

# PERSONNEL RULES & REGULATIONS MANUAL

## SECTION 800 EMPLOYMENT CHANGES

### **Section 801. Introduction**

The job status of an employee may change several times during their course of employment with the City. These changes may be due to a transfer, a promotion, a reduction, an acting appointment, or separation from employment. Any change in job status shall be implemented via a properly completed and authorized Personnel Action Form. All personnel actions should be effective at the beginning of a pay period, except as otherwise provided.

### **Section 802. Promotions**

All City job opportunities other than unclassified management positions and those positions filled through progression promotion must be advertised.

a. Employees who meet the following requirements may make application for and/or be considered for a promotion:

1. Meets the minimum qualifications for the job or has clearly demonstrated the ability to perform the job.

2. Has a satisfactory record of performance in his/her current position.

b. An employee's expressed interest in a position will not jeopardize his/her current position or future opportunities.

c. An employee who makes application for a promotion or transfer may be required to take job-specific testing.

d. An employee is not required to notify his/her present supervisor when applying for a promotion or transfer; however, the employee must have the approval of his/her present supervisor if he/she schedules appointments, interviews, etc., during regular work hours. Such scheduling should be at a time when it will cause the least disruption of work and may be limited to a reasonable number of interviews by his/her supervisor.

e. After an employee is offered and accepts a promotion, a Personnel Action Form must be initiated by the position supervisor and approved by the Department Head.

f. The performance of an employee who has received a promotion shall be closely monitored by his/her supervisor and the employee shall receive a written performance evaluation from his/her supervisor no later than six months from the date of the promotion. If the employee who was promoted does not meet performance requirements in the higher position, an improvement plan must be developed during the evaluation process and the employee may be placed in a probationary status. If the required improvement is not achieved, other action may be recommended by the supervisor, up to and including dismissal.

g. Certain classifications are identified in a progression series where promotion to the next higher level is based on the employee's satisfactory attainment of specified education or experience. Employees promoted under these circumstances do not go through a competitive process and do not have a six-month performance evaluation in the new position.

Adjustments to an employee's compensation during a promotion are covered in Section 600, Compensation.

### **Section 803. Reclassification**

Positions may evolve over time resulting in job responsibilities being performed that are significantly different from those associated with the current job description. Employees, supervisors, Department Heads, or the Director of Human Resources may seek the reclassifications of positions only during the budget process. The procedures for submitting a reclassification request are detailed in Section 400, Classification Plan. Adjustments to an employee's compensation during a reclassification are covered in Section 600, Compensation.

### **Section 804. Transfers**

An employee may be transferred to a different position in the same class or to a different class in the same grade within an activity, division, or department, or from one activity, division, or department to another, when the transfer is in the best interest of the City and/or employee. Transfers may be used to allow employees to move to positions with greater career potential, to change career fields, to move to a position for which the employee is more suitably qualified, to vary work location or conditions, to accommodate shifts in workloads across City departments, for disciplinary reasons, or other administrative reasons. In order for an employee to transfer, there must be a vacant position and the employee must meet all requirements of the position. Transferring employees retain the same employment anniversary date.

Transfers may be voluntary (initiated by the employee through request); involuntary (initiated by the supervisor or Department Head when circumstances deem it necessary); or administrative (reallocation of City resources, reorganization purposes, initiated by the Department Head, Director of Human Resources, and/or City Manager). A Personnel Action Form to transfer the employee must be initiated by the position supervisor and approved by the Department Head.

If an employee transfers from one department to another, within 30 days of the employee's transfer the department from which the employee has transferred should complete a performance evaluation covering the employment period until the date of transfer. Receiving departments should complete a second performance evaluation covering the period from the date of the transfer until the employee's next regularly scheduled performance evaluation. The employee's performance based pay adjustment will be based on the combined results of both evaluations. Evaluations should be conducted according to the guidelines set forth in Section 1200, Performance Evaluations.

Adjustments to an employee's compensation during a transfer are covered in Section 600, Compensation.

