he may appeal to the administrative department of civil servants at the same level or appeal to that at a level higher than the organ that has imposed the punishment according to the provisions

of the state; or, he may directly lodge an appeal without any administration review within 30 days as of the date when he is notified of the foresaid punishment:

- (1) punishments;
- (2) dismissal or cancellation of employment;
- (3) demotion;
- (4) being assessed as "incompetent" in the periodical assessment;
- (5) being dismissed from his post;
- (6) his application for resignation or retirement in advance being rejected;
- (7) failing to decide or deduct his wage, welfare or insurance treatment according to relevant provisions;
- (8) any other circumstance as prescribed by laws or regulations on appealing.

Where anyone is discontent with the treatment for his appeal made by an organ below the provincial level, he may appeal again to the counterpart at a level higher than the organ that has made the treatment.

Where a civil servant in any administrative organ is discontent with the punishment and appeals to the administrative supervision organ, the matter shall be treated according to the provisions of the Law of Administration Supervision.

Article 91 The original organ that has imposed the punishment shall make a decision on the administrative review within 30 days as of acceptance of an application for review. The organ that has accepted the appeal of a civil servant shall make a punishment decision within 60 days as of the date of acceptance. Where the case is complicated, the duration may be extended but shall not be extended for more than 30 days.

The implementation of personnel punishment shall not be stopped during the period of an administration review or appeal.

Article 92 Where the organ that has accepted the appeal of a civil servant deems that the personnel punishment is wrong upon examination, the original organ that has imposed the punishment shall correct it in a timely manner.

Article 93 Where a civil servant believes that any leader thereof has damaged his legitimate rights and interests, he may lodge an accusation to the organ at a higher level or the relevant special organ. The organ that has accepted the accusation shall treat it according to relevant provisions in a timely manner.

Article 94 Where a civil servant lodges an appeal or accusation, he shall not fabricate facts, make false charge against any other person, or frame up any other person.

Chapter XVI Appointment

Article 95 The state organ may, in light of the needs of work, adopt the appointment system on those posts with strong specialty and with supplementary features, upon the approval of the administrative department of civil servants above the provincial level.

Where any post as described in the preceding paragraph involves state secrets, it shall not be subjected to the appointment system.

Article 96 Where a state organ employs civil servants, it may conduct an open invitation for employment according to the procedures for civil servant examination and employment, or may make appointment through a direct selection of those who meet the requirements.

The engagement of civil servants shall be conducted within the quota of staffing and limit of amount of salary as provided by laws.

Article 97 Where an organ employs a civil servant, a written contract of employment shall be concluded so as to clarify the rights and obligations of the organ and the civil servant employed, adhering to the principle of equality, willingness, consensus reached through consultation. The contact of employment may be altered or canceled upon the consensus of both parties through consultation.

The conclusion, alteration or withdrawal of an employment contact shall be put on archival filings in the administrative department of civil servants at the same level.

Article 98 An employment contract shall include clauses such as contractual term, post and the

requirements thereof, wage, welfare, insurance treatment and breach liabilities.

The term for an employment contract is one to five years. The probation period may be stipulated in the employment contract, which is one to six months.

The negotiated wage system shall be adopted for civil servants in the appointment system in accordance with the provisions of the state. The specific measures thereof shall be formulated by the Central Government's administrative department of civil servants.

Article 99 The state organs shall conduct administration on civil servants they employ according to the present Law and the employment contract.

Article 100 The arbitration system for personnel disputes is established by the state.

The arbitration of personnel disputes shall, pursuant to the principles of legality, impartiality and timeliness, maintain the legitimate rights and interests of the parties involved in the dispute according to law.

The arbitration committee of personnel disputes may be established where it is necessary. The arbitration committee of personnel disputes shall consist of representatives of the administrative department of civil servants, representatives of the employment organ, and representatives of civil servants in the appointment system and legal experts.

Where a civil servant in the appointment system has a dispute with the organ he works for due to the performance of the employment contract thereof, he may apply to the arbitration committee of personnel disputes for arbitration within 60 days as of the day when the dispute arises. In case any party concerned is discontent with the arbitration result, he may lodge a lawsuit to the people's court within 15 days as of the day when he receives the written arbitration.

After the arbitration result comes into force, and any party concerned refuses to perform his duties, the other party may apply to the people's court for coercive performance.

Chapter XVII Legal Liabilities

Article 101 Under any of the following circumstances violating of the present Law, the leading organ or the administrative department of civil servants above the county level shall, in light of the power limit of administration and the different situations, give an order for correction or announces it to be invalid; as for the responsible leader and the persons w directly responsible, a criticism and education or punishment shall be imposed on according to the seriousness of the circumstances; where the violation constitutes a crime, he shall be subject to criminal liabilities according to law.

