



The examples and best practices listed here are illustrative only, and are intended only for use as general advice. An appeal decision is the product of applying the Civil Service Rules, Article and Constitutional principles of Due Process to the unique facts of each case. Accordingly, these FAQ's and the HR Handbook do not predict or guarantee a particular result.

Q. What is the best way to give written notice?

A. By hand-delivery to the employee. If hand-delivery is not possible or desirable, then by regular first class mail with a certificate of mailing. The first class mail is sent to the most recent address provided by the employee to the agency human resource office in writing or electronically.

Q. Why regular mail?

A. Because employees rarely refuse or return regular mail. If the United States Postal Service does not return the letter to the agency, it is presumed received on the seventh calendar day after the agency mailed it.

Q. If the agency is going to mail the disciplinary/removal letter, when should the action become effective?

A. No earlier than seven (7) days after mailing.

Q. Is mailing by certified mail, return receipt requested better?

A. No. It costs more. Employees frequently refuse certified mail, so all the agency may have is proof that the employee did not receive the letter. Often the return receipt comes back illegible, undated, or is signed by someone totally unrelated to the employee.

Q. Where can a letter be hand-delivered to the employee?

A. Anywhere the employee can be found.

Q. What about using FedEx, UPS, DHL, or other commercial carrier to deliver the letter overnight so the action can be effective sooner?

A. It is discouraged. It is more expensive and if the employee claims he never received the letter, proof of delivery could be problematic.

Q. What if an employee refuses to accept a hand-delivered letter?

A. Have the deliverer place it near the employee (on the desk, at the employee's feet) and write a note on the delivery receipt documenting the employee's refusal and stating where the deliverer left the letter.

Q. What if an employee accepts a hand-delivered letter, but refuses to sign a receipt for it?

A. Have the deliverer write that on the delivery receipt.

Q. What is "domiciliary" service?

A. Delivery to a person of suitable age and discretion who resides with the employee.

Q. Does this mean that the agency can hand-deliver the letter to the last address furnished by the employee in writing or electronically?

A. No. This domiciliary service is only effective if the employee actually lives there.

Q. What is “suitable age and discretion”?

A. Delivery to someone who is younger than twelve is risky; delivery to an adult is recommended.

Q. How do you determine if a person resides with the employee?

A. Have the deliverer ask. (This is where the problem with UPS, FedEx, DHL, etc. arises. They have “adult signature required” services, but no service to ensure that the adult who signs actually lives there.)

Q. Is domiciliary service a good way to deliver the letter?

A. No. Use domiciliary service only as a last resort, as too many things can go wrong.

Q. If no one is at home at the employee’s residence, can the deliverer leave the letter on the doorstep?

A. No.

Q. What should the agency do in this situation?

A. Retype the letter with an effective date at least seven days later and mail it to the employee by first class mail with a certificate of mailing.

Q. Is an agency always safe if it follows the letter of the rule as to mailing a notice?

A. No. Underlying this rule is the concept that the agency must act in good faith. If the agency knows an employee has moved, it should send the letter to the last address furnished by the employee in writing or electronically and to the new address. If the agency knows the employee is in prison, it should send the letter to the last address furnished by the employee in writing or electronically and to the prison.

Q. What should an agency do if the USPS returns a letter as “undeliverable”?

A. Check to be sure it the address is correct. Ask the employee’s immediate supervisor if he is aware of a different address to use and if there is one, change the effective date of the action and send the letter to the new address. **NOTE:** The rule does not require this extra effort, but it shows the agency’s good faith.

Q. What is the best way to document that the agency gave notice?

A. If a letter will be mailed, make a copy of the envelope (with postage) before mailing and get a certificate of mailing. If a letter will be hand-delivered, get a delivery receipt signed by the deliverer and the employee, if possible.

Q. Who should be responsible for ensuring that the written notice is timely?

A. The person who recommended the action. That person should check the address, check the postage, make the copy of the envelope, go to the post office, get a certificate of mailing, and deposit the notice in the mail or hand deliver the letter. The person who recommended the action will likely be a witness to the charges; using a separate deliverer needlessly ties up another witness if the employee appeals the action.