



SEATTLE CITY COUNCIL
CENTRAL STAFF

App-Based Worker Deactivation Rights Ordinance – Draft Legislation

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Presentation Outline

- Background
- Policy Goals
- Current Draft Legislation
- Questions
- Next Steps

Background

- Management by algorithm
- Workers facing deactivation for reasons such as:
 - Rejecting too many orders
 - Being unavailable on certain days or times
 - Delays outside of their control
 - Changing performance expectations
 - Unknown reasons
- Lack of substantive response from companies when workers try to challenge deactivations

Policy Goals



Policy Goals

- Create more stability and job security for app-based workers
- Create a balance between the efficiencies of algorithmic management and the needs of Seattle workers

Policy Summary

The App-Based Workers Deactivations Rights Ordinance would require network companies to base deactivations on reasonable policies and provide app-based workers notice, records, and human review of all deactivations.

| Notice | Records | Human Review |
|---|---|---|
| <ul style="list-style-type: none">• Policies• Deactivation | <ul style="list-style-type: none">• Substantiating deactivation | <ul style="list-style-type: none">• Records• Investigation• Challenge |

Coverage

Network Companies

- All network companies with 250 or more app-based workers

App-Based Workers

- Except for notice of rights, coverage would be limited to workers who, in the previous 180 days, have had at least ten percent of their completed offers, or offers cancelled with cause, involve performing services in Seattle
- Companies must send a notice of rights to any worker who has performed services in Seattle. Notice of rights includes an accessible system for app-based workers to understand their eligibility to challenge a deactivation

Requirements for Deactivation: Policies

- **Fair notice of deactivation policy:** A network company must inform the app-based worker of the network company's policies for which a violation may result in deactivation.
- **Reasonable rule or policy:** The rule or policy that may lead to a deactivation must be reasonable and be reasonably related to the network company's safe and efficient operations.
 - Listed examples of unreasonable policies.

Unreasonable Rule or Policy

A Network Company would **not** be able to deactivate an app-based worker based on:

Consistent
with
ABWMP

- Availability to work or number of hours worked
- Acceptance or rejection of any offer, any types of offers, or any number or proportion of offers
- Cancelling of an offer with cause
- Contacting the network company
- Quantitative metrics derived from aggregate customer ratings
- Statements by a worker regarding compensation and/or working conditions
- Asserting legal rights, whether in court or via government processes/procedures
- A background check, consumer report, driver record, or record of traffic infractions, except in cases of egregious misconduct or where permitted or required by other applicable law

Requirements Upon Deactivation

- **Investigation:** A network company must conduct a fair and objective investigation prior to deactivating an app-based worker, except in the case of egregious misconduct.
- **Confirmation of violation:** The network company must demonstrate by a preponderance of the evidence that the alleged violation of the network company's policy or rule occurred.
- **Consistent application** of rule or policy and subsequent penalties
- **Proportionality:** Deactivation must be reasonably related to offense, consider mitigating circumstances.
- Cannot intend or result in discrimination or discriminatory act.

Implications of Egregious Misconduct

1. Don't need to complete investigation before deactivating a worker
 - Investigation must be completed within 10 days unless extraordinary circumstances beyond company's control
2. Can deactivate immediately without needing to provide 14 days' notice
3. Can deactivate based on the results of a background check that reveals egregious misconduct.
 - If the network company can prove by clear and convincing evidence that the conduct directly relates to the app-based worker's fitness to provide app-based services.

Egregious Misconduct Definition

- “Egregious misconduct” means an abhorrent or wrong action or behavior by an individual app-based worker that:
 1. Endangers the physical safety of the customer or a third person; or
 2. Intentionally causes economic harm to the customer, a third person, or the network company.
- Egregious misconduct includes conduct that occurs outside of an app-based worker’s provision of app-based services if the network company can prove by clear and convincing evidence that the conduct directly relates to the app-based worker’s fitness to provide app-based services.
- The Director may issue rules further defining what constitutes economic harm or egregious misconduct

Egregious Misconduct Examples

- Assault
- Sexual assault
- Sexual harassment
- Communicating with a minor for immoral purposes
- Sexual conduct as defined in state law
- Unlawful harassment as defined in state law
- Unlawful imprisonment as defined in state law
- Solicitation of any sexual act
- Theft
- Fraud
- Robbery
- Burglary
- Prostitution
- Reckless driving
- Driving under the influence of alcohol or drugs
- Failing to maintain a valid state driver's license

Notice of Deactivation

- App-based workers get 14-days' notice of their deactivation, except when egregious misconduct
- The notice of deactivation must include, at a minimum:
 - The reasons for deactivation
 - The effective date of deactivation
 - The [records](#) relied upon to substantiate deactivation
 - The length of the deactivation
 - The steps an app-based worker can take to remedy the deactivation
 - The app-based worker's right to challenge such deactivation
 - The network company's [process for challenging a deactivation](#), including contact information to initiate a challenge

