

ARTICLE VII. SEPERATION AND DISCIPLINARY ACTION

A. Resignation

1. **Voluntary resignation:** An employee wishing to resign from the classified service in good standing, shall file with the department director, at least two (2) weeks in advance of the effective date, a written resignation stating the effective date of the resignation.

2. **Abandonment of position:** An employee shall be deemed to have abandoned his or her position if that employee has three (3) consecutive working days/shifts of unauthorized absence. This situation shall be deemed a resignation, and the required written resignation of the employee shall be waived.

a. An employee separated from City service in this manner may apply to the Personnel Director for reinstatement. Reinstatement shall be considered when it is in the best interests of the City, and determined on a case by case basis. Recommendations for reinstatement shall be made by the Personnel Director, with the concurrence of the department director, subject to approval by the City Manager. Denial of reinstatement may be appealed to the Personnel Board in accordance with Article VIII.F of these Personnel Policies and Procedures.

b. If an employee is reinstated, determination regarding a break in service shall be made after consideration of all factors.

B. Termination

1. **Classified Employees:** A department director may, for cause, recommend the termination of a classified employee by placing the employee on suspension without pay for a period of ten (10) days pending a request by the employee for an appeal hearing to the Personnel Board. A request for a hearing shall be in writing and filed with the Personnel Director. If no appeal is received, the employee shall be terminated at the completion of the suspension. The recommendation for termination is subject to review and subsequent recommendation by the Personnel Director to the City Manager who shall make the final determination matter.

A classified employee who has been recommended for termination shall be entitled to receive a written statement of reasons for the action. Termination of classified employees shall be in accordance with the standards of the Merit System.

If the recommended termination is appealed, it shall be processed in a timely manner pursuant to Article VIII of these Personnel Policies and Procedures.

2. **Unclassified Employees:** The appointing authority may, with or without cause, terminate an unclassified employee in accordance with the provisions of Article 3.3(1) of the Charter.

Since employees in the unclassified service may be terminated with or without cause, the following severance plan is provided for unclassified employees that are terminated involuntarily:

a. Transition compensation will be provided to unclassified employees being involuntarily terminated who meet the following eligibility requirements:

- (1) Have successfully completed an employment period of one year;
- (2) Are presently a regular full-time employee in the unclassified service;
- (3) Being terminated at the initiative of the appointing authority for reasons other than gross misconduct.

b. Transition compensation will be provided based on the length of service of the employee being terminated, in accordance with the following ranges. The number of weeks of compensation within the ranges will be determined by the appointing authority:

Length of Service	Amount (Base Salary)
1 to 3 years	4 weeks
3 to 5 years	6 - 8 weeks
5 to 10 years	12 - 16 weeks
10 years and over	20 - 26 weeks

c. Transition compensation will be included on a separate check in a lump sum, less applicable deductions.

d. Transition compensation will not be considered as time worked and will have no effect on the date of termination or the date employee benefit coverage ceases.

C. Layoff

1. When: Layoff shall occur when it becomes necessary for the City Manager to effect immediate reductions in the size of the City work force due to projected shortage of funds or as may otherwise be provided for in these Personnel Policies and Procedures.

2. Procedure:

a. Freeze - Immediately following a decision which may involve the potential layoff of regular status employees, the City Manager shall freeze all current City vacancies in similar and related classifications to those likely targeted for layoff. Every effort shall be made to place affected employees into vacant positions for which they are qualified.

b. Notification - Employees shall be notified individually, in writing by the Personnel Department, of pending layoff as soon as possible, and no later than ten (10) working days prior to the last day of work. If advance notification is not possible, the employee shall receive a minimum of ten (10) working days pay upon separation from employment.

c. Recall - An employee in a position identified for layoff may elect to resign in-lieu of layoff. Employees not wishing to resign will be placed on a recall list. Recall shall be in reverse order of layoff subject to the needs of the service and employee qualifications. An employee who has been recalled shall be reinstated with full service credit accrued up to the time of layoff. Opportunity for recall shall expire six (6) months from the effective date of lay-off.

D. Reduction in Force

A reduction in the City work force may be necessitated by a material change in duties and the organization. An employee effected by a reduction shall be notified individually in writing by the Personnel Director of the pending reduction in force as soon as possible, and no later than thirty (30) working days prior to the effective date of the reduction in force action. If advance notification is not possible, each employee shall be entitled to pay equal to the number of days notice not given, but in no case shall pay exceed an amount equal to ten (10) working days.

Consideration of the reduction is by position only, and shall not be considered an action upon the individual, nor shall the City Council consider any reduction of persons as prohibited by Charter Section 2.15.

An employee who separates from the service due to a reduction in force may be eligible for transfer or re-hire to a vacant position for which they are qualified. An employee who is interested in a transfer or demotion to a vacant position or re-hire shall notify the Personnel Department in writing prior to separation. In order to maintain continuous service credit with the City, the employee must be placed in a position within six (6) months of the reduction action. An employee separated from service due to a reduction in force who is placed in the service after six (6) months, shall be treated as a new hire.

