

## ARTICLE VIII. DISCIPLINARY ACTION, SEPARATION, AND REINSTATEMENT

### Section 1. Disciplinary Actions

#### A. General Provisions

1. It is the intent of Randolph County to provide employees and management with a fair, clear and useful tool for correcting and improving performance problems, as well as for providing a process to assist management in handling instances of unacceptable personal conduct. In accordance with the provisions of this Article, disciplinary actions shall be administered in as near a uniform manner as possible in all departments.
2. Any employee, regardless of occupation, position, or profession, may be warned, demoted, suspended or dismissed by the appointing authority. Such disciplinary actions may be taken against regular employees only for just cause. The degree and type of action taken shall be based upon the sound and considered judgment of the appointing authority in accordance with this Article.
3. Just cause can consist of any one or a combination of the following:
  - a. Unsatisfactory job performance, defined as work-related performance that fails to satisfactorily meet job requirements as specified in the relevant job description, work plans or as directed by management of the work unit or agency.
  - b. Grossly inefficient job performance, defined as instances in which the employee fails to satisfactorily perform job requirements as specified in the relevant job description, work plans or as directed by the management of the work unit or agency when that failure results in:
    - (1) the creation of the potential for death or serious harm to a client(s), an employee(s), members of the public or to a person(s) over whom the employee has responsibility;  
or
    - (2) the loss of or damage to agency property or funds that results in a serious impact on the agency and/or work unit.
  - c. Unacceptable personal conduct, defined as any one or a combination of the following:
    - (1) conduct for which no reasonable person should expect to receive prior warning;
    - (2) job-related conduct which constitutes a violation of state or federal law;
    - (3) conviction of a felony or an offense involving moral turpitude that is detrimental to or impacts the employee's service to the agency;

- (4) the willful violation of known or written work rules;
  - (5) conduct unbecoming of an employee that is detrimental to the County's service;
  - (6) the abuse of a client(s), patient(s), student(s) or person(s) over whom the employee has charge or to whom the employee has a responsibility, or of an animal owned or in the custody of the County;
  - (7) falsification of an employment application or other employment documentation;
  - (8) insubordination, defined as the willful failure or refusal to carry out a reasonable order from an authorized Supervisor. Insubordination is considered unacceptable personal conduct for which any level of discipline, including dismissal, may be imposed without prior warning;
  - (9) absence from work without prior approval after all authorized leave credits and benefits have been exhausted.
  - (10) failure to pay County taxes before such taxes become past due.
- d. Failure to maintain required credentials. Employees in classifications that require a certain license, registration, or certification in order to perform assigned job duties are responsible for obtaining and maintaining said credentials, and a failure to do so constitutes just cause for disciplinary action.
4. A regular County employee wishing to appeal a demotion, suspension, dismissal, or reduction-in-force may present the matter in accordance with the provision of the grievance procedure prescribed in Article IX of this Ordinance. Employees subject to the State Personnel Act wishing to appeal the actions indicated above may do so in accordance with established policies approved by the State Personnel Commission. No disciplinary action shall be invalid solely because the disciplinary action is labeled incorrectly.

## B. Types of Disciplinary Actions

### 1. Suspension With Pay

- a. Suspension with pay may be used for any one or a combination of the following:
  - (1) to provide time to investigate, establish facts, and reach a decision concerning an employee's status;
  - (2) to provide time to schedule and hold a pre-dismissal conference;
  - (3) to avoid undue disruption of work or to protect the safety of persons or property.

- b. A suspension with pay shall not exceed thirty (30) calendar days unless extended by management. Extensions shall be in writing to the employee and include the specific reason for the extension and the length of the extension.
- c. A suspension with pay shall not be used for the purpose of delaying an administrative decision on an employee's work status pending the resolution of a civil or criminal court matter involving the employee.