Right to Challenge Deactivations

- An app-based worker shall have a right to challenge unwarranted deactivation through an internal deactivation challenge procedure
- A response to a challenge must be provided within 14 days, certified by an individual at the network company with authority to reinstate the app-based worker
 - Confirming deactivation
 - Reversing deactivation
 - Need more time due to extraordinary circumstances (and estimated date of next response)
- An app-based worker shall have a right to file a complaint with OLS or pursue their private right of action after receiving the network company's initial response, or 14 days after initiating a challenge, whichever comes earlier.

Access to Records

- Records relied upon by the network company to substantiate deactivation
- Certified statement from an individual with authority to reverse the deactivation, attesting that these are true and accurate records to the individual's knowledge
- If new evidence comes to the network company's possession, they must provide records to the app-based worker within 14 days
- Presumption of violation if company fails to disclose records required in this section on time, rebuttable by clear and convincing evidence
- Network companies must establish an accessible system for app-based workers to access their receipts and/or payment disclosures for each offer performed or cancelled

Access to Records: Privacy

- If the records substantiating deactivation involve information related to a customer or a third party and the network company reasonably believes that information could compromise the customer or third party's safety, the network company may take measures to anonymize information related to that customer or third party.
- The Director may issue rules regarding the measures taken to anonymize information related to a customer or third party.