### **Section 805. Demotion**

For personal reasons, or under certain circumstances, an employee may wish to apply for a voluntary demotion to another position. A demotion request may also be initiated by a Department Head when the employee is not rendering satisfactory service in the position he/she holds; when the employee loses a certification or license required to do essential job functions; in accordance with reduction-in-force procedures; or for disciplinary reasons.

A Personnel Action Form to demote the employee must be initiated by the position supervisor and approved by the Department Head.

Adjustments to an employee's compensation in the event of a demotion are covered in Section 600, Compensation.

### **Section 806. Acting Assignment**

Occasionally, positions vital to the organization must be filled immediately on a temporary basis in order to maintain effective operation of the organization. In such instances, another classified employee or unclassified management employee may be temporarily appointed to assume some or all of the responsibilities of the position for a period of time.

Temporarily appointing a classified employee or unclassified management employee to another position provides the employee an opportunity to obtain and/or enhance valuable skills, knowledge, and abilities that will increase the employee's effectiveness in his/her current position as well as improve his/her career opportunities with the City of Gaithersburg.

### **806.1 Procedures**

The following procedures should be followed in requesting an acting appointment:

a. The Department Head shall submit a written request for the acting appointment to the Director of Human Resources. The written request must outline the critical needs which support the temporary appointment, indicate the anticipated duration of the appointment, verify that the request meets the criteria set forth in the definition of "acting assignment," and recommend an appointee who is a classified employee or unclassified management employee that meets the documented qualifications for the position, and who is capable of performing the full range of job duties of the position.

b. The Director of Human Resources will submit the request to the City Manager for approval. The City Manager must approve all requests for acting appointments.

c. Assignment of an acting appointee is expected to be temporary in nature. The City recognizes that no employee can perform all the duties of two full-time positions, regardless of the classification of the position. Therefore, when an acting appointment calls for an employee to serve in two capacities, the City takes the reasonable position that the appointed employee will distribute his or her effort and time between the two positions and that the employee will not be able to perform all of the duties of his or her regular appointment in addition to the duties of the interim position.

d. The employee and his/her supervisor shall mutually agree on the essential duties and responsibilities to be performed when an employee is appointed to serve in a dual capacity.

### **806.2 Compensation**

Adjustments to an employee's compensation during an acting assignment are covered in Section 600, Compensation.

### **806.3 Return to Original Position**

At the end of the period of authorized acting capacity, the employee shall return to the position, grade, salary, and FLSA designation held prior to the acting capacity appointment with appropriate adjustments for merit pay increases received while in the acting capacity appointment.

### **Section 807. Alternate Duty**

Alternate duty is defined as temporary work, which can be accomplished by an injured or ill employee within the stipulated medical or physical limitations, and without exposing others to the risk of being harmed. Alternate duty is further defined as temporary work, which when accomplished, will contribute to the fulfillment of the mission of the department as distinguished from "make work" assignments created solely to accommodate ill or injured employees.

The Department Head and the Director of Human Resources will determine, based on medical documentation, if alternate duty is available within the department or in another department. An employee must notify the Director of Human Resources and Department Head or designee of their release for alternate duty by the employee's treating physician. An employee that is released for alternate duty but refuses the alternate duty assignment will record all time missed as annual leave.

Employees released to alternate duty will be advised via the employee's Department Head or designee if alternate duty is available.

It is the responsibility of the employee to inform all health care providers of the City's alternate duty policy. Failure to do so may result in disciplinary action.

### **Section 808. Change in Job Status – Part-Time Employees**

Requests to change a part-time employee's job status will be considered during the annual budget process.

If a part-time employee is promoted to a classified or unclassified management position, the employee's prior part-time service is not credited toward the classified or unclassified management employment. The employee begins classified employee or unclassified employee status as a new hire.

### **Section 809. Employee Resignation**

Resignations should be in writing, signed by the employee, and preferably submitted at least two weeks before the effective date. The resignation shall be forwarded by the Department Head to the Human Resources Department and the City Manager. A brief, signed statement identifying the effective date of the resignation is adequate. The reason(s) for resigning may be presented but is not necessary. The Department Head/designee must also notify the Human Resources Department in writing via a Personnel Action Form when an employee terminates.

