



Important information regarding notice of suspension by employer for serious misconduct

An employer cannot suspend a training contract without the apprentice's* agreement, except on the grounds that the apprentice has engaged in serious misconduct.

If all parties agree to suspend the training contract, this form should not be completed. Before completing this form, contact the Apprenticeship Office on 13 19 54 to discuss the suspension.

A definition of serious misconduct is provided on page 4 of this document.

Written notice

If an employer wishes to suspend a training contract on the grounds that an apprentice has engaged in serious misconduct, the employer must give the apprentice written notice (the suspension notice). The attached form can be used for this purpose.

The suspension notice must:

- state that the training contract has been suspended on the grounds that the apprentice has engaged in serious misconduct;
- state when the suspension takes effect (this must take place after the apprentice has been given the written notice); and
- describe the apprentice's alleged misconduct.

The employer must:

- provide a copy of the suspension notice to the Apprenticeship Office before 5.00 pm on the next working day; and
- continue to pay the apprentice as if the contract had not been suspended.

If an employer cancels the suspension of a training contract, they must:

- give the apprentice a written notice stating the date on which the suspension will cease; and
- notify the Apprenticeship Office before 5.00 pm on the next working day after the apprentice has been given the notice that the contract is no longer suspended.

The apprentice must not attend the workplace during the suspension but may continue to attend their off the job training.

Approval to terminate the training contract

Unless the suspension is ceased, the employer must apply to the chief executive for approval to terminate the contract within seven days after the date on which the training contract is suspended. If such application is refused, the suspension is considered cancelled on the next day.

Alternatives to suspension by employer for serious misconduct

- Mutual suspension – the parties may agree to suspend a contract for a period of time. A *'Notice to suspend by mutual agreement'* form can be downloaded from the Apprenticeship Office website at dtwd.wa.gov.au/apprenticeshipoffice.
- Termination by mutual agreement – the apprentice may consent to terminate the training contract. A *'Notice to terminate a training contract'* form can be downloaded from the Apprenticeship Office website at dtwd.wa.gov.au/apprenticeshipoffice.
- Employer application for approval to terminate a training contract – an employer may wish to apply for approval to terminate a training contract.

Contact the Apprenticeship Office on 13 19 54 if you wish to discuss possible alternatives.

**The term 'apprentice' covers apprentices, trainees, cadets and interns.*

Notice of suspension by employer for serious misconduct

Please read the information sheet before completing and returning this form. If you have any questions or concerns, contact the Apprenticeship Office before signing this form. Email the completed form to ApprenticeshipOffice.Compliance@dtwd.wa.gov.au.

This suspension notice has been given because the apprentice has allegedly been engaged in serious misconduct.

Apprentice's details		
Name:	Training Contract ID:	
Address:	Suburb:	PC:
Mobile:	Email:	

Employer's details		
Legal name:		
Trading name:		
Address:	Suburb:	PC:
Contact person:	Contact no:	
Email:		
Host employer <i>(if applicable)</i> :		

Description of the apprentice's alleged misconduct	
Employer's signature: _____	Date: _____
<p>The employer must give this notice to the apprentice and provide a copy to the Apprenticeship Office before 5.00 pm on the next working day.</p>	

Serious misconduct

For conduct to be deemed serious there needs to be willful or deliberate behavior by the apprentice that is inconsistent with the objectives of the training contract. The following examples of serious misconduct are adapted from Regulation 1.07 of the *Fair Work Regulations 2009*.

Serious misconduct may include but is not limited to the following:

- wilful or deliberate behaviour by an employee that is inconsistent with the continuation of the training contract;
- conduct that causes serious and imminent risk to:
 - health or safety of a person; or
 - the reputation, viability or profitability of the employer's business;
- the apprentice, in the course of their employment, engaging in:
 - theft;
 - fraud; or
 - assault;
- the apprentice refusing to carry out a lawful and reasonable instruction that is consistent with the training contract; or
- the apprentice being intoxicated at work.

The apprentice is considered to be intoxicated if the apprentice's faculties are, by reason of their being under the influence of intoxicating liquor or a drug (except a drug administered by, or taken in accordance with the direction of, a person lawfully authorised to administer the drug), so impaired that the apprentice is unfit to be entrusted with their duties or with any duty that the employees may be called upon to perform.

Apprenticeship Office

T: 13 19 54

E: apprenticeshipoffice@dtwd.wa.gov.au

W: dtwd.wa.gov.au/apprenticeshipoffice