

**CITY OF WAUKESHA
HUMAN RESOURCES POLICY/PROCEDURE**

POLICY B-4 – Separation Procedure

I. POLICY

It is the policy of the City of Waukesha to process separating employees according to a standardized personnel procedure for the following purposes:

- A. To ensure the consistent and equitable treatment of separating employees;
- B. To review employee benefit matters;
- C. To reclaim City property;
- D. To arrange for distribution of final pay check.

II. APPLICATION OF THE POLICY

- A. This policy applies to all departments and to all separating employees.
- B. Separations involving limited term employees may be accomplished whenever their services are no longer required. No specific advance notice is required, but common courtesy indicates that as much prior notice as possible be given. Also, these employees, no matter what the duration of their employment, should be treated with dignity so that their limited term employment with the City is viewed as a positive experience.

III. TYPES OF SEPARATION

All employee separations shall be designed as one of the following types and shall be accomplished in the manner indicated:

- A. Resignation
- B. Lay Off
- C. Death
- D. Termination
- E. Completion of assignment

IV. DEFINITIONS

- A. Resignation - Separation initiated by the employee for such reasons as other employment, return to school, leaving the area, dissatisfaction with pay or working conditions.
 - 1. An employee may resign by submitting a letter of resignation to the department director as far in advance as possible, but a minimum of two (2) weeks notice is desired for employees.
 - 2. Professional, supervisory, technical, and management personnel shall arrange with their respective department director an appropriate minimum notice of resignation.
 - 3. All resignation notices shall be submitted to departmental management. The original resignation notice shall be forwarded to the Human Resources Department; a copy of the resignation notice may be retained for department files if such is required.

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4. Failure to comply with these requirements may be cause for denying future employment with the City.
- B. Lay Off - Involuntary separation initiated by the department director upon approval of the Common Council due to shortage of funds or work, the abolition of a position(s), or other material changes in the duties or organization, or for related reasons which do not reflect unfavorably upon the service of the employee. The duties performed by an employee laid off may be assigned to other employees already working in the appropriate classification.
- C. Death - Separation due to employee death; effective as of the date of death. All compensation shall be paid to the estate of the employee, except for such sums specified by law (e.g. paid to the surviving spouse and/or beneficiary).
- D. Termination - Involuntary separation.
- E. Completion of Assignment - Employees hired to fill limited term positions shall be separated upon completion of the duties for which the position was established. These employees are not eligible for benefit provisions of the City.
- F. Seniority – Seniority is an employee’s total continuous time of service with the Employer. (“City seniority” or “City service”). Approved leaves of absence with or without pay or disability leaves of absence with or without pay shall count as service time. Military leave shall be counted as service time as provided by law. Regular part-time service shall be counted on a pro-rata basis. Service time as a seasonal, temporary or limited term employee shall not be considered in the definition of seniority.

Seniority and continuous service shall be considered broken and all rights lost when an employee:

1. Voluntarily resigns;
2. Is discharged unless the discharge is overturned through the grievance process;
3. Is absent from duty without authorization in excess of three (3) work days;
4. Is laid off for a period in excess of twenty-four (24) consecutive calendar months;
5. Fails to respond to recall from layoff within seven (7) calendar days of proper notice.

[Note: Employees covered by labor agreements expiring on December 31, 2012 (except Police and Fire bargaining units) shall retain their seniority date as calculated under the applicable labor agreement as of December 31, 2012. Thereafter those seniority dates will be calculated as specified herein.]

V. Layoff and Recall

A. Layoff

A Department Head may layoff an employee or employees as a result of a shortage or stoppage of work or funds, functional reorganization, the abolishment of positions or other legitimate reasons. Before implementing a proposed layoff, the Department Head shall confer with the Human Resources ~~Director~~ ~~Manager~~ in order to assure compliance with the provisions of any City ordinances, Human Resources policies, federal and state laws and applicable labor agreements. Unless otherwise described by a labor agreement, layoff shall be by job classification within the department. Identification of the affected job classifications shall be within the discretion of the Department Head subject to approval by the City Administrator.

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1. Order of Layoff

- a. Seasonal, limited term and temporary employees within the affected job classification shall be laid off first;
- b. Probationary employees within the affected job classification;
- c. Employees in the affected job classification with documented performance deficiencies which have resulted in a less than satisfactory performance evaluation or a disciplinary suspension during the prior twelve (12) months of employment;
- d. Employees with the least City seniority within the job classification being reduced. If employees have equal lengths of service, then the employees shall be ranked by the last four digits of their social security number with the lower number being considered to have less seniority.

2. Bumping Rights

Employees selected for layoff in subsection 1(d) above, are eligible to displace or “bump” less senior employees as set forth hereafter.

The displaced employee may in turn displace (bump) the employee with the least City seniority within the affected Department provided that employee is in a classification with an equal or lower salary range maximum or is in a job classification the displacing employee previously held and provided that the displacing employee has more City seniority than the least senior employee in the other classification and provided the displacing employee meets the minimum qualifications for the position. Employees who displace into classifications with a lower salary range maximum will not be required to serve a trial or probation period. Part time employees cannot bump full time employees.

Minimum Qualifications

The minimum training and experience requirements for a position are established in the official class specification maintained by the Human Resources Department. The Human Resources ~~Director Manager~~ or designee shall determine whether the displacing employee meets said requirements for the position in question. The employee must take and pass any examination that is required for the position. The determination of the Human Resources ~~Director Manager~~ shall be based upon the official personnel record on file in the Human Resources Department at the time and shall include, but not be limited to, the employee’s original application for employment, any subsequent applications filed and kept, and records of training and education received while employed by the City. Each employee has a continuing duty to inform the Human Resources ~~Director Manager~~ or designee of any relevant experience, training or education. An employee shall have twenty-four (24) hours from the time of notification of displacement to present to the Human Resources ~~Director Manager~~ any additional information regarding relevant experiences, training, and education. There shall be no appeal of the decision from the Human Resources ~~Director Manager~~.