(1) failing to carry out employment, deployment, post transfer, appointment and promotion for civil servants according to the staffing quota, number of posts or the requirements for the qualification of post assumption;

(2) failing to go through rewards, punishments, avoidance and retirement formalities according to requirements;

(3) failing to carry out employment, deployment, post transfer, appointment, promotion and competitive post bidding, open selection and examination and rewards and punishments according to prescribed procedures;

(4) violating the provisions of the state by altering the standard of wage, welfare, insurance treatment of civil servants;

(5) divulging test questions in the employment, competitive post bidding or open selection, breaching the disciplines of the examination room or any other act that has any severe impact on the openness and impartiality;

(6) failing to accept or handle any appeal or accusation of a civil servant according to relevant provisions;

(7) any other circumstance violating the provisions of the present Law.

Article 102 Where a civil servant resigns his post or retires, he shall not take any post in an enterprise or any other profit-making organization, which is directly related to his original post, or shall not engage in any profit-making activity directly related to his original work within 3 years after he leaves his post, if he is a leader before resignation,. For any other civil servant, the time limit is 2 years.

Where a civil servant has any violation of the provisions in the preceding paragraph after resignation or retirement, the administrative department of civil servants at the same level as the original organ he works for shall order him to make corrections within a prescribed time limit; where he fails to make corrections, the administration for industry and commerce above the county level shall confiscate the illegal proceedings generated from his business, order the entity concerned to dismiss him, and impose on the receiving entity a fine of one to five times of that as imposed on the person according to the seriousness of circumstances.

Article 103 Where an organ causes any reputation damage to a civil servant due to a concrete wrong personnel punishment, it shall make a formal apology to the civil servant, rehabilitate his reputation and eliminate the ill impact; where any economic damage has been caused, a compensation shall be paid according to law.

Article 104 Where any of the personnel of the administrative department of civil servants violates the provisions of the present Law by abusing his power, neglecting his duties, practicing favoritism and engaging in malpractice, and if a crime is constituted, he shall be subject to criminal liabilities; if no crime is constituted, he shall be imposed upon a sanction.

Chapter XVIII Supplementary Provisions

Article 105 The term "leader" as mentioned in the present Law refers to the leading members in state organs, which shall not include those leaders in the entities of the organs

Article 106 Those personnel except those logistics workers in public institutions which are authorized by any law or regulation to exercise the function of managing public affairs shall be subject to the present Law upon approval.

Article 107 The present Law shall come into force as of January 1, 2006. The Interim Provisions of the State Council on Rewarding and Punishment of Personnel in the State Administrative Organs as approved by the Standing Committee of the National People's Congress on October 23, 1957 and promulgated by the State Council on October 26, 1957 and the Interim

PUBLIC FILE

Regulations on State Civil Servants as promulgated by the State Council on August 14, 1993 shall be simultaneously repealed.

中华人民共和国公务员法

第一章 总则

第一条 为了规范公务员的管理，保障公务员的合法权益，加强对公务员的监督，建设高素质的公务员队伍，促进勤政廉政，提高工作效能，根据宪法，制定本法。

第二条 本法所称公务员，是指依法履行公职、纳入国家行政编制、由国家财政负担工资福利的工作人员。

第三条 公务员的义务、权利和管理，适用本法。

法律对公务员中的领导成员的产生、任免、监督以及法官、检察官等的义务、权利和管理另有规定的，从其规定。

第四条 公务员制度坚持以马克思列宁主义、毛泽东思想、邓小平理论和“三个代表”重要思想为指导，贯彻社会主义初级阶段的基本路线，贯彻中国共产党的干部路线和方针，坚持党管干部原则。

第五条 公务员的管理，坚持公开、平等、竞争、择优的原则，依照法定的权限、条件、标准和程序进行

第六条 公务员的管理，坚持监督约束与激励保障并重的原则。

第七条 公务员的任用，坚持任人唯贤、德才兼备的原则，注重工作实绩。

第八条 国家对公务员实行分类管理，提高管理效能和科学化水平。

第九条 公务员依法履行职务的行为，受法律保护。

第十条 中央公务员主管部门负责全国公务员的综合管理工作。县级以上地方各级公务员主管部门负责本辖区内公务员的综合管理工作。上级公务员主管部门指导下级公务员主管部门的公务员管理工作。各级公务员主管部门指导同级各机关的公务员管理工作。

