

Separation, Disciplinary Action and Reinstatement

1.0 Purpose To provide County employees and management a fair, clear and useful tool for dealing with separation of employment.

2.0 Applicability All County employees, with the exception of employees covered by the State Personnel Act

3.0 Definitions

- 3.1 Voluntary separations are either by resignation or retirement.
- 3.2 Involuntary separations are by reduction in force, disability, dismissal, or death.

4.0 Types of Separation

All separations of employees from positions in the service of the County shall be designated as either voluntary or involuntary. Employees may be voluntarily separated from County service by either resignation or retirement. Employees may be involuntarily separated from county service by reduction in force, disability, dismissal, or death.

4.1 Resignation

Employees may resign either in "Good Standing" or "Not in Good Standing."

4.1.1 Resignation in Good Standing occurs when an employee submits a letter of resignation a minimum of ten (10) working days prior to the effective date of resignation. Such notice shall be provided to the Department Head (or in the case of Department Heads, to the Human Resources Director, and the appropriate governing body, if applicable). Employees who resign in Good Standing may be considered for future employment with the county.

4.1.2 Resignation Not in Good Standing occurs when:

- 1. An employee fails to submit a letter of resignation at least ten (10) working days prior to the effective date of resignation;
- 2. An employee fails to report to work one (1) working day following a leave of absence without pay;
- 3. An employee is absent from work three (3) consecutive working days without authorized leave; or

4.1.3 An employee who resigns from county employment "Not in Good Standing" is normally ineligible for future employment with the county.

4.1.4 Last day of physical employment is considered the termination date.

Separation, Disciplinary Action and Reinstatement

4.2 Retirement

When an employee meets the conditions set forth under the provisions of the Local Government Employees Retirement System (LGERS) adopted by the Board of County Commissioners for county employees, he or she may elect to retire and receive all benefits earned under the retirement plan. Retirement may be based upon age or length of service.

4.3 Reduction in Force

- 4.3.1 The Board of County Commissioners or the County Manager may find it necessary to reduce the number of employees based on reduction or elimination of funds; reduced or revised workloads; or a decision by the County to reduce either its level of service or staff.
- 4.3.2 A specific plan will be developed for each planned reduction in force which will establish the functions and positions to be retained and establish lists of employees who are to be separated, laid off, or work reduced hours.
1. The plan will be developed by the County Manager and approved by the Board of County Commissioners.
 2. The plan will specify retention and separation factors. Possible factors may include performance evaluations, qualifications to perform additional work activities within the same or similar program areas, organizational needs, and/or continuous county service.
 3. Part-time jobs may be eliminated or combined, but part-time employees need not be separated to preclude the separation of full-time employees.
 4. 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 to transfer to the position held by the temporary employee.
 5. When a reduction in force is proposed to the Board of County Commissioners, the County Manager will inform all employees in the affected department that a plan is being considered. Upon approval, but in no case less than thirty (30) days prior to the reduction in force, the affected employees will be provided written notices of how the plan affects them.
 6. Employees involuntarily separated by a reduction in force may apply for reemployment if qualified for a vacant position. Employees who are rehired will be reinstated with full benefits when the separation period is not greater than three (3) years.

5.0 Disability

- 5.1 An employee may be separated for disability when unable to perform required duties because of a physical or mental impairment. The employee or the County may initiate action for disability separation, but in all cases, consideration for disability separation shall be supported by medical evidence

Separation, Disciplinary Action and Reinstatement

as certified by a competent physician. The County may require a physical and/or mental examination at its expense and by a physician of its choice. 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. The County shall comply with the intent, rules and regulations of the Americans with Disabilities Act.

- 5.2 An employee who has exhausted sick leave and annual leave may be put on leave of absence without pay for disability reasons (see Leave without Pay policy).
- 5.3 An employee may be separated from service after six (6) months on medical leave without pay, or upon commencement of disability payments, which ever occurs first.
- 5.4 An employee on leave for twelve (12) months may be terminated at the end of that time whether he/she has any type of paid time remaining, unless it is a Workers' Compensation case. Workers' Compensation cases will be looked at on an individual basis to determine termination date.