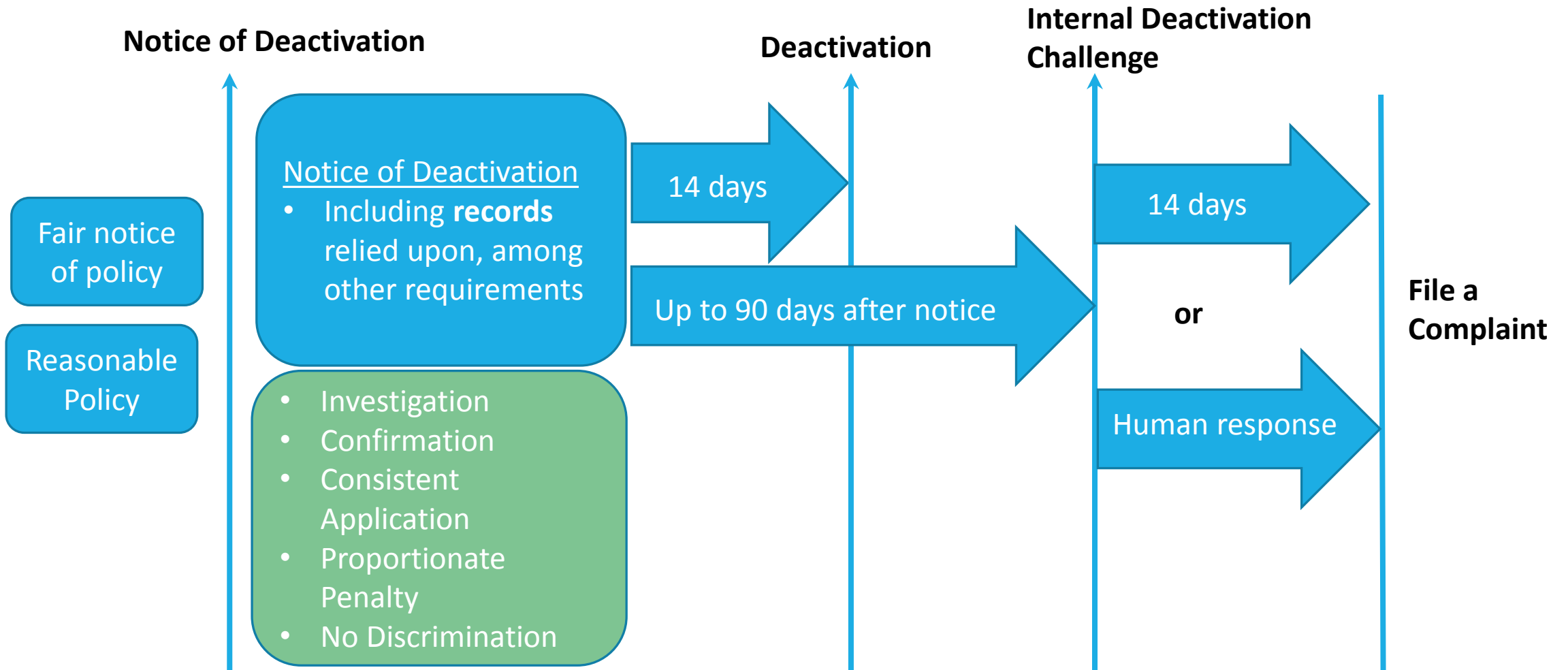
Enforcement

- Proposed effective date: June 1, 2024
- *Agency enforcement* date: January 1, 2025
 - Agency will enforce all procedural requirements and facial policies, but not substantive review of investigations. Agency will not enforce subsections:
 - 8.40.050.A.3: Investigation
 - 8.40.050.A.4: Confirmation of violation
 - 8.40.050.A.5: Consistent application of rule or policy
 - 8.40.050.A.6: Proportionality
 - 8.40.050.B: Discrimination
- App-based worker may pursue private right of action outside of Agency enforcement

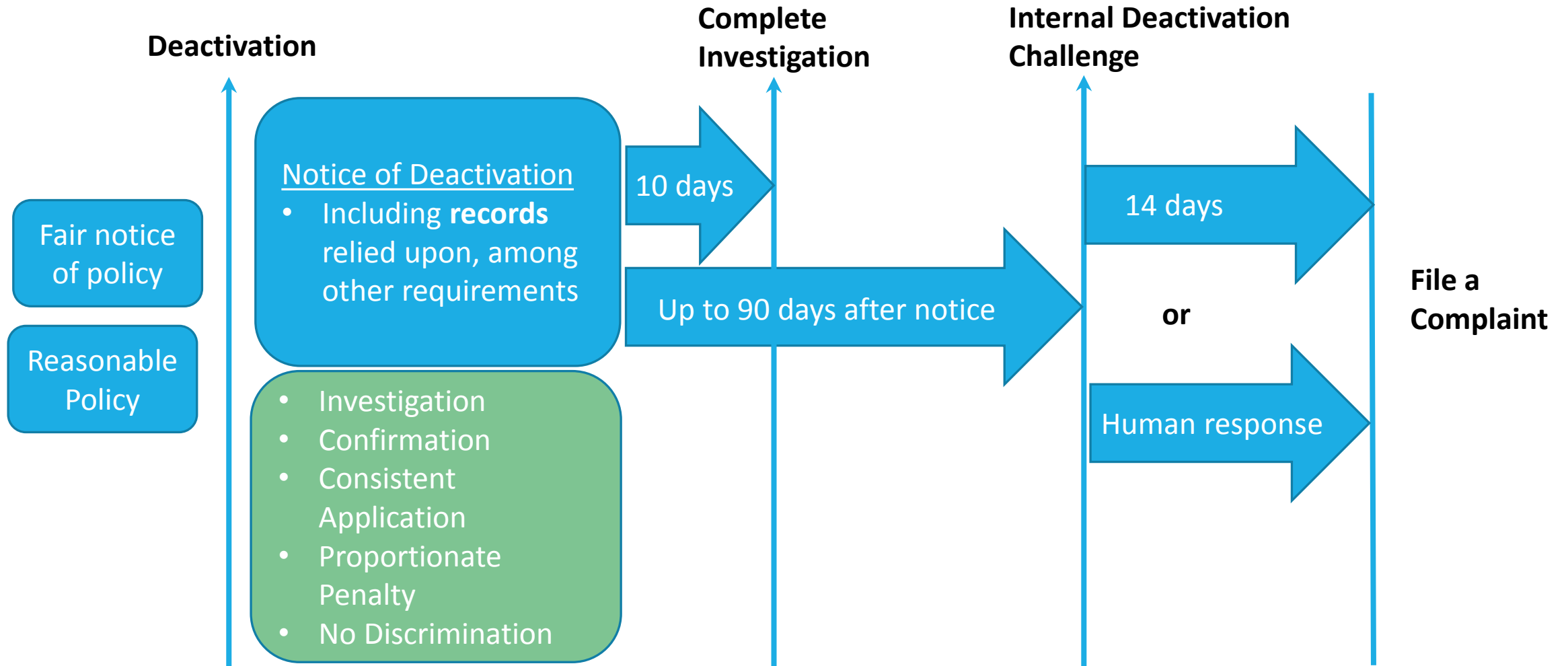
Agency Enforcement

- Enforcing Facial Policy Requirements
 - Fair notice of deactivation policy
 - Reasonable rule or policy
 - Listed unreasonable policies
- Enforcing Procedural Requirements
 - Notice of Deactivation
 - Right to Challenge Deactivation
 - Access to Records

Summary and Timeline



Summary and Timeline: Egregious Misconduct



Policy Questions (Issue ID Preview)

- Coverage
- Reasonable policies
- Egregious Misconduct
- Privacy concerns
- Enforcement

Next Steps

- Introduction of Legislation
- Committee Meeting with Issue ID

Questions?