第二章 公务员的条件、义务与权利

第十一条 公务员应当具备下列条件：

- (一)具有中华人民共和国国籍；
- (二)年满十八周岁；
- (三)拥护中华人民共和国宪法；
- (四)具有良好的品行；
- (五)具有正常履行职责的身体条件；
- (六)具有符合职位要求的文化程度和工作能力；

(七)法律规定的其他条件。

第十二条 公务员应当履行下列义务：

- (一)模范遵守宪法和法律；
- (二)按照规定的权限和程序认真履行职责，努力提高工作效率；
- (三)全心全意为人民服务，接受人民监督；
- (四)维护国家的安全、荣誉和利益；
- (五)忠于职守，勤勉尽责，服从和执行上级依法作出的决定和命令；
- (六)保守国家秘密和工作秘密；
- (七)遵守纪律，恪守职业道德，模范遵守社会公德；
- (八)清正廉洁，公道正派；
- (九)法律规定的其他义务。

第十三条 公务员享有下列权利：

- (一)获得履行职责应当具有的工作条件；
- (二)非因法定事由、非经法定程序，不被免职、降职、辞退或者处分；
- (三)获得工资报酬，享受福利、保险待遇；
- (四)参加培训；
- (五)对机关工作和领导人员提出批评和建议；
- (六)提出申诉和控告；
- (七)申请辞职；
- (八)法律规定的其他权利。

第三章 职务与级别

第十四条 国家实行公务员职位分类制度。

公务员职位类别按照公务员职位的性质、特点和管理需要，划分为综合管理类、专业技术类和行政执法类等类别。国务院根据本法，对于具有职位特殊性，需要单独管理的，可以增设其他职位类别。各职位类别的适用范围由国家另行规定。

第十五条 国家根据公务员职位类别设置公务员职务序列。

第十六条 公务员职务分为领导职务和非领导职务。

领导职务层次分为：国家级正职、国家级副职、省部级正职、省部级副职、厅局级正职、厅局级副职、县处级正职、县处级副职、乡科级正职、乡科级副职。

非领导职务层次在厅局级以下设置

第十七条 综合管理类领导职务根据宪法、有关法律、职务层次和机构规格设置确定。

综合管理类的非领导职务分为：巡视员、副巡视员、调研员、副调研员、主任科员、副主任科员、科员、办事员。

综合管理类以外其他职位类别公务员的职务序列，根据本法由国家另行规

定。

第十八条 各机关依照确定的职能、规格、编制限额、职数以及结构比例，设置本机关公务员的具体职位，并确定各职位的工作职责和任职资格条件。

第十九条 公务员的职务应当对应相应的级别。公务员职务与级别的对应关系，由国务院规定。

公务员的职务与级别是确定公务员工资及其他待遇的依据。

公务员的级别根据所任职务及其德才表现、工作实绩和资历确定。公务员在同一职务上，可以按照国家规定晋升级别。

第二十条 国家根据人民警察以及海关、驻外外交机构公务员的工作特点，设置与其职务相对应的衔级。

第四章 录用

第二十一条 录用担任主任科员以下及其他相当职务层次的非领导职务公务员，采取公开考试、严格考察、平等竞争、择优录取的办法。

民族自治地方依照前款规定录用公务员时，依照法律和有关规定对少数民族报考者予以适当照顾。

第二十二条 中央机关及其直属机构公务员的录用，由中央公务员主管部门负责组织。地方各级机关公务员的录用，由省级公务员主管部门负责组织，必要时省级公务员主管部门可以授权设区的市级公务员主管部门组织。

第二十三条 报考公务员，除应当具备本法第十一条规定的条件外，还应当具备省级以上公务员主管部门规定的拟任职位所要求的资格条件

第二十四条 下列人员不得录用为公务员：

- (一) 曾因犯罪受过刑事处罚的；
- (二) 曾被开除公职的；
- (三) 有法律规定不得录用为公务员的其他情形的。

第二十五条 录用公务员，必须在规定的编制限额内，并有相应的职位空缺。

第二十六条 录用公务员，应当发布招考公告。招考公告应当载明招考的职位、名额、报考资格条件、报考需要提交的申请材料以及其他报考须知事项。招录机关应当采取措施，便利公民报考。