E. Retirement

An employee vested in the LAGERS pension plan may elect to retire at age sixty (60), or age fifty-five (55) for members of the Fire and Police service. Early retirement is available through the LAGERS plan.

F. Separation Due to Disqualification

1. General Provisions: An employee shall be separated without fault, hereinafter

called a disqualification, if a legal, physical, mental or emotional impairment or incapacity, occurring or discovered after appointment, prevents satisfactory performance of the essential duties and responsibilities of the position. In lieu of separation, the employee may transfer or demote to a vacancy for which the employee is qualified, with the consent of the department director under whom such vacancy is located. The transfer or demotion may be made despite the existence of a current eligibility list. The employee may also be placed on the eligibility list for classes at or below his or her current position, if the employee meet(s) the minimum qualification.

a. Grounds for Disqualification - an employee may be deemed to be disqualified if any of the following conditions occur:

(1) Physical or mental incapacity: When an employee becomes unable to perform the essential functions of the position because of mental or physical incapacity;

(2) Inadequate knowledge, skills and abilities: When an employee cannot perform the essential functions of the position because of inadequate knowledge, skills, or abilities;

(3) Inability to supervise: When an employee in a supervisory position is unable to plan, organize, and direct the work of subordinates;

(4) Inability to work independently: When an employee in a position requiring initiative and independent judgment is unable to perform except under excessive supervision;

(5) Necessary special requirements: When a class specification lists necessary special requirements and the employee fails to meet those requirements;

(6) Legal requirements: When laws require a license or other authorization to perform the duties of a position and the employee does not have the required authorization.

2. Procedure: The Personnel Director shall give the affected employee notice of separation from service due to disqualification or actions in lieu thereof on or before the effective date, unless the separation is immediate. In the latter instance, the notice shall be mailed to the address of record of the employee within two (2) working days after the effective date. The notice shall include all relevant information upon which the decision to separate was based.

An employee shall be relieved immediately of any duties requiring a license or other authorization if the employee lacks such license or authorization.

The Personnel Director, upon approval from the City Manager, shall have the authority to require a physical or mental examination (including drug screen) of an employee, if the employee is unable to perform the essential functions of the position because of physical

or mental incapacity. The examination shall be conducted by a physician selected by the City; however, the employee may select his or her own physician, upon approval by the Personnel Director. The cost of this examination will be paid by the City.

Failure of an employee to submit to an examination may be cause for dismissal. If the examining physician finds the employee is no longer mentally and/or physically able to perform the essential functions of the position, the employee may be separated from City service. The Personnel Director, in discussions with the employee and the physician, shall determine if reasonable accommodation can be made to assist an otherwise qualified employee in performing the essential functions of his or her job. Reasonable accommodation must be requested and approved in accordance with Article II.G.5 of these Personnel Policies and Procedures.

3. Appeal: A separation, transfer, or demotion in lieu thereof, based on disqualification may be appealed in accordance with Article VIII. Grievance and Complaint Resolution Procedures. However, the appeal shall not prevent the separation or other action in lieu thereof from becoming effective in accordance with this Article.

G. Re-employment after Separation

An employee who separates from the service in good standing may seek re-employment with the City. Employees returning within a six (6) month period, may do so without competitive examination, provided they are returning to a position at or below the classification held at the time of separation and the employee meets the minimum qualifications for the position. An employee who has been terminated for cause is not eligible for rehire in the City during five years subsequent to their termination.

H. Disciplinary Action

1. Provisions: Discipline, up to dismissal, is designed to be corrective and should be progressive. A regular employee whose work performance is substandard or who engages in activity which reflects poorly on the service may be disciplined for cause. All regular employees have the right to appeal any disciplinary action through the grievance procedure outlined in Article VIII.

The written document shall include the following, and copies of all documentation related to the disciplinary action will be maintained in the employee's file in the Personnel Department:

- a. Specific violation or deficiencies of employee's performance.
- b. Recommended improvement.
- c. The period of time in which improvements must occur.
- d. The resulting actions to be taken if the employee's performance does not improve or the employee violates work rules again.

2. Causes for Disciplinary Action: Any action which reflects discredit upon the municipal service or is a direct hindrance to the effective performance of municipal government functions, may be considered good cause for disciplinary action against any employee of the City. Circumstances constituting cause for disciplinary action must be a matter of record. Major causes for disciplinary action are listed below.

- a. Failure to perform duties as assigned.
- b. Insubordination.
- c. Solicitation or taking of a fee, gift, or other valuable thing, in the course of duty or in connection with it.
- d. Intentional damage to, or gross negligence in the care and handling of City property and supplies, causing damage or waste.
- e. Misappropriation of City property.
- f. Conviction or a finding of guilt or a plea of guilty or no lo contendere to:
 - (1) a felony;
 - (2) a crime involving the illegal use, possession or sale of a weapon or a controlled substance;
 - (3) an assault causing injury; or
 - (4) an offense the conviction of which would impact on the ability of the employee to perform the functions of his or her position with the City; regardless of the sentence rendered, and regardless of whether or not imposition or execution of sentence is suspended. Upon being charged with any of the offenses listed in (1) through (4), above, the employee may be suspended without pay pending resolution of the charges. If the charges do not result in a conviction, finding of guilt or plea of guilty or no lo contendere, the employee will be reinstated with back pay and all accrued benefits. If the charges do result in a conviction, finding of guilt or plea of guilty or no lo contendere, the employee may then be subject to additional discipline.
- g. Lying to superiors or falsification of City records.
- h. The consumption or use of or being under the influence of intoxicating beverages or illegal drugs during the employee's work shift, including meal or other break periods or while on City property.
- i. Excessive absenteeism, absence without good cause or failure to report after a leave of absence has expired or has been revoked or canceled.

