



## **PERSONNEL POLICY**

### **SUBJECT: SEPARATIONS**

DATE: January 1, 2017

Number: 330-16

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#### **I. Statement of Policy**

The purpose of this policy is to achieve, codify and implement the provisions and intent of the Civil Service Act of 1982, as amended. This policy is effective upon its approval by the County Manager and Fulton County Board of Commissioners ("BOC") and shall have the force and effect of law, as delegated to Fulton County by the Georgia State Legislature in the Civil Service Act.

This policy governs personnel administration, transactions and procedures within Fulton County concerning employment separations, unless otherwise mandated by law.

#### **II. Establishment and Implementation of Procedure**

The County Manager, in consultation with the Chief Human Resources Officer and the County Attorney, is authorized to establish and modify, as needed, a procedure for implementing this policy.



## PERSONNEL PROCEDURE

### SUBJECT: SEPARATIONS

DATE: March 17, 2017

Number: 330-16

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#### I. Dismissal

Classified Employees: An Appointing Authority may dismiss any permanent Classified employee for cause, subject to the provisions of the County's Appeals Policy.

- Notice of dismissal shall be provided to the employee in writing and shall include notice of the charges against the permanent classified employee, the effective time and date of dismissal and an explanation of the reasons for dismissal. The notice, which shall offer the employee an opportunity to respond orally or in writing to the charges, shall be provided to the employee no less than 24 hours prior to the effective date and time of the dismissal. At a minimum, the notice must provide sufficient information for the employee to understand the factual basis for the dismissal and any allegations of misconduct made against the employee; however, notice of dismissal shall not be deemed deficient solely because the notice fails to cite or inaccurately cites the Discipline for Classified Employees Policy or Procedure.

Unclassified Employees: An Appointing Authority may dismiss any non-permanent or unclassified employee with or without cause. Written notice of the dismissal shall be provided to the employee to include the effective time and date of the action. Appointing Authorities are encouraged and it is recommended that they seek advice from the Department of Human Resources Management and/or Office of the County Attorney prior to the dismissal of any unclassified employee.

#### II. Resignation

An Appointing Authority may accept the written or verbal resignation of any employee at any time. An Appointing Authority must confirm in writing the receipt of the employee's resignation and acceptance of the employee's resignation. Upon accepting a written or verbal resignation, the Appointing Authority shall promptly notify the Chief Human Resources Officer, in writing, to include the effective date, the reason for the

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resignation, if available, and other pertinent data. Acceptance of a resignation does not prevent an Appointing Authority from disciplining an employee prior to the effective date of the employee's resignation.

### **III. Abandonment of Position**

Any employee who is absent from duty for four (4) or more consecutive work days or the equivalent at shift time without proper notification and authorization shall be deemed to have voluntarily terminated his/her position and shall be separated from the service unless the Appointing Authority acquires knowledge that an employee's leave may be for an FMLA-qualifying reason and/or the employee is unable to contact the County due to medical reasons. Permanent Classified employees shall have the right to appeal this action to the Personnel Board, as provided in the Appeals Policy and Procedure.

### **IV. Reduction in Force**

This section shall apply to all permanent employees within the classified and unclassified service; however, termination of a grant-funded position shall not be subject to the RIF provisions.

#### **A. In General**

1. A reduction in force ("RIF") may be declared by the Board of Commissioners for the following reasons: lack of work, lack of funds, a reduction in operational needs, re-organization or when necessary to carry out the adopted County budget.

2. A RIF is not a disciplinary action and may not be used for the purpose of dismissing or demoting permanent status employees whose job performance is unacceptable. A RIF shall not be used to intentionally alter the demographics of a department or classification based on any legally protected trait or class.

3. Prior to initiating a RIF, the County will consider using other means, such as hiring freezes, reduction through attrition, reduced work weeks or other methods to lessen the negative impact of such action, unless the RIF is declared due to reorganization.