第二十七条 招录机关根据报考资格条件对报考申请进行审查。报考者提交的申请材料应当真实、准确。

第二十八条 公务员录用考试采取笔试和面试的方式进行，考试内容根据

公务员应当具备的基本能力和不同职位类别分别设置。

第二十九条 招录机关根据考试成绩确定考察人选，并对其进行报考资格复审、考察和体检。

体检的项目和标准根据职位要求确定。具体办法由中央公务员主管部门会同国务院卫生行政部门规定

第三十条 招录机关根据考试成绩、考察情况和体检结果，提出拟录用人员名单，并予以公示。

公示期满，中央一级招录机关将拟录用人员名单报中央公务员主管部门备案；地方各级招录机关将拟录用人员名单报省级或者设区的市级公务员主管部门审批。

第三十一条 录用特殊职位的公务员，经省级以上公务员主管部门批准，可以简化程序或者采用其他测评办法。

第三十二条 新录用的公务员试用期为一年。试用期满合格的，予以任职；不合格的，取消录用。

第五章 考核

第三十三条 对公务员的考核，按照管理权限，全面考核公务员的德、能、勤、绩、廉，重点考核工作实绩。

第三十四条 公务员的考核分为平时考核和定期考核。定期考核以平时考核为基础。

第三十五条 对非领导成员公务员的定期考核采取年度考核的方式，先由个人按照职位职责和有关要求进行总结，主管领导在听取群众意见后，提出考核等次建议，由本机关负责人或者授权的考核委员会确定考核等次。

对领导成员的定期考核，由主管机关按照有关规定办理。

第三十六条 定期考核的结果分为优秀、称职、基本称职和不称职四个等次。

定期考核的结果应当以书面形式通知公务员本人。

第三十七条 定期考核的结果作为调整公务员职务、级别、工资以及公务员奖励、培训、辞退的依据。

第六章 职务任免

第三十八条 公务员职务实行选任制和委任制。

领导成员职务按照国家规定实行任期制。

第三十九条 选任制公务员在选举结果生效时即任当选职务；任期届满不再连任，或者任期内辞职、被罢免、被撤职的，其所任职务即终止。

第四十条 委任制公务员遇有试用期满考核合格、职务发生变化、不再担任公务员职务以及其他情形需要任免职务的，应当按照管理权限和规定的程序任免其职务。

第四十一条 公务员任职必须在规定的编制限额和职数内进行，并有相应的职位空缺。

第四十二条 公务员因工作需要到机关外兼职，应当经有关机关批准，并不得领取兼职报酬。

第七章 职务升降

第四十三条 公务员晋升职务，应当具备拟任职务所要求的思想政治素质、工作能力、文化程度和任职经历等方面的条件和资格。

公务员晋升职务，应当逐级晋升。特别优秀的或者工作特殊需要的，可以按照规定破格或者越一级晋升职务。

第四十四条 公务员晋升领导职务，按照下列程序办理：

- (一) 民主推荐，确定考察对象；
 - (二) 组织考察，研究提出任职建议方案，并根据需要在一定范围内进行酝酿；
 - (三) 按照管理权限讨论决定；
 - (四) 按照规定履行任职手续。
- 公务员晋升非领导职务，参照前款规定的程序办理。

第四十五条 机关内设机构厅局级正职以下领导职务出现空缺时，可以在本机关或者本系统内通过竞争上岗的方式，产生任职人选。

厅局级正职以下领导职务或者副调研员以上及其他相当职务层次的非领导职务出现空缺，可以面向社会公开选拔，产生任职人选。

确定初任法官、初任检察官的任职人选，可以面向社会，从通过国家统一司法考试取得资格的人员中公开选拔。

第四十六条 公务员晋升领导职务的，应当按照有关规定实行任职前公示制度和任职试用期制度。

第四十七条 公务员在定期考核中被确定为不称职的，按照规定程序降低一个职务层次任职。

第八章 奖励

第四十八条 对工作表现突出，有显著成绩和贡献，或者有其他突出事迹

的公务员或者公务员集体，给予奖励。奖励坚持精神奖励与物质奖励相结合、以精神奖励为主的原则。

公务员集体的奖励适用于按照编制序列设置的机构或者为完成专项任务组成的工作集体。

第四十九条 公务员或者公务员集体有下列情形之一的，给予奖励：

- (一) 忠于职守，积极工作，成绩显著的；
- (二) 遵守纪律，廉洁奉公，作风正派，办事公道，模范作用突出的；
- (三) 在工作中有发明创造或者提出合理化建议，取得显著经济效益或者社会效益的；
- (四) 为增进民族团结、维护社会稳定做出突出贡献的；
- (五) 爱护公共财产，节约国家资财有突出成绩的；
- (六) 防止或者消除事故有功，使国家和人民群众利益免受或者减少损失的；
- (七) 在抢险、救灾等特定环境中奋不顾身，做出贡献的；
- (八) 同违法违纪行为作斗争有功绩的；
- (九) 在对外交往中为国家争得荣誉和利益的；
- (十) 有其他突出功绩的。

