

MARICOPA COUNTY EMPLOYEE MERIT SYSTEM RESOLUTION

SECTION 1. AUTHORIZATION

By this Resolution, the Maricopa County Board of Supervisors hereby under the provisions of A.R.S. § 11-351 through § 11-357 authorizes the creation of the Maricopa County Employee Merit System.

SECTION 2. ADMINISTRATION

The purpose of the Employee Merit System is to provide a uniform and equitable system of personnel administration for employees in the Maricopa County classified service.

SECTION 3. MERIT PRINCIPLES TO BE OBSERVED

The system of personnel administration for employees in the classified service shall be based upon merit principles and free from political patronage. All actions affecting the employment of personnel in the classified service shall be made according to merit as demonstrated by the qualifications and work performance of the applicant or employee.

SECTION 4. DEFINITIONS

The following words and terms shall have the meaning indicated below unless the context clearly indicates otherwise:

- A. **Appeal.** A regular employee's written request that the Commission review a suspension, involuntary demotion, dismissal, furlough or reduction in force where permitted by this Resolution.
- B. **Appointing Authority.** An elected official, single executive head of a department, or the designated representative authorized to act in this capacity.
- C. **Board.** The Maricopa County Board of Supervisors.
- D. **Commission.** The Maricopa County Employee Merit System Commission as created by this Resolution.
- E. **County.** Maricopa County.
- F. **Demotion.** A change in the assignment of a regular employee to a lower pay rate.
- G. **Department.** A county governmental unit designated as an appointed or elected department or a special district under the annual budget for the County.
- H. **Director.** The Maricopa County Human Resources Director or designee.
- I. **Disciplinary Action.** An action taken by an appointing authority against an employee, including oral counseling, written warning, suspension, demotion or dismissal.
- J. **Employee.** A person who is in the county service.

- K. **Furlough.** A furlough is mandatory unpaid leave imposed on classified employees as the result of a budget deficit or shortfall. A furlough may be imposed as an alternative to, or in conjunction with, a Reduction in Force (see Merit Rule 9.02). Furloughs are not suspensions or involuntary demotions for purposes of Section 16 (“Employee Appeals”) of this Employee Merit System Resolution.
- L. **Initial Probation.** A specified period of time following the employment of an employee in a budgeted position during which the work performance of the employee is evaluated. An employee may be released from initial probation for or without cause.
- M. **Position.** A specific employment, whether occupied or vacant, involving duties requiring the services of one person.
- N. **Promotion.** The movement of an employee to a different position control number at a higher pay rate through an announced recruitment process.
- O. **Regular.** The status an employee achieves when retained in a position of the classified service following the successful completion of the initial probation period.
- P. **Suspension.** The temporary separation of an employee from his or her position without pay for disciplinary reasons.

SECTION 5. COUNTY SERVICE

The county service shall encompass all employment with the county wherein persons are paid a wage or salary from public monies in accordance with official entries on a county payroll. The county service shall not include persons who perform services for which payment is made on a fee, claim or volunteer basis, independent contractors, patients, or inmates of county institutions, employees or personnel of the various school systems, employees in the court service as defined by the Judicial Merit System Resolution for Maricopa County, or members of boards, commissions and committees appointed by the Board.

SECTION 6. CLASSIFIED SERVICE

The classified service shall include all positions in the county service except those identified as unclassified, contract or temporary employees. However, employees of the Maricopa County Law Enforcement Officers Merit System shall not be covered by this Resolution.

SECTION 7. UNCLASSIFIED SERVICE

Within the county service there shall be the unclassified service which shall include all positions identified by the Board as expressly authorized by applicable state law.

SECTION 8. HUMAN RESOURCES DEPARTMENT

- A. There shall be in Maricopa County government a Human Resources department, the executive head of which shall be the Human Resources Director who shall be responsible to the Commission for the accomplishment of all personnel functions assigned by the Board to the Commission and responsible to the Board through the County Administrative Officer or designee for all other personnel functions in both the classified and the unclassified service.

- B. There shall be a Commission of five members appointed by the Board with the powers and duties hereinafter enumerated. The Commission shall advise the Director, the County Administrative Officer and the Board concerning employment matters relating to their scope of authority as directed by the Board or required by state law.

SECTION 9. EMPLOYEE MERIT SYSTEM COMMISSION

- A. Each member of the Board shall nominate a Commission member from among the qualified electors, subject to appointment by the Board. The individual shall support the application of merit principles in public employment. No more than three of such members shall be from the same political party.
- B. Each member shall hold office for a term of four years. Of the members first appointed, two shall serve a two-year term, two a three-year term and one shall serve a four-year term. In order to maintain the staggered term expiration dates, the following process will be followed: If a member is not reappointed upon the expiration of his/her current term nor is a new member appointed, the current member will continue to serve out the new term until a successor is appointed and qualified. The successor, when appointed, shall serve out the unexpired portion of the new term. Appointment to fill a vacancy caused by other than expiration of term shall also be for the unexpired portion of the term.
- C. A member of the Commission may be removed by the Board for cause. In addition, any one of the following shall constitute the resignation of a Commissioner and authorize the Board member for the District in which the resignation occurred to appoint a new member to fill the unexpired term so vacated:
 - 1. Absence from three consecutive regular meetings without being excused by the Commission.
 - 2. Becoming a candidate for any elective public office.
 - 3. Accepting any appointive office or employment in the service of the state, or a county, city or town.
- D. At its first meeting of each year, the Commission shall elect one of its members as chairman. It shall conduct meetings at such times and places as shall be specified by call of a majority of the Commission or of the chairman. At least four meetings shall be held each year. Three members shall constitute a quorum for the transaction of business. A majority of the quorum may take legal action in all areas of the Commission's duties and powers.