4. The Department of Human Resources Management will endeavor to place an employee who is being considered for RIF into an appropriate vacant position based upon experience and training without going through any recruitment process and without application of the Lateral Transfer Policy. The Chief Human Resources Officer has plenary authority to transfer employees subject to a RIF in an effort to promote continued employment with Fulton County and lessen the likelihood of separation. The Chief Human Resources Officer shall not transfer any employee into a position in a department that is headed by an elected official or constitutional officer without first

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consulting with and/or receiving the consent of the elected official or constitutional officer to the transfer. The Chief Human Resources Officer is authorized to create a procedure and/or matrix for placement of employees; however, such procedure or matrix must include consideration of seniority. With respect to compensation for employees transferred under this provision, the Chief Human Resources Officer has discretion to set salaries using the normal demotion matrix or some other process subject to availability of funds. An Appointing Authority who obstructs this process and/or an employee who fails to report to a new assignment based on the RIF could be subject to discipline, up to and including dismissal.

## **B. Process**

1. It shall be the responsibility of the Chief Human Resources Officer, upon recommendation of the Appointing Authority and as consistent with this procedure, to define the department, function, division, classification, agency, or any other logical grouping, within which the mechanics of the RIF are to apply.

2. Within each defined grouping as set forth in subsection (a) above, each affected class will be treated separately, and the Chief Human Resources Officer shall make every reasonable effort to place employees who have been declared excess or surplus to the needs of any department because of a RIF. If placement of such employees is impossible and layoffs become mandatory, then such employees shall be laid off in the following descending order of priority:

- a. Layoff of non-permanent employees.
- b. Layoff of permanent employees with the least amount of continuous County-wide seniority.
- c. If seniority dates of permanent employees are identical, then layoff in order of relative efficiency, to be determined by written performance evaluations, appraisals and record of disciplinary actions covering a minimum period of twelve (12) months or longer.
- d. If after considering the above, two or more employees are identical, then veterans shall be given preference over non-veterans for retention purposes.
- e. If after considering the above, two or more employees are identical, then layoffs will occur in alphabetical order.

## **C. Notice**

If no position is available for placement of an employee subject to the RIF, the Chief

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Human Resources Officer, at least twenty-one (21) calendar days prior to the date of separation, shall notify in writing any permanent employees scheduled to be laid off. Employees laid off as a result of this provision will not be deemed to have been dismissed for disciplinary reasons, and therefore, will not have any right to appeal the dismissal to the Personnel Board or Grievance Review Committee.

At the conclusion of any RIF, the Chief Human Resources Officer shall submit a report to the Board of Commissioners concerning the outcome of the RIF.

#### **D. Re-Employment Rights**

Permanent employees who are separated as a result of a reduction in force shall be placed on a Recall List, as defined by the Fulton County Recruitment and Selection Policy, for a period of one year. Such employees will be given consideration for future vacancies for which they qualify, provided the position is of an equal or lower pay grade to the position or classification the employee held at the time of the RIF.

Salary rates for rehires shall be implemented consistent with the Positions and Compensation Policy and Procedure.

#### **V. Administrative Separation without Prejudice**

An employee who is unable to perform the essential job duties of his or her position because of a disability, as defined by the Americans with Disabilities Act (the "ADA"), may be separated administratively, without prejudice. An administrative separation without prejudice may be voluntary or involuntary.

An employee is eligible for administrative separation without prejudice if both of the following conditions are met:

1. The employee is unable to perform the essential job duties of his or her position due to a disabling illness, injury or condition; and
2. The employee is not eligible for leave pursuant to the Family and Medical Leave Act (FMLA) Policy and Procedure (104-16) or is ineligible or has refused to accept a reasonable accommodation offered pursuant to the ADA.

The Disability Affairs Unit of the Office of Diversity and Civil Rights Compliance (DCRC) will review medical documentation provided by the employee's medical provider to determine whether the employee has a medical condition or impairment that meets the definition of disability under the ADA.

An administrative separation without prejudice is not a disciplinary action and therefore may not be appealed to the Personnel Board. An administrative separation without prejudice also is not grievable.

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Administrative separations without prejudice shall not adversely affect any payments or benefits to which such employees may be entitled under the Workers' Compensation Laws of the State of Georgia.

## **VI. Death**

Appointing Authorities shall report promptly to the Chief Human Resources Officer the separation of any employee due to death and the date of such death.

## **VII. Break in Service**

For purposes of implementing Georgia Act No. 302 and Georgia Act No. 303, enacted on May 7, 2013, "break in service" shall mean any separation from employment with Fulton County, whether voluntary or involuntary, and shall be limited to termination without reinstatement by the Personnel Board, retirement, resignation, administrative separation and/or separation resulting from a RIF. The break in service is effective immediately at the time of one of the above employment actions.

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