第五十条 奖励分为：嘉奖、记三等功、记二等功、记一等功、授予荣誉称号。

对受奖励的公务员或者公务员集体予以表彰，并给予一次性奖金或者其他待遇。

第五十一条 给予公务员或者公务员集体奖励，按照规定的权限和程序决定或者审批。

第五十二条 公务员或者公务员集体有下列情形之一的，撤销奖励：

- (一) 弄虚作假，骗取奖励的；
- (二) 申报奖励时隐瞒严重错误或者严重违反规定程序的；
- (三) 有法律、法规规定应当撤销奖励的其他情形的

第九章 惩戒

第五十三条 公务员必须遵守纪律，不得有下列行为：

- (一) 散布有损国家声誉的言论，组织或者参加旨在反对国家的集会、游行、示威等活动；
- (二) 组织或者参加非法组织，组织或者参加罢工；
- (三) 玩忽职守，贻误工作；
- (四) 拒绝执行上级依法作出的决定和命令；
- (五) 压制批评，打击报复；
- (六) 弄虚作假，误导、欺骗领导和公众；
- (七) 贪污、行贿、受贿，利用职务之便为自己或者他人谋取私利；
- (八) 违反财经纪律，浪费国家资财；

- (九)滥用职权,侵害公民、法人或者其他组织的合法权益;
- (十)泄露国家秘密或者工作秘密;
- (十一)在对外交往中损害国家荣誉和利益;
- (十二)参与或者支持色情、吸毒、赌博、迷信等活动;
- (十三)违反职业道德、社会公德;
- (十四)从事或者参与营利性活动,在企业或者其他营利性组织中兼任职务;
- (十五)旷工或者因公外出、请假期满无正当理由逾期不归;
- (十六)违反纪律的其他行为。

第五十四条 公务员执行公务时,认为上级的决定或者命令有错误的,可以向上级提出改正或者撤销该决定或者命令的意见;上级不改变该决定或者命令,或者要求立即执行的,公务员应当执行该决定或者命令,执行的后果由上级负责,公务员不承担责任;但是,公务员执行明显违法的决定或者命令的,应当依法承担相应的责任。

第五十五条 公务员因违法违纪应当承担纪律责任的,依照本法给予处分;违纪行为情节轻微,经批评教育后改正的,可以免于处分。

第五十六条 处分分为:警告、记过、记大过、降级、撤职、开除。

第五十七条 对公务员的处分,应当事实清楚、证据确凿、定性准确、处理恰当、程序合法、手续完备。

公务员违纪的,应当由处分决定机关决定对公务员违纪的情况进行调查,并将调查认定的事实及拟给予处分的依据告知公务员本人。公务员有权进行陈述和申辩。

处分决定机关认为对公务员应当给予处分的,应当在规定的期限内,按照管理权限和规定的程序作出处分决定。处分决定应当以书面形式通知公务员本人。

第五十八条 公务员在受处分期间不得晋升职务和级别,其中受记过、记大过、降级、撤职处分的,不得晋升工资档次。

受处分的期间为:警告,六个月;记过,十二个月;记大过,十八个月;降级、撤职,二十四个月。

受撤职处分的,按照规定降低级别。

第五十九条 公务员受开除以外的处分,在受处分期间有悔改表现,并且没有再发生违纪行为的,处分期满后,由处分决定机关解除处分并以书面形式通知本人。

解除处分后,晋升工资档次、级别和职务不再受原处分的影响。但是,解除降级、撤职处分的,不视为恢复原级别、原职务。

第十章 培训

第六十条 机关根据公务员工作职责的要求和提高公务员素质的需要,对

公务员进行分级分类培训。

国家建立专门的公务员培训机构。机关根据需要也可以委托其他培训机构承担公务员培训任务。

第六十一条 机关对新录用人员应当在试用期内进行初任培训；对晋升领导职务的公务员应当在任职前或者任职后一年内进行任职培训；对从事专项工作的公务员应当进行专门业务培训；对全体公务员应当进行更新知识、提高工作能力的在职培训，其中对担任专业技术职务的公务员，应当按照专业技术人员继续教育的要求，进行专业技术培训。