2. Written Warning

- a. When a Supervisor determines that disciplinary action is appropriate for unsatisfactory job performance, a written warning is the first type of disciplinary action that an employee must receive. Written warnings for grossly inefficient job performance or unacceptable personal conduct may be issued at the election of the Supervisor.
- b. For a written warning to be official, a Supervisor must:
  - (1) provide the employee with a written warning that meets the requirements of c below; and
  - (2) forward a copy to the Personnel Director to be placed in the personnel file.
- c. A written warning must:
  - (1) clearly inform the employee that it is an official written warning;
  - (2) clearly inform the employee of the specific issues that are the basis for the warning;
  - (3) state the specific improvements, if applicable, that must be made to address these specific issues;
  - (4) state the time frame allowed for making the required improvements/corrections. Absent a specified time frame, 60 days is the time frame allowed for correcting unsatisfactory job performance. Immediate correction is required for grossly inefficient job performance or unacceptable personal conduct; and
  - (5) clearly inform the employee of the consequences of failing to make the required improvements/corrections.

### 3. Suspension Without Pay

\*a. All employees, hourly, salaried, exempt and nonexempt, may be suspended for one or more whole days without pay for violations of the following workplace conduct rules, committed on or off-site. The list is not exhaustive and workplace misconduct that is serious, disruptive, and harmful and, in the view of management, is of a similar level as the examples provided below, will result in disciplinary suspensions without pay for one or more whole days.

- (1) Unlawful harassment, including sexual, racial, disability, religious, national origin, or other protected characteristic or harassment for exercising a protected right.
- (2) Threatening, enticing, encouraging, or committing workplace violence, including physical assault, physical altercation, physical intimidation, including making another fear physical harm to self or property.
- (3) Theft, sabotage, or vandalism of property, including intellectual property, belonging to the employer or other employee.
- (4) Violation of the drug and alcohol policy.
- (5) Violations of state or federal laws, other than minor traffic violations.
- (6) Violations of serious OSHA requirements including failing to take established Personal Precautions and failing to use Personal Protective Equipment when required.
- (7) Abuse, neglect, or harassment of a patient or consumer of services.
- (8) Violating the rights of a consumer of services or patient receiving services as defined by state or federal law.
- (9) Exposing a patient or consumer of services to undue and unnecessary risk of injury or illness.

b. To place an employee on suspension without pay, the appointing authority must comply with the following procedural requirements:

- (1) In matters of unsatisfactory job performance, the employee must have received at least one (1) prior disciplinary action before being placed on suspension without pay. In matters of grossly inefficient job performance, unacceptable personal conduct, or failure to maintain required credentials, no prior disciplinary actions are required;
- (2) Review the employee's actions and the proposed discipline with the Personnel Director;
- (3) Schedule and conduct a pre-disciplinary conference. Advance oral or written notice of the conference must be given to the employee of the time, location, and the issue for which discipline has been recommended. The amount of advance notice should be as much as is practical under the circumstances;

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\* was revised by action of the County Commissioners effective 1/1/05.

- (4) Furnish the employee with a statement in writing setting forth the duration of the suspension, the specific acts or omissions that are the reasons for the suspension and advising the employee of any applicable appeal rights; and
- (5) Forward a copy of the written statement to the Personnel Director to be placed in the personnel file.

#### 4. Demotion

- a. An employee may be demoted for any reason constituting just cause in accordance with the procedural requirements below.
- b. A demotion may take one of three forms:
  - (1) The employee may be demoted to a lower pay grade with a reduction in salary rate as long as the new salary rate does not exceed the maximum of the salary range for the new lower pay grade;
  - (2) The employee may be demoted to a lower pay grade without a reduction in salary rate as long as the salary rate does not exceed the maximum of the salary range for the new lower pay grade; or
  - (3) The employee may be demoted while retaining the same pay grade with a reduction in salary rate. In no event shall an employee's salary rate be reduced to less than the minimum salary rate for the applicable pay grade or the special entry rate, if in effect.
- c. To demote an employee, the appointing authority must comply with the following procedural requirements:
  - (1) In matters of unsatisfactory job performance, the employee must have received at least one prior disciplinary action before being demoted. In matters of grossly inefficient job performance, unacceptable personal conduct, or failure to maintain required credentials, no prior disciplinary actions are required;
  - (2) Review the employee's actions and the proposed discipline with the Personnel Director;
  - (3) Schedule and conduct a pre-disciplinary conference. Advance oral or written notice of the time, location, and issue for which discipline has been recommended must be provided to the employee. The amount of advance notice should be as much as is practicable under the circumstances;