- j. The use of City property for personal purposes.
- k. Willful violation of the provisions of the Charter and these Personnel Policies and Procedures or department rules.
- l. Driving a City vehicle without a valid driver's license or commercial driver's license.
- m. Disregard for City safety policies.
- n. Unauthorized use of City vehicles.
- o. Conflict of interest.
- p. Unauthorized outside employment.
- q. Filing a grievance or complaint against a City employee or officer, which the filing employee knows to be false.
- r. Bring into or on a work location a weapon, without permission of the department director.
- s. Threatening, fighting with, intimidating, coercing or abusing other employees or officers of the City of Independence, or provoking such action by others.
- t. Engaging in a strike, sabotage, or slowdown.
- u. Acts detrimental to the public interest.
- v. Deliberate discourtesy and rudeness toward the public.
- w. Any other act of dishonesty, gross misconduct, or neglect not listed above, and any just cause, including the good of the service.

3. Types of Disciplinary Action: Supervisors shall consider the type and severity of the offense, the employee's work record and other circumstances surrounding the employee's performance in determining appropriate disciplinary action. Immediate disciplinary action can be taken against an employee for violation of any items listed in the preceding subsection. If the need arises to remove the employee from the job for the employee's own safety as well as for the good of the City, the employee may be immediately suspended without pay pending a decision of final disciplinary action to be taken. This action does not preclude the employee's right to due process. Such action may be grieved in accordance with Article VIII of these Personnel Policies and Procedures.

Types of disciplinary action with increasing severity include:

- a. Verbal Reprimand - Upon the first indication of substandard performance or for violation of a work rule, the employee's supervisor shall advise the employee of the unsatisfactory performance and recommend specific areas of improvement. In the case of a work rule violation, the supervisor should instruct the employee of the proper work rules and procedures.
- b. Written Reprimand - If the employee's performance continues at a substandard level, the supervisor shall advise the employee through a written reprimand which shall be reviewed by the Personnel Director. The written reprimand shall be placed in the employee's personnel file in the Personnel Department. The written reprimand shall be signed by the employee and the supervisor. The employee's signature shall indicate receipt of a copy and not necessarily acceptance of the contents. The employee's refusal to sign the written reprimand will not constitute reason for not placing the reprimand in the personnel file.
- c. Service Probation - An employee may be placed on service probation. If service probation is due to poor performance, the supervisor must prepare an action plan for improved performance with the request for a service probation period. If improvement is not made, the employee may be terminated. The action must have the approval of the Personnel Director and City Manager.
- d. Suspension - The City Manager, upon recommendation from the department director and Personnel Director, may, for cause, suspend an employee without pay for a period not to exceed thirty (30) calendar days. An employee who is suspended shall be given written notice, and the reasons for such action. A copy shall be retained in the employee's personnel file.
- e. Reduction in Pay - The City Manager, upon recommendation from the department director and the Personnel Director may, for cause, reduce an employee's pay by no less than one percent (1%) and no more than fifteen percent (15%) for a period not to exceed twelve (12) consecutive months. Pay may not be reduced below the minimum of the range.
- f. Demotion - A department director may, for cause, and with the approval of the City Manager, demote an employee to a lower classification. Future restoration of the employee to the original position will follow normal promotional procedures, except that the demoted employee must spend a minimum of twelve (12) consecutive months in the lower classification before competing for promotion back to the original classification.
- g. Termination - See Section B of this Article.

I. Conflict of Interest

Employees shall not engage in any business or transaction or have a financial or other private interest which is in conflict with their official duties. These paragraphs, as set forth are over and above Section 5.3 of the Charter. An employee engaged in outside employment must advise the department director of his or her outside employment by completing the appropriate form. A copy of this form shall be filed with the Personnel Department. If it is discovered that the outside employment conflicts with the employee's City duties, the problem will be reviewed by the department director and the Personnel Director and a recommendation will be made to the City Manager. A conflict could result in the employee's dismissal from City service.

1. No employee shall appear on behalf of private interests before any officer, department, or agency of the City.

2. No employee shall disclose confidential information concerning the property, government, or affairs of the City. No employee shall use such information for financial benefit or other private use which creates a conflict with his/her official duties nor carry on the practices which could be perceived to reflect discredit on the City.

3. No employee shall engage in or accept private employment or render services for private concerns when the employment or service is incompatible with his or her official duties.

4. No employee shall invest or hold any investment directly with any business, commercial or private, which creates a conflict with official duties.