国家有计划地加强对后备领导人员的培训。

第六十二条 公务员的培训实行登记管理。

公务员参加培训的时间由公务员主管部门按照本法第六十一条规定的培训要求予以确定。

公务员培训情况、学习成绩作为公务员考核的内容和任职、晋升的依据之一。

第十一章 交流与回避

第六十三条 国家实行公务员交流制度。

公务员可以在公务员队伍内部交流，也可以与国有企业事业单位、人民团体和群众团体中从事公务的人员交流。

交流的方式包括调任、转任和挂职锻炼。

第六十四条 国有企业事业单位、人民团体和群众团体中从事公务的人员可以调入机关担任领导职务或者副调研员以上及其他相当职务层次的非领导职务。调任人选应当具备本法第十一条规定的条件和拟任职位所要求的资格条件，并不得有本法第二十四条规定的情形。调任机关应当根据上述规定，对调任人选进行严格考察，并按照管理权限审批，必要时可以对调任人选进行考试。

第六十五条 公务员在不同职位之间转任应当具备拟任职位所要求的资格条件，在规定的编制限额和职数内进行。

对省部级正职以下的领导成员应当有计划、有重点地实行跨地区、跨部门转任。

对担任机关内设机构领导职务和工作性质特殊的非领导职务的公务员，应当有计划地在本机关内转任。

第六十六条 根据培养锻炼公务员的需要，可以选派公务员到下级机关或者上级机关、其他地区机关以及国有企业事业单位挂职锻炼。

公务员在挂职锻炼期间，不改变与原机关的人事关系。

第六十七条 公务员应当服从机关的交流决定。

公务员本人申请交流的，按照管理权限审批。

第六十八条 公务员之间有夫妻关系、直系血亲关系、三代以内旁系血亲关系以及近姻亲关系的，不得在同一机关担任双方直接隶属于同一领导人员的职务或者有直接上下级领导关系的职务，也不得在其中一方担任领导职务的机关从事组织、人事、纪检、监察、审计和财务工作。

因地域或者工作性质特殊，需要变通执行任职回避的，由省级以上公务员主管部门规定。

第六十九条 公务员担任乡级机关、县级机关及其有关部门主要领导职务的，应当实行地域回避，法律另有规定的除外。

第七十条 公务员执行公务时，有下列情形之一的，应当回避：

- (一) 涉及本人利害关系的；
- (二) 涉及与本人有本法第六十八条第一款所列亲属关系人员的利害关系的；
- (三) 其他可能影响公正执行公务的。

第七十一条 公务员有应当回避情形的，本人应当申请回避；利害关系人有权申请公务员回避。其他人员可以向机关提供公务员需要回避的情况。

机关根据公务员本人或者利害关系人的申请，经审查后作出是否回避的决定，也可以不经申请直接作出回避决定。

第七十二条 法律对公务员回避另有规定的，从其规定。

第十二章 工资福利保险

第七十三条 公务员实行国家统一的职务与级别相结合的工资制度。公务员工资制度贯彻按劳分配的原则，体现工作职责、工作能力、工作实绩、资历等因素，保持不同职务、级别之间的合理工资差距。国家建立公务员工资的正常增长机制。

第七十四条 公务员工资包括基本工资、津贴、补贴和奖金。

公务员按照国家规定享受地区附加津贴、艰苦边远地区津贴、岗位津贴等津贴。

公务员按照国家规定享受住房、医疗等补贴、补助。

公务员在定期考核中被确定为优秀、称职的，按照国家规定享受年终奖金。公务员工资应当按时足额发放。

第七十五条 公务员的工资水平应当与国民经济发展相协调、与社会进步相适应。

国家实行工资调查制度，定期进行公务员和企业相当人员工资水平的调查比较，并将工资调查比较结果作为调整公务员工资水平的依据。

第七十六条 公务员按照国家规定享受福利待遇。国家根据经济社会发展水平提高公务员的福利待遇。

公务员实行国家规定的工时制度，按照国家规定享受休假。公务员在法定工作日之外加班的，应当给予相应的补休。

第七十七条 国家建立公务员保险制度，保障公务员在退休、患病、工伤、生育、失业等情况下获得帮助和补偿。

公务员因公致残的，享受国家规定的伤残待遇。公务员因公牺牲、因公死亡或者病故的，其亲属享受国家规定的抚恤和优待。

第七十八条 任何机关不得违反国家规定自行更改公务员工资、福利、保险政策，擅自提高或者降低公务员的工资、福利、保险待遇。任何机关不得扣减或者拖欠公务员的工资。

第七十九条 公务员工资、福利、保险、退休金以及录用、培训、奖励、辞退等所需经费，应当列入财政预算，予以保障。

第十三章 辞职辞退

第八十条 公务员辞去公职，应当向任免机关提出书面申请。任免机关应当自接到申请之日起三十日内予以审批，其中对领导成员辞去公职的申请，应当自接到申请之日起九十日内予以审批。