SECTION 10. POWERS AND DUTIES OF THE COMMISSION

The Commission shall perform such duties and exercise such powers as are necessary to carry out the provisions of this Resolution. In addition to the duties imposed upon it elsewhere, it shall be the duty of the Commission to:

- A. Cause the Director to prepare such policies and procedures as it may find necessary or appropriate for the administration of the Merit Rules in accordance with A.R.S. § 11-356.
- B. Represent the public interest in the improvement of personnel administration in the county service.
- C. Serve as the independent personnel board for the county under A.R.S. § 38-532(H) and to adopt policies and procedures as it may deem necessary or appropriate under such authority.

SECTION 11. APPOINTMENT AND DUTIES OF THE DIRECTOR

- A. The Director shall be a person who has had experience in the field of public personnel administration and supports merit principles in public employment.
- B. The Director, as executive head of the Human Resources department, shall direct and supervise all of its activities. In addition to the duties imposed elsewhere, it shall be the duty of the Director or designee to:
 - 1. Attend meetings of the Commission and act as its secretary and keep minutes of its proceedings.
 - 2. Establish and maintain a roster of all employees in the county service, in which there shall be set forth, as to each employee, the job title, pay, status and other pertinent data.
 - 3. Appoint such employees of the Human Resources department and such special assistants as may be necessary to carry out effectively the provisions of this Resolution.
 - 4. Develop, in cooperation with appointing authorities and others, programs for the improvement of employee effectiveness including training, health, counseling and welfare.
 - 5. Review the operation and effect of this Resolution and of the Rules and report findings and recommendations to the Commission, the County Administrative Officer and the Board.
 - 6. Perform any other lawful act considered necessary or desirable to carry out the purposes and provisions of this Resolution.
 - 7. Make annual reports to the Board and Commission and such special reports as considered desirable regarding personnel administration in the county service and recommendations for improvements.

SECTION 12. MERIT SYSTEM RULES

- A. The Director shall prepare and submit to the Board proposed Rules for the classified service.
- B. The Rules shall provide for:
 - 1. An employment process to assess the relative fitness of applicants.
 - 2. Promotion practices which shall give consideration based upon qualifications and work performance.
 - 3. Criteria for the rejection or competitive screening of applicants and candidates.
 - 4. The establishment of lists for employment and promotion, upon which lists shall be placed the names of candidates, and where applicable, their ranking on the respective assessment processes.
 - 5. Periods of initial probationary employment, during which time the employee may be released or demoted without cause.
 - 6. Transfer from a position under one appointing authority to a position under a different appointing authority.
 - 7. Reductions in force resulting from lack of funds, lack of work, or abolishment of positions; and for transfer of employees who have been subject to a reduction in force.
 - 8. Dismissal or demotion of regular employees only for cause.
 - 9. Suspension without pay of regular employees only for cause.
 - 10. Such other Rules, not inconsistent with this Resolution, as may be proper and necessary for its enforcement.

SECTION 13. APPLICANT ASSESSMENT

- A. An assessment process shall be used to evaluate the qualifications of applicants to perform the duties of positions for which a list is to be established.
- B. The assessment process may involve a written examination, review of applications and attachments, oral board, demonstration of skill, other assessment techniques which may be developed or any of the above in combination.

SECTION 14. MINIMUM QUALIFICATIONS

The minimum qualifications prescribed for any county employment shall not be less than those prescribed by law. Changes to the minimum qualifications prescribed for any county employment that increase educational requirements shall have no effect on the eligibility of incumbents to continue in their employment unless such change is required by state or federal law.

SECTION 15. SUSPENSION, DEMOTION, DISMISSAL

- A. An appointing authority may discipline, suspend, demote or dismiss a regular employee only for cause. Each of the following constitutes authorized cause for discipline, suspension, demotion or dismissal of a regular employee under this Resolution:
 - 1. Fraud in securing or maintaining employment.
 - 2. Incompetency.
 - 3. Inefficiency.
 - 4. Abuse of leave.
 - 5. Neglect of duty.
 - 6. Insubordination.
 - 7. Dishonesty.
 - 8. Possessing, dispensing, or being under the influence of alcohol, a narcotic, barbiturate, marijuana, tranquilizer, hallucinogenic or any other drug listed and/or defined in A.R.S. § 13-3401, which would affect the employee's suitability for continued employment, except in accordance with medical authorization or in the lawful performance of the employee's regularly assigned duties.
 - 9. Violation of a Board authorized policy which supports a drug-free workplace or which opposes substance abuse.
 - 10. Absence without authorized leave.
 - 11. Charged with the commission of a criminal act which affects the employee's suitability for continued employment.
 - 12. Conviction of a criminal act which affects the employee's suitability for continued employment.
 - 13. Discourteous treatment of the public or fellow employees.
 - 14. Improper political activity as proscribed by state or federal law or by this Resolution.
 - 15. Unlawful discrimination, and discrimination prohibited by Section 17 of this Resolution, including harassment, by an employee against or in favor