- (4) Furnish the employee with a written statement setting forth the specific acts or omissions that are the reasons for the demotion, stating clearly how and to what extent the demotion will affect the employee's salary rate or pay grade, and advising the employee of any applicable appeal rights; and
- (5) Forward a copy of the written statement to the Personnel Director to be placed in the personnel file.

5. Dismissal

- a. An employee may be dismissed for any reason constituting just cause in accordance with the procedural requirements below.
- b. Dismissal for unsatisfactory job performance.
  - (1) In order to be dismissed for unsatisfactory job performance, an employee must first receive at least one (1) prior disciplinary action (a written warning or other disciplinary action) followed by a final written warning notifying the employee that failure to make the required improvements may result in dismissal. Successive disciplinary actions do not have to concern the same type of unsatisfactory job performance, nor do successive disciplinary actions have to concern the same type of just cause. For example, a final written warning for unacceptable job performance could follow an initial disciplinary action for grossly inefficient job performance, unacceptable personal conduct, or failure to maintain required credentials.
  - (2) Once an employee has received the required prior disciplinary actions, he may be dismissed pursuant to the procedures outlined in "d" below.
- c. Dismissals for grossly inefficient job performance, unacceptable personal conduct, or failure to maintain required credentials.
  - (1) An employee may be dismissed on the basis of grossly inefficient job performance, unacceptable personal conduct, or failure to maintain required credentials without any prior disciplinary action. However, nothing in this Article precludes management from using other disciplinary actions prior to proceeding to dismissal.
  - (2) In dismissing an employee pursuant to this Section, the procedures in "d" below must be followed.
- d. The appointing authority must comply with the following procedural requirements in dismissing an employee:
  - (1) Review the employee's actions and the proposed discipline with the Personnel Director;

- (2) Schedule a pre-dismissal conference with the employee. Advance oral or written notice of the pre-dismissal conference must be given to the employee detailing the time and location of the conference and the issue for which dismissal has been recommended. The amount of advance notice should be as much as is practicable under the circumstances;
- (3) Conduct a pre-dismissal conference with the employee. Attendance at this conference is limited to the employee and the person conducting the conference subject to the following exceptions. A second management representative and/or security personnel may be present at management's discretion. No attorneys representing either side may attend the conference. During the conference, the employee shall be given notice of the recommendation of dismissal, including specific reasons for the proposed dismissal and a summary of the information supporting that recommendation. The employee shall have an opportunity to respond to the proposed dismissal action and to offer arguments and information in support of his position but may not present witnesses.
- (4) Review and consider the response of the employee following the conference. To minimize the risk of dismissal upon erroneous information and to allow time for the review of all necessary information, a decision should not be communicated to the employee prior to the beginning of the business day immediately following the pre-dismissal conference nor later than the end of the second business day following the conclusion of the pre-dismissal conference. When extension of this time period is necessary for investigative or other purposes, the employee shall be notified.
- (5) If the decision is made to dismiss the employee, provide the employee with a written letter of dismissal detailing the specific reasons for dismissal, the effective date of the dismissal, and the employee's appeal rights. This letter shall be delivered to the employee in person or by certified mail, return receipt requested, to the employee's last known address. The effective date of the dismissal is determined by management but shall not be earlier than the letter of dismissal nor later than fourteen (14) calendar days after the date of said letter.
- (6) Forward a copy of the letter of dismissal to the Personnel Director to be placed in the personnel file.

