

SECTION II EMPLOYMENT POLICIES

Policy #250 Separation From Employment, Disciplinary Action And Reinstatement (Revised 1/21/2014)

PURPOSE: Brunswick County recognizes that an employee may terminate his/her services with the County and services of an employee may be terminated by the County as well.

SCOPE: This policy applies to all employees and sets forth the procedures of separation from employment, disciplinary action and reinstatement.

POLICY AND PROCEDURE:

1. VOLUNTARY SEPARATIONS

1.1 Resignation

1.1.1 An employee may terminate his/her services with the County by submitting a resignation to his/her Department Head. A minimum of two weeks' notice is expected from the resigning individual. Resigning employees on notice are still expected to adhere to County policies and department work schedules or other disciplinary actions, such as suspension without pay, may occur.

If an employee absents himself/herself for three consecutive work days without written notification to the Department Head, the employee will have, in effect, voluntarily terminated his/her employment with the County because he/she is unavailable for work and on leave without approval.

1.1.2 An employee shall return all County property and equipment to their manager and / or Department Head. If County property / equipment is not returned, advanced compensation may be impacted and / or restitution may be required. The County may take appropriate action for restitution.

1.2 Retirement

1.2.1 Retirement is considered to be a voluntary separation. An employee may terminate his/her services with the County by submitting a request for retirement to his/her Department Head who shall forward this request to the Human Resources Department. Human Resources may notify the Department Head to ensure communication is occurring. *See Policy # 255 on Retirement for more information.*

1.2.2 Sick leave, in accordance to leave policy, is to be used for sick time only and is not to be given for time off until retirement. Sick leave may be used for a

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service credit in accordance to the North Carolina Retirement System.

- 1.2.3 Any vacation must still be approved by the employee's manager.
- 1.2.4 County policies and department work schedule should still be followed.
- 1.2.5 While an employee's retirement through the North Carolina Retirement System will not be impacted, an employee that does not adhere to County policy and procedure may be subject to other disciplinary actions up to and including suspension without pay and / or dismissal. If an employee is eligible for retirement medical and is dismissed before their retirement date due to not adhering to County policy, then they may lose their retirement medical due to eligibility impact of not being an active employee.

2. INVOLUNTARY SEPARATIONS

2.1 Dismissal

2.1.1 Dismissal is an involuntary separation and shall be made in accordance with proper procedures of this policy. The Department Head, or authorized board, must approve all dismissals, except for employees excluded from coverage as identified in Section I, Policy # 110, Part 4. Upon dismissal, an employee will receive separation pay, according to the appropriate regularly scheduled payroll period, which will cover only the days actually worked and any accrued benefits due to the employee.

2.1.2 If a Department Supervisor, Manager or Director recommends that an employee be dismissed, a pre dismissal conference shall be conducted by the County Department Head.

2.1.2.1. Advance written notice (minimum one day if possible) should be provided to the employee. The notice should include the following:

- Inform employee that there will be a pre-disciplinary / dismissal conference including time, date and location.
- Provide a summary of the incident or issues for which the dismissal is being considered.
- Explain the type of action (dismissal) is being considered, but no decision has been reached.
- Advise the employee that the conference is an opportunity for them to respond and / or provide their supporting information to the incident(s) / issue(s) during the conference.
- Human Resources and / or a second management representative shall be present during the conference.
- No attorney shall be present for either side at the conference.
- The employee shall not bring anyone else to attend the conference.

2.1.2.2 During the conference, the following should occur:

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- Review specific reasons with appropriate information and supporting evidence for action being considered either orally or as part of a written notice of the recommendation for dismissal.
- Department Head may have other representation present and if necessary security personnel.
- No attorney may be present.
- Inform employee that no final decision has been made.
- Solicit information from employee which will allow explanation of the employee's perspective of the issues.
- The employee does not have option of presenting a witness, however, they may provide names of those whom they believe witnessed the incident or issue. Department head may follow up with witness names provided before making decision.

2.1.2.3 After the conference, the Department Head will consider what was discussed during the conference, evaluate all the available information and reach a decision on the proposed recommendation. The Department Head should review their findings with the Human Resource Director or delegate before communicating any decisions. If the decision is to dismiss the employee, a written letter of dismissal containing the specific reason for dismissal, the effective date of the dismissal, request for return of all county property by the employee and the employee's appeal rights shall be issued to the employee in person or by Certified Mail, usually within 5 working days after the conference.