Employees who resign in good standing may be eligible to be rehired. Employees who resign in lieu of termination will not be eligible for rehire.

Employees who wish to withdraw their resignation must submit a written request to the Department Head explaining the reasons for the desired withdrawal. If the Department Head decides to rescind a resignation, the City's Reemployment Opportunities guidelines will be followed.

### **Section 810. Involuntary Separation (Reduction in Force)**

Should the need arise, the City may be required to temporarily reduce the number of employees in a Department and will attempt to do so with the least impact on employees. The City Manager is authorized to release any employee on the City payroll because of lack of work or funds or abolishment of position. The City Manager will consider first the types of activities to be curtailed and the services thereby affected. Involuntary separation may be initiated by the Department Head 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 the employee may be assigned to other employees already working in the appropriate classification.

### **Section 811. Voluntary Separation Program**

The Voluntary Separation Program (VSP) is established to assist the City in reducing personnel costs, restructuring/right-sizing the organization, and/or making more effective use of resources should the need arise. Through the VSP, the City may offer or an employee may request the opportunity to voluntarily separate from City employment, by resignation or retirement, in consideration of financial or other incentive. Voluntary separation of an employee through the VSP must meet organizational needs and be in the best interest of the City.

#### **811.1 Administration**

The VSP is administered by the Department of Human Resources.

#### **811.2 Eligibility**

Any non-probationary classified employee or unclassified management employee is eligible to participate in the VSP through either resignation or retirement. To be eligible for voluntary separation through retirement, an employee must meet the City of Gaithersburg's general or early retirement criteria as defined in Section 1001 of the Manual.

#### **811.3 Participation**

Participation in the VSP is entirely voluntary. The City may offer, or an employee may request, the opportunity to participate in the VSP at any time. The program is not an entitlement and must be consistent with the needs of the City of Gaithersburg. A fundamental requirement of the VSP is that any offers/approvals to participate must serve the City's best interest (e.g., result in cost savings or serve

organizational needs as determined by departmental and City administration). Therefore, not every eligible employee will be offered the opportunity or have his/her request to participate in the VSP approved. However, eligible employees are encouraged to consider the program and determine if it is the right opportunity for them.

#### **811.4 Basic Guidelines**

- a. Voluntary separation shall be considered on the basis of the approval criteria and whether the action serves the City's best interest.
- b. Employees choosing to utilize the voluntary separation option must acknowledge that their decision to participate is entirely voluntary and that they understand the rules, procedures, and restrictions of the program.
- c. A VSP offer or request must illustrate that the City will realize quantifiable ongoing cost savings and/or other benefits if the employee separates from City service.
- d. Voluntary separation of employment shall not be considered an early retirement program or a disciplinary action.

#### **811.5 Approval Criteria**

The City Manager shall be the final authority in approving an employee's participation in the VSP. Final approval for any employee utilizing this program is also conditioned upon execution of a written agreement between the City and the employee acknowledging the terms and conditions of the program implemented.

Approval shall be evaluated based on criteria including, but not limited to, the following:

- a. Retention of adequate levels of skilled, talented workers in needed occupations and locations.
- b. Retention of positions, occupations, and skills critical to achieving the Department's missions and priorities.
- c. Reduction or restructuring of supervisory level positions.
- d. Difficulty or cost of replacing employees with particular skills requirements or in certain locations.
- e. Potential disruption due to the overall loss of experienced workers.
- f. Overall cost of the program.
- g. Creation of reorganization potential within the Department.
- h. Potential position elimination.
- i. Creation of promotional opportunities within the Department.

#### **811.6 Restrictions**

- a. **Unemployment Compensation**  
An employee accepting a voluntary separation is not eligible for unemployment compensation.

b. **Reemployment**

An employee accepting a voluntary separation may be eligible for rehire in a different capacity than his/her previous position with the City, provided he/she demonstrates the ability to perform the essential job functions of the new position.