第八十一条 公务员有下列情形之一的，不得辞去公职：

- (一) 未满国家规定的最低服务年限的；
- (二) 在涉及国家秘密等特殊职位任职或者离开上述职位不满国家规定的脱密期限的；
- (三) 重要公务尚未处理完毕，且须由本人继续处理的；
- (四) 正在接受审计、纪律审查，或者涉嫌犯罪，司法程序尚未终结的；
- (五) 法律、行政法规规定的其他不得辞去公职的情形。

第八十二条 担任领导职务的公务员，因工作变动依照法律规定需要辞去现任职务的，应当履行辞职手续。

担任领导职务的公务员，因个人或者其他原因，可以自愿提出辞去领导职务。

领导成员因工作严重失误、失职造成重大损失或者恶劣社会影响的，或者对重大事故负有领导责任的，应当引咎辞去领导职务。

领导成员应当引咎辞职或者因其他原因不再适合担任现任领导职务，本人不提出辞职的，应当责令其辞去领导职务。

第八十三条 公务员有下列情形之一的，予以辞退：

- (一) 在年度考核中，连续两年被确定为不称职的；
- (二) 不胜任现职工作，又不接受其他安排的；
- (三) 因所在机关调整、撤销、合并或者缩减编制员额需要调整工作，本人拒绝合理安排的；
- (四) 不履行公务员义务，不遵守公务员纪律，经教育仍无转变，不适合

继续在机关工作，又不宜给予开除处分的；

(五)旷工或者因公外出、请假期满无正当理由逾期不归连续超过十五天，或者一年内累计超过三十天的。

第八十四条 对有下列情形之一的公务员，不得辞退：

- (一) 因公致残，被确认丧失或者部分丧失工作能力的；
- (二) 患病或者负伤，在规定的医疗期内的；
- (三) 女性公务员在孕期、产假、哺乳期内的；
- (四) 法律、行政法规规定的其他不得辞退的情形。

第八十五条 辞退公务员，按照管理权限决定。辞退决定应当以书面形式通知被辞退的公务员。

被辞退的公务员，可以领取辞退费或者根据国家有关规定享受失业保险。

第八十六条 公务员辞职或者被辞退，离职前应当办理公务交接手续，必要时按照规定接受审计。

第十四章 退休

第八十七条 公务员达到国家规定的退休年龄或者完全丧失工作能力的，应当退休。

第八十八条 公务员符合下列条件之一的，本人自愿提出申请，经任免机关批准，可以提前退休：

- (一) 工作年限满三十年的；
- (二) 距国家规定的退休年龄不足五年，且工作年限满二十年的；
- (三) 符合国家规定的可以提前退休的其他情形的。

第八十九条 公务员退休后，享受国家规定的退休金和其他待遇，国家为其生活和健康提供必要的服务和帮助，鼓励发挥个人专长，参与社会发展。

第十五章 申诉控告

第九十条 公务员对涉及本人的下列人事处理不服的，可以自知道该人事处理之日起三十日内向原处理机关申请复核；对复核结果不服的，可以自接到复核决定之日起十五日内，按照规定向同级公务员主管部门或者作出该人事处理的机关的上一级机关提出申诉；也可以不经复核，自知道该人事处理之日起三十日内直接提出申诉：

- (一) 处分；
- (二) 辞退或者取消录用；
- (三) 降职；
- (四) 定期考核定为不称职；
- (五) 免职；
- (六) 申请辞职、提前退休未予批准；

(七) 未按规定确定或者扣减工资、福利、保险待遇;

(八) 法律、法规规定可以申诉的其他情形。

对省级以下机关作出的申诉处理决定不服的,可以向作出处理决定的上一级机关提出再申诉。

行政机关公务员对处分不服向行政监察机关申诉的,按照《中华人民共和国行政监察法》的规定办理。

第九十一条 原处理机关应当自接到复核申请书后的三十日内作出复核决定。受理公务员申诉的机关应当自受理之日起六十日内作出处理决定;案情复杂的,可以适当延长,但是延长时间不得超过三十日。