2.1.3 Dismissal During Probationary Period

2.1.3.1 New Employee

2.1.3.1.1 An employee serving probation may be dismissed upon recommendation of the supervisor, manager or director to the Department Head. While a pre-disciplinary / dismissal conference is not required, the approval of the Department Head along with the review of the Human Resource Director or delegate is still recommended. A written notice stating the reasons for dismissal shall be provided the employee prior to or at the time of dismissal.

2.1.3.2 Appeal Rights for Probationary Employee

2.1.3.2.1 New (which according to definition includes promoted / lateral transferred employees), or reinstated employees serving probation shall have no right to appeal dismissal action except in a case involving alleged discrimination.

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3. REDUCTION IN FORCE (RIF)

- 3.1 Reduction in force may result from changes in programs, cutbacks in funding, economic impacts, reorganization or decreased workload.
- 3.2 In the event that a reduction in force becomes necessary, many factors will be considered to determine the employees to be retained, including the quality of each employee's performance as documented by current performance appraisals, organizational needs, skills, knowledge, ability and seniority. Employees who are separated from employment due to a reduction in force may be given at least a two (2) weeks' notice. No regular employee shall be separated while there are temporary employees serving in the same class in the department unless the regular employee is not willing or qualified to transfer to the position held by the temporary employee.
- 3.3 A reduction in force in a department under the authority of an elected official, such as the Sheriff or Register of Deeds, will be directed by the department head.

4. SEPARATION DUE TO MENTAL OR PHYSICAL DISABILITY

- 4.1 An employee may be separated from employment for disability when he/she cannot perform the essential functions of the job with reasonable accommodation because of physical or mental impairment. Action may be initiated by the employee or the County, but in all cases it must be supported by medical evidence certified by a competent physician. The County may require an examination at its expense to be performed by a physician of its choice. Before an employee is separated for disability, reasonable efforts shall be made to locate alternative positions within the County's service for which the employee may be suited.

5. DEATH

- 5.1 All compensation due in accordance with Section II, Policy #262, of this policy will be paid to the estate of a deceased employee if not otherwise designated. The date of death shall be recorded as the separation date for computing compensation due.

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6. DISCIPLINARY ACTION

- 6.1 An employee may be suspended, demoted and/or dismissed upon approval of the Department Head because of failure in performance of duties or failure in personal conduct. An employee may be suspended pending an appeal hearing.
- 6.2 All written warnings or disciplinary action shall be documented with copies to the Human Resources Department. There is to be no suspension, demotion or dismissal with the exception of immediate disciplinary suspension regarding personal conduct, without review by the Human Resources Department to ensure that required procedures have been followed.
- 6.3 All disciplinary suspensions shall be without pay.

7. IMMEDIATE DISCIPLINARY SUSPENSION

- 7.1 An employee may be suspended without notice by the Department Head for causes related to personal conduct and/or failure in performance of duties, where the performance threatens the safety of persons or property. When a Department Head suspends an employee he/she shall leave County property at once and remain away until further notice. The Department Head shall notify the Human Resources Director or delegate immediately.
- 7.2 A written summary giving the circumstances and facts leading to the suspension shall be prepared; one copy shall be delivered to the employee by certified mail, within five (5) working days. In addition, a copy shall be sent to the Human Resources Department to be filed in the employee's personnel file.
- 7.3 All immediate disciplinary suspensions shall be without pay.

8. NON-DISCIPLINARY SUSPENSION

- 8.1 During the investigation, hearing or trial of an employee on any criminal charge or during the course of civil action involving an employee, the Department Head, with prior written approval from the County Manager that required procedures have been followed, may suspend the employee for the duration of the preceding as a non-disciplinary action. The investigation, hearing, trial, or civil action must involve matters that may form the basis for disciplinary suspension, demotion or dismissal in order for the non-disciplinary suspension to be allowed.
- 8.2 Full recovery of pay and benefits for the period of non-disciplinary suspension will be authorized by the Department Head if the suspension is terminated with full reinstatement of the employee.

9. EMPLOYEE APPEAL

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- 9.1 A general employee wishing to appeal a demotion, suspension or dismissal may present the matter in accordance with the provisions of the grievance procedure prescribed in Section VI, Policy #600 of this manual.

10. FAILURE IN PERFORMANCE OF DUTIES

- 10.1 An employee whose work is unsatisfactory over a period of time shall be notified by their manager and / or the Department Head in what way the employee's work is deficient, and what must be done if the work is to be satisfactory.