Applications from former employees will be processed using the same procedures and standards that govern all other employment applications and the former employee may be required to meet the same conditions of employment that would be expected of any other candidate. (See Section 301, Reemployment Opportunities.)

c. **Separation Payments**

For and in consideration of the employee's voluntary separation, payment may be made to the employee in a one-time lump sum disbursement or in periodic payments (monthly, quarterly, semi-annually, or annually) as selected by the employee. Separation payments must be disbursed in full no later than two years from the date of separation. The one-time disbursement or first payment shall be made in the payroll period terminating immediately subsequent to the date of separation. Payment may be made directly to the employee or as a contribution to the employee's City of Gaithersburg retirement plan. The employee may not change his/her selected payment schedule after distribution begins.

All separation payments are subject to applicable withholdings; separation payment is not considered income for retirement (final compensation) purposes. Voluntary separation offers or requests may not propose or require changes to the City of Gaithersburg's retirement plans.

**811.7 Offer/Request Procedure & Process**

An offer or request to participate in the VSP must be made in writing as follows:

a. **City Offer**

An offer to participate in the VSP will be prepared by the City Manager and presented to the employee. The offer shall state the proposed date and terms of separation and include any other supporting data, if applicable.

The employee must respond to the offer in writing within 30 days of the offer date. The employee may preliminarily accept or reject the offer as presented, or may suggest alternative terms of separation be considered. If alternative terms are suggested, the City Manager shall approve or deny the employee's suggestion and notify the employee within five business days of receipt.

An employee's rejection of the offer, or the City Manager's denial of the employee's suggested amendment, shall not preclude the employee's future participation in the program, by City offer or employee request.

b. **Employee Request**

An employee requesting to participate in the VSP must complete and submit a Request for Voluntary Separation Form to his/her Department Head. The Request Form shall state the type of separation requested, the planned date of separation, the requested terms of separation, and detailed data to support the terms requested if approved (i.e., estimated cost savings or other benefits which could be realized by the City if the request is approved as proposed, etc.).

The employee's request will be reviewed by the Department Head and by the Director of Human Resources. Each will make a recommendation regarding whether or not the request should be approved as proposed by the employee, or may suggest alternative terms of separation be considered.

Following recommendations by the Department Head and Director of Human Resources, the Request Form will be forwarded to the City Manager for consideration. The City Manager will approve the request as presented by the employee, approve the request with amended terms of separation, or deny the request.

The Director of Human Resources will notify the employee of the City Manager's decision in writing within 30 days of the employee's request submittal. If the employee's request is denied by the City Manager, the employee may not submit a new request until the next fiscal year.

If the employee's request is approved, the employee has five business days to preliminarily accept or reject the voluntary separation under the terms and conditions approved by the City Manager. If the employee rejects the terms and conditions for voluntary separation, the employee may not submit a request for voluntary separation until the next fiscal year.

### **811.8 Voluntary Separation Program Agreement**

If the employee preliminarily accepts the terms and conditions for voluntary separation, the Director of Human Resources will prepare a written Voluntary Separation Agreement between the employee and the City of Gaithersburg. The employee will have 21 calendar days to consider the written agreement; and final approval for any employee to utilize this program is conditioned upon execution of the written agreement by both parties. The employee will have seven calendar days from the date he/she signs the written agreement to revoke acceptance.

### **811.9 Termination of Program**

The Voluntary Separation Program may be terminated at any time at the discretion of the City Manager.

### **Section 812. Dismissal, Suspension, or Demotion**

See Section 1400, Disciplinary Action.

### **Section 813. Death of Employee**

There are certain benefit rights for the survivor(s) or estate of employees who die during active employment with the City. See Section 1500, Work Related Injuries, if the employee's death occurs on the job.

Department Heads must notify the Human Resources Department immediately of the death of an employee. Department Heads may also contact the Employee Assistance Program (EAP) to request that a representative be available on-site to assist co-workers in dealing with the employee's death. Departments may also wish to refer surviving family members to the Employee Assistance Program for grief counseling. The Human Resources Department staff is also available to coordinate such services.

#### **813.1 Survivor Retirement Benefits**

Each City retirement plan provides surviving beneficiaries and/or estate benefits. A copy of the employee's death certificate should be forwarded to the appropriate retirement plan administrator to initiate survivor benefit process. The Human Resources Department will coordinate the completion of all necessary paperwork for benefit claims with the deceased employee's beneficiaries.