6.0 Discipline and Dismissal (See Section 3.0 "Conditions of Employment Policy")

It is the intent of Bladen County in establishing this section of the policy to provide for County employees and management a fair, clear and useful tool for correcting and improving performance problems, as well as, to provide a process to assist management in handling cases of unacceptable personal conduct.

Any disciplinary action taken in accordance with this policy must be for just cause under one of the two following bases:

- discipline imposed on the basis of unsatisfactory job performance including, but not limited to gross inefficiency; and
- discipline imposed on the basis of unacceptable personal conduct.

- 6.1 The County has established two (2) types of employee actions that require discipline.
 - 6.1.1 Employee actions subject to first offense suspension, dismissal, or demotion: An employee may be suspended, demoted, or dismissed for reasons of personal misconduct without prior warning or disciplinary action having been given to the employee. An employee who has successfully completed the probationary period and is dismissed on a first offense will be offered the opportunity to appeal in accordance with the complaint procedure.

Separation, Disciplinary Action and Reinstatement

- a. An employee may be immediately suspended by the Department Head for causes related to personal misconduct in order to avoid undue disruption of work, to protect the safety of persons or property, or for other serious reasons. When a Department Head immediately suspends an employee without notice, the employee shall be required to leave County property at once and remain away until further notice. The Department Head shall notify the Human Resources Director immediately. A written summary giving the circumstances and the facts leading to the immediate suspension shall be prepared. One (1) copy shall be delivered to the employee by certified mail, one (1) copy shall be filed in the employee's personnel file, and one (1) copy shall be filed with the Human Resources Director.

For causes related to Personal Misconduct and Failure in Performance of Duties, see Article VIII - Conditions of Employment, 310 General Rules of Conduct.

- 6.1.2 Employee actions subject to progressive discipline: The system of progressive discipline does not apply to probationary or temporary employees who may be separated at any time. Progressive discipline may result when an employee's work performance is unsatisfactory over a period of time and improvement is not shown after the Department Head has notified the employee in what way the employee's work is deficient and what must be done if the work is to be satisfactory. The following steps of progressive discipline will be followed when violations are minor. When flagrant violations occur, discipline may begin at any stage up to and including suspension.

Upon discovering any action or alleged action that leads to discipline, the Department Head will determine whether or not disciplinary action is required and at which stage progressive discipline will begin.

- a. If disciplinary action is required, the first step shall be for the employee's immediate supervisor to issue an oral warning to the employee. (Not considered Disciplinary Action).
- b. If the oral warning does not result in improved performance, a written warning will be issued by the supervisor, specifying the employee's performance deficiencies and the steps required to achieve satisfactory performance. The employee will be asked to sign a confirmation of receipt of the written warning. If the employee refuses to sign, it will be so noted, and attested to by a witness (preferably another supervisor) that a written warning was given to the employee. (Not considered Disciplinary Action).

Separation, Disciplinary Action and Reinstatement

- c. If performance still does not improve, a final written warning will be given. (This is Disciplinary Action).
- d. If performance still does not improve, the employee may be suspended without pay for a period of up to ten (10) working days, or the Department Head may recommend to the Human Resources Director that the employee be dismissed. Suspension or dismissal shall be a joint decision between the Department Head, Human Resources Director and County Manager. (This is Disciplinary Action).

6.2 Before disciplinary action to include suspension without pay, disciplinary demotion, or dismissal is taken for unsatisfactory performance, the Department Head shall provide the employee with a written notice of proposed disciplinary action, which will include the nature of the proposed action, its recommended effective date, the reason(s) for the action, and a date and time for a pre-disciplinary conference. The employee may present any response to the proposed disciplinary action to the Department Head. The Department Head will consider the employee's response, if any, to the proposed disciplinary action, and will, within three (3) working days of the pre-disciplinary conference, notify the employee in writing of the final decision to take disciplinary action. The notice of final disciplinary action shall contain a statement of the reason(s) for the action and the employee's appeal rights. The Human Resources Director will be provided with a written notice of action taken.