Time Limits

Employees whose positions are being eliminated shall, whenever possible, be given written notice of the action not less than fourteen (14) calendar days prior to the effective date. However, a junior employee shall receive no prior notice in case of a senior employee displacing a junior employee.

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Displaced employees shall have three (3) working days after receiving notice to exercise whatever options may be available to them, including displacement rights under this policy. If a decision is not made within this time period and communicated in writing to the Human Resources **Director Manager**, the displaced employee shall be deemed to have been laid off by the City. Employees who cannot displace into a lower position and therefore are to be laid off shall, whenever possible, receive written notice of the action not less than fourteen (14) calendar days prior to the effective date.

Salary Placement

An employee who displaces into a position in a lower classification shall be placed at the salary step in the lower classification that most closely corresponds with but does not exceed the employee's salary at the time of displacement.

3. Recall

Employees who are laid off or displaced shall be placed on a recall list by classification for a period of twenty-four (24) months, after which time all recall rights are terminated. Should a vacancy authorized to be filled occur in the classification from which an employee was (or employees were) laid off or displaced, said employee(s) shall be recalled in order of seniority.

Change of Address

An employee who has been laid off and is on a recall list shall notify the Human Resources Department of any change of address. An employee to be recalled shall be notified by letter sent by certified mail addressed to the most recent address appearing on the City's records.

Acceptance or Rejection

An employee being recalled shall notify the Human Resources **Director Manager** or designee of her/his acceptance or rejection of recall within seven (7) calendar days from the date of the employee's receipt of the certified letter of recall and shall report for work within fourteen (14) calendar days after notifying the Human Resources **Director Manager** that s/he accepts the recall. Failure to so notify, failure to so report, or the refusal of an offer of reemployment shall immediately terminate an employee's rights to recall.

Seniority

An employee placed on layoff status and recalled and/or rehired within twenty-four (24) months will retain her/his seniority and benefits level that s/he had as of the date of layoff. However, an employee will not receive additional credit for time spent on layoff.

Sick Leave

An employee placed on layoff status and recalled and/or rehired within twenty-four (24) months shall be credited with the sick leave accumulated as of the date of layoff.

Salary Placement

An employee placed on layoff status and recalled to a position in the same classification within twenty-four (24) months shall have her/his salary set at the same step and longevity percentage in effect at the time of the layoff. The salary range shall be that established for the position at the time of recall. An employee placed on layoff status and rehired to a new City position within twenty-four

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(24) months shall have her/his salary set at the same longevity percentage and salary step in effect at the time of layoff with no accumulated credit for the time spent in layoff status.

No Displacement or Recall Rights

Employees as outlined in subsections 1 (a), 1(b) and 1(c) above shall be terminated without displacement or recall rights.

Seasonal, limited-term or other temporary employees may be laid off or terminated at any time without the rights outlined in this Article. No permanent employee shall be laid off from any position while any seasonal, limited-term, or other temporary or probationary employee is continued in a position in the same classification within the affected department.

4. Review

The decision to layoff or displace cannot be appealed or reviewed. The manner in which the layoff or displacement is implemented may be subject to review to the Human Resources Committee only if it is contrary to the provisions contained herein. Such review shall not delay the effective date of the layoff or displacement.

VI. ADMINISTRATIVE GUIDELINES

Separation checks (direct deposit notices) - Employees who separate shall receive payment for all earned salary, vacation and any other pay to which the employee is entitled, subject to proper withholding and deductions.

VII. ADMINISTRATIVE PROCEDURE

- A. Whenever the involuntary termination of a regular full or part-time employee is being considered, the Director of the department shall consult with the Director of Human Resources or his/her designee. If the involuntary termination is in the Police or Fire department, the Director of the department may, alternatively, seek consultation with outside counsel upon the approval of the City Attorney.

The Director of Human Resources or his/her designee shall be present when an employee is involuntarily terminated from their employment with the City of Waukesha. The Director or his/her designee shall be present to advise the supervisor or Director of the department; to act as a witness; to ensure that the employee is made aware of his/her appeal rights and other procedural information; and to advise the employee that he/she will need to consult with legal counsel of his or her choice regarding the employee's legal rights. In the case of the Police or Fire department, outside legal counsel may fulfill this function upon the approval of the City Attorney.

Nothing in this section is intended to invalidate the involuntary termination of an employee if requirements of this section are not met and this section does not create any additional procedural or substantive due process rights.

- B. It is the responsibility of an employee who intends to resign to notify the immediate supervisor as soon as possible to allow for the timely selection and training of a suitable replacement.

Separating employees are to return all City owned property such as keys, tools, manuals, cars, etc., prior to the date of separation.

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- C. It is the responsibility of the department director, or supervisors designated by the department director:
1. To have the employee write a letter of resignation or to originate a letter of termination and forward the original or copies to the Human Resources Department:
 - a. On the date that notice of intent to resign is given;
 - b. On the date that an employee is notified of termination; or
 - c. On the third day of absence without notice from scheduled work.
 2. To forward separating employee records to the Human Resources Department on the last day of work.
 3. To complete the Employment Termination Checklist.
- D. It is the responsibility of the Human Resources Department:
1. To advise the employee with respect to pertinent employee benefit matters;
 2. To ensure that the employee's personnel record is complete and in order, to be placed in the appropriate inactive files.

Passed this _____ day of March, 2017.

Approved this _____ day of March, 2017.

Mayor

ATTEST:

City Clerk/Treasurer