#### **813.2 Life Insurance Death Benefits**

The Human Resources Department will process a claim with the City's group life insurance carrier upon the receipt of a death certificate from the beneficiary. If the death was accidental, the group life insurance plan provides an additional Accidental Death & Dismemberment benefit.

#### **813.3 Payment of Accrued Leave Upon Employee's Death**

The employee's beneficiary or estate will receive the compensation for any time due during the pay period during which the employee died. Depending upon the employee's classification status, hours of accrued but unused vacation and compensatory time leave will be paid in a lump sum on a subsequent payroll disbursement.

The Finance & Administration Department will calculate the employee's final paycheck and return it to Human Resources. The Human Resources Department will deliver the check to the beneficiary listed on the employee's most recent Designation of Beneficiary Authorized to Receive Final Payroll Check in the Event of Death Form.

#### **813.4 Health Insurance for Survivors**

The spouse and eligible family members of a deceased employee may be eligible for continuation in the City's group medical and dental insurance programs under COBRA eligibility until the limits are reached (see Section 900, Fringe Benefits). Participation must have existed prior to and be continuous and uninterrupted from the date of death of the employee.

#### **Section 814. Return of City Uniforms & Equipment**

Departments are responsible for obtaining all City-issued property (e.g., I.D. cards, keys, purchasing cards, tools, phones, manuals, computers, protective gear, etc.) during the separation from employment process. A completed Out-Processing Form should indicate any City property not returned and the cost of each item listed. The cost of City property not returned by employees, as well as any tuition reimbursement required to be paid as indicated in the Tuition Assistance Policy (Section 1300), will be deducted from the employee's final paycheck.

#### **Section 815. Exit Interview**

All employees separating from employment are encouraged to schedule an appointment for an exit interview with the Human Resources Department before leaving the City. Exit interviews are one of the best ways to get true and honest feedback from employees. An employee's honest feedback will not result in repercussions from statements made during an exit interview and will not be used to prevent future eligibility for rehire. The exit interview is an integral part of the City's employee retention efforts. The City is always looking for ways to keep its employees and feedback is valued.

If a classified employee or unclassified management employee is separating from employment for any reason other than retirement under the City's general or early retirement plan, the Human Resources Department will provide the employee with the following important information concerning benefits at the time of separation from City service (see Section 1000 for benefits upon retirement):

a. **Medical/Dental Insurance**

Medical/dental insurance coverage remains in effect after separation from employment through the end of the month for which payment is made for the coverage. An employee may continue his/her current coverage in the City's group medical and dental insurance programs under COBRA eligibility until the limits are reached (see Section 900, Fringe Benefits).

b. **Life Insurance**

This coverage will terminate with employment; however, the employee has the opportunity to convert the coverage to an individual life insurance plan.

c. **Long-Term Care Insurance**

This coverage will terminate with employment; however, the employee has the opportunity to convert the coverage to an individual long-term care plan under the City's group coverage.

d. **Retirement Plans**

The employee may keep his/her funds in his/her City retirement account, withdraw the funds, or transfer the funds to another qualified plan.

e. **Payment for Accrued Leave**

The employee will receive payment for any accrued but unused annual leave (not to exceed 240 hours) and compensatory time (non-exempt employees only, not to exceed 40 hours) at the employee's regular straight-time hourly rate of pay. No payment for unused accrued sick leave or personal leave will be made to the employee.

#### **Section 816. Disbursement of Final Paycheck**

When an employee resigns his/her position, the earned salary or wages plus any other compensation (such as annual leave accrual) shall be due and payable on the next regular payday. When an employee is dismissed from employment, the earned salary or wages plus any other compensation

(such as annual leave accrual) shall be due and payable no later than the fifth (5th) calendar day following dismissal. Exempt employees will be paid a proportionate part of that employee's full salary for the time actually worked in the last week of employment. The employee's final paycheck will be forwarded to the City's Human Resources Department for disbursement.