6.2.1 On occasion, dismissals of General County employees may be preceded by suspension with or without pay for not more than three (3) work days, pending completion of an investigation by the appointing authority. If a dismissal is warranted by a Department Head, a written summary of the circumstances and facts leading to the dismissal shall be prepared. A copy of the summary shall be delivered to the employee by certified mail and one copy shall be filed in the employee's personnel file. The final letter becomes public record.

6.2.2 All dismissals of employees subject to the State Personnel Act shall be in accordance with Organization of Personnel Policies and the Classification Plan of the Personnel Policies for Local Government Employees subject to the State Personnel Act. The Human Resources Director shall be provided with a copy of all documents pertaining to dismissal action.

7.0 Death

The estate of an employee who dies while employed by the County will be provided benefits and compensation due to the employee at the time of the employee's death.

Separation, Disciplinary Action and Reinstatement

8.0 Investigatory Suspension

- 8.1 Investigatory suspension with pay may be used to provide time to investigate, establish facts, and reach a decision concerning an employee's status. Investigatory suspension may be appropriately used to provide time to schedule and hold a pre-dismissal conference. Also, the county may elect to use an investigatory suspension to avoid undue disruption of work or to protect the safety of persons or property. An investigatory suspension with pay shall not exceed ten (10) calendar days. If no action has been taken by management by the end of ten (10) calendar days, one of the following must occur: reinstatement of the employee; appropriate disciplinary action based on the results of the investigation; or reinstatement of the employee with at least one (1) full day's pay deducted , but not more than two (2) weeks pay deducted for non-exempt employees and a minimum of one full work week for exempt employees, but not more than (2) weeks pay deducted from the back pay.
- 8.2 Investigatory suspension of an employee 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.

9.0 Separation Procedure

Prior to separation, an employee separating from employment with the County must have an exit interview with the Human Resources Director or his / her designee. Any County property in the employee's possession shall be returned to the County prior to separation. If the separation is involuntary, the employee will be informed of the right to appeal.

10.0 Employee Appeal

A regular employee wishing to appeal a demotion, suspension, or a dismissal may present the matter using the Complaint Resolution procedure. Employees who fall under the auspices of the State Personnel Act, shall follow their respective individual Departmental policy regarding "Employee Grievances and Appeals".

Dismissal Letter – Public Information

If an employee is dismissed and appeals his dismissal through the agency grievance procedure, the final agency decision shall set forth the specific acts or omissions that are the basis of the employee's dismissal. In addition, the employee shall be informed in the final agency decision letter that the final agency decision letter is a public record and that the agency is required by law to release it pursuant to any public record requests.

Separation, Disciplinary Action and Reinstatement

11.0. Reinstatement

- 11.1 An employee who resigns while in good standing may be reinstated with the approval of the Department Head, the County Manager, the Human Resources Director and in the case of employees subject to the State Personnel Act, in accordance with *Personnel Policies for Local Government Employees* and be eligible to resume full benefits within two (2) years of the date of separation. An employee who is separated because of a reduction in force may be reinstated and be eligible to resume full benefits within three (3) years of the date of separation.
- 11.2 An employee who enters extended active duty with the Armed Forces of the United States, the Public Health Service, or with a reserve component of the Armed Forces will be granted reinstatement rights provided under federal law.
- 11.3 An employee who is reinstated will be credited with previous service and previously accrued sick leave and will receive all benefits provided in accordance with this policy and under supplementary rules and regulations. The salary paid a reinstated employee will be as close as reasonably possible, given the circumstances of each employee's case, to the salary step previously attained by the employee in the salary range for the previous class of work, and any across-the-board pay increases for which the employee may have been eligible.