## **Section 2. Separations**

### **A. Resignation**

1. Resignation in Good Standing occurs when an employee submits and works a written notice of resignation a minimum of two (2) weeks prior to the effective date of resignation. Such notice shall be provided to the immediate Supervisor. Department Heads shall give notice of resignation to the County Manager and, when appropriate, the appointing authority or governing body.
2. Resignation Not in Good Standing occurs when:
  - a. an employee fails to submit and work a written notice of resignation at least two (2) weeks prior to the effective date of resignation;
  - b. an employee fails to report to work following a leave of absence without pay;
  - c. an employee is absent from work three (3) consecutive working days without authorized leave – separation pursuant to this policy should not occur until the employing agency has undertaken reasonable efforts to locate the employee and determine when or if the employee is intending to return to work;
  - d. an employee resigns to avoid announced disciplinary action.
3. An employee who resigns in “Good Standing” may be considered for future employment with the County. An employee who resigns from County employment “Not in Good Standing” is normally ineligible for future employment with the County.

### **B. Reduction-in-Force**

1. In the event that a reduction-in-force becomes necessary, consideration shall be given to the needs of the organization, the seniority of the employee, and the quality of each employee's past performance. No regular employee shall be separated while there are probationary, temporary or other non-regular employees serving in the same class in the department, unless the regular employee is not willing to transfer to the position held by the non-regular employee.
2. Employees who are laid off because of reduction-in-force shall be given at least two (2) weeks notice of anticipated layoff.

C. Disability

1. An employee may be separated for disability when the employee cannot perform the essential functions of the position because of a physical or mental impairment. Action for disability separation may be initiated by the employee or the County.
2. Consideration for disability separation shall be supported by medical evidence as certified by a competent physician. Furthermore, the County may require a physical and/or mental examination at its expense by a physician of its choice.
3. Before an employee is separated for disability, a reasonable effort shall be made to locate alternative positions within the County's service for which the employee may be suited.

D. Retirement

When an employee meets the conditions set forth under the provisions of any retirement plan adopted by the Board of County Commissioners for County employees, he may elect to retire and receive all benefits earned under said retirement plan.

E. Dismissal

See Section 1 (B) 5 of this Article.

F. Death

All compensation due in accordance with this Ordinance will be paid to the estate of a deceased employee. The date of death shall be recorded as the separation date for computing compensation due.

**Section 3. Reinstatement**

- A. An employee who resigns while in "Good Standing" or who is separated because of reduction-in-force may be reinstated within three (3) years of the date of separation, with the approval of the Department Head and the Personnel Director.
- B. Reinstatement to Regular Status.
  1. A former regular full-time or regular part-time employee with a break in service may be reinstated to regular status and appointed to the same salary step as at separation, so long as said reinstatement occurs within one (1) year following the date of separation.
  2. A break in service occurs when an employee is in non-pay status for more than thirty-one (31) calendar days. An employee is in pay status when working, when on paid leave, or when on workers' compensation leave. An employee is not in pay status after the last day of work when

separated because of resignation, dismissal, death, retirement and reduction in force. Periods of leave without pay for thirty-one (31) days or more constitute a break in service.

3. Although an employee who meets the requirements of “1” above is eligible for reinstatement to regular status, the Department Head, subject to approval of the Personnel Director, may choose to offer reinstatement with a probationary appointment. In this instance, the employee must meet all requirements of the probationary period the same as for original appointments.
- C. An employee who enters extended active duty with Armed Forces of the United States, the Public Health Service or with a Reserve component of the Armed Forces will be granted reinstatement rights commensurate with Chapter 43 of Public Law 93-508. An employee who is reinstated pursuant to this Section shall be credited with previous service time and previously accrued sick leave.