- 10.1.1 The following causes relating to failure in the performance of duties are representative, but not exclusive, of those acts considered to be adequate grounds for suspension, demotion or dismissal:

- 10.1.1.1 An overall appraisal of "unacceptable" on the performance evaluation;
- 10.1.1.2 Refusal to obey instructions from Supervisor and/or Department Head;
- 10.1.1.3 Work performance deficiencies, such as inattention to or negligence of the duties of one's position, failure to maintain regular hours, etc.
- 10.1.1.4 Unexcused absence without approved leave;
- 10.1.1.5 Discourteous treatment of the public or other employees;
- 10.1.1.6 Performance of personal work or other outside activities on County time.
- 10.1.1.7 Careless, negligent or improper use of County property or equipment;
- 10.1.1.8 Habitual improper use of leave privileges; and
- 10.1.1.9 Habitual pattern of failure to report for duty at the assigned time and place.

~~10.1.1.10 Failure to obtain and maintain required certification or license.~~

- 10.2 All actions resulting in failure of performance of duties will be cumulative (meaning it does not have to be for the same job performance issue) and progressive in nature.

- 10.3 The following procedures shall be followed when an employee is suspended, demoted or dismissed for unsatisfactory performance of duties, except when the performance threatens the safety of persons or property.

- 10.3.1 Step One - WRITTEN WARNING.

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A written warning issued by the employee's Supervisor/ and / or Department Head. Copy of letter to Human Resources Department. Employee is not required to sign letter of warning.

10.3.2 Step Two - SECOND WRITTEN WARNING

Warning (letter) which sets forth continued deficiencies issued by their supervisor / manager and / or the Department Head, which notifies the employee that failure to make improvements may result in dismissal. Copy of letter to Human Resources Department. Employee is not required to sign letter of warning.

10.3.3 Step Three - LETTER OF ACTION

Written notice stating action of suspension, demotion and/or recommendation for dismissal by employee's supervisor / manager and / or Department Head. Copy of letter to Human Resources Department. Employee is not required to sign letter of warning / action.

10.3.4 Step Four - PRE - DISMISSAL CONFERENCE

If dismissal is recommended, a pre dismissal conference shall be conducted as set forth in Part 2 and Part 6 of this policy.

11. FAILURE IN JOB-RELATED PERSONAL CONDUCT

11.1 An employee may be suspended, demoted or dismissed for causes relating to personal conduct. Cause for disciplinary action includes, but is not limited to, the following:

11.1.1 Fraud in securing employment;

11.1.2 Dishonesty;

11.1.3 Use or possession of illegal narcotics or habit-forming drugs;

11.1.4 Conviction of a felony;

11.1.5 Discourteous treatment of the public;

11.1.6 Willful and wanton disobedience;

11.1.7 Misuse of public property;

11.1.8 Falsification of records;

11.1.9 Reporting to work or working under the influence of an intoxicating beverage and/or other drugs which are not medically prescribed for a specific treatment;

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- 11.1.10 Conduct unbecoming a public officer or employee;
 - 11.1.11 Willful acts that would endanger the lives and property of others;
 - 11.1.12 Acceptance of gifts in exchange for "favors" or "influence";
 - 11.1.13 Incompatible employment or conflict of interest;
 - 11.1.14 Violation of political activity restrictions.
 - 11.1.15 Failure to notify Department Head if charged with an offense that may impact the performance of your duties and / or job responsibilities.
- 11.2 No prior disciplinary action is required.
- 11.3 If dismissal is recommended, a pre-dismissal conference shall be conducted as set forth in Part 2 and Part 6 of this policy.

12. FAILURE TO OBTAIN OR MAINTAIN REQUIRED CERTIFICATIONS OR LICENSURES

- 12.1 An employee may be suspended, demoted or dismissed for failure to obtain or maintain required certifications or licensures; examples include, but are not limited to, Building Inspector Certifications, Nursing Licensures, and Environmental Health Registrations.
- 12.2 No prior disciplinary action is required.
- 12.3 If dismissal is recommended, a pre-disciplinary conference shall be conducted as set forth in Part 2 and Part 6 of this policy.

~~12.13.~~ REINSTATEMENT - MILITARY / PUBLIC HEALTH SERVICE

- 13.1 Any general employee who leaves the services of the County to be inducted into the United States Military Reserve or Public Health Service, or who is called to active duty in one of these services shall be reinstated to the position he vacated or to a position of similar rank or status and pay upon application to the County Manager within ninety (90) days of the date of discharge under honorable conditions. Reinstated employees shall be required to serve a new probationary period.