复核、申诉期间不停止人事处理的执行。

第九十二条 公务员申诉的受理机关审查认定人事处理有错误的,原处理机关应当及时予以纠正。

第九十三条 公务员认为机关及其领导人员侵犯其合法权益的,可以依法向上级机关或者有关的专门机关提出控告。受理控告的机关应当按照规定及时处理。

第九十四条 公务员提出申诉、控告,不得捏造事实,诬告、陷害他人。

第十六章 职位聘任

第九十五条 机关根据工作需要,经省级以上公务员主管部门批准,可以对专业性较强的职位和辅助性职位实行聘任制。

前款所列职位涉及国家秘密的,不实行聘任制。

第九十六条 机关聘任公务员可以参照公务员考试录用的程序进行公开招聘,也可以从符合条件的人员中直接选聘。

机关聘任公务员应当在规定的编制限额和工资经费限额内进行。

第九十七条 机关聘任公务员,应当按照平等自愿、协商一致的原则,签订书面的聘任合同,确定机关与所聘公务员双方的权利、义务。聘任合同经双方协商一致可以变更或者解除。

聘任合同的签订、变更或者解除,应当报同级公务员主管部门备案。

第九十八条 聘任合同应当具备合同期限,职位及其职责要求,工资、福利、保险待遇,违约责任等条款。

聘任合同期限为一年至五年。聘任合同可以约定试用期,试用期为一个月至六个月。

聘任制公务员按照国家规定实行协议工资制,具体办法由中央公务员主管部门规定。

第九十九条 机关依据本法和聘任合同对所聘公务员进行管理。

第一百条 国家建立人事争议仲裁制度。

人事争议仲裁应当根据合法、公正、及时处理的原则，依法维护争议双方的合法权益。

人事争议仲裁委员会根据需要设立。人事争议仲裁委员会由公务员主管部门的代表、聘用机关的代表、聘任制公务员的代表以及法律专家组成。

聘任制公务员与所在机关之间因履行聘任合同发生争议的，可以自争议发生之日起六十日内向人事争议仲裁委员会申请仲裁。当事人对仲裁裁决不服的，可以自接到仲裁裁决书之日起十五日内向人民法院提起诉讼。仲裁裁决生效后，一方当事人不履行的，另一方当事人可以申请人民法院执行。

第十七章 法律责任

第一百零一条 对有下列违反本法规定情形的，由县级以上领导机关或者公务员主管部门按照管理权限，区别不同情况，分别予以责令纠正或者宣布无效；对负有责任的领导人员和直接责任人员，根据情节轻重，给予批评教育或者处分；构成犯罪的，依法追究刑事责任：

(一) 不按编制限额、职数或者任职资格条件进行公务员录用、调任、转任、聘任和晋升的；

(二) 不按规定条件进行公务员奖惩、回避和办理退休的；

(三) 不按规定程序进行公务员录用、调任、转任、聘任、晋升、竞争上岗、公开选拔以及考核、奖惩的；

(四) 违反国家规定，更改公务员工资、福利、保险待遇标准的；

(五) 在录用、竞争上岗、公开选拔中发生泄露试题、违反考场纪律以及其他严重影响公开、公正的；

(六) 不按规定受理和处理公务员申诉、控告的；

(七) 违反本法规定的其他情形的。

第一百零二条 公务员辞去公职或者退休的，原系领导成员的公务员在离职三年内，其他公务员在离职两年内，不得到与原工作业务直接相关的企业或者其他营利性组织任职，不得从事与原工作业务直接相关的营利性活动。

公务员辞去公职或者退休后有违反前款规定行为的，由其原所在机关的同级公务员主管部门责令限期改正；逾期不改正的，由县级以上工商行政管理部门没收该人员从业期间的违法所得，责令接收单位将该人员予以清退，并根据情节轻重，对接收单位处以被处罚人员违法所得一倍以上五倍以下的罚款。

第一百零三条 机关因错误的具体人事处理对公务员造成名誉损害的，应当赔礼道歉、恢复名誉、消除影响；造成经济损失的，应当依法给予赔偿。

第一百零四条 公务员主管部门的工作人员，违反本法规定，滥用职权、玩忽职守、徇私舞弊，构成犯罪的，依法追究刑事责任；尚不构成犯罪的，给予处分。

第十八章 附则

第一百零五条 本法所称领导成员，是指机关的领导人员，不包括机关内设机构担任领导职务的人员。

第一百零六条 法律、法规授权的具有公共事务管理职能的事业单位中除工勤人员以外的工作人员，经批准参照本法进行管理。

第一百零七条 本法自2006年1月1日起施行。全国人民代表大会常务委员会1957年10月23日批准、国务院1957年10月26日公布的《国务院关于国家行政机关工作人员的奖惩暂行规定》、1993年8月14日国务院公布的《国家公务员暂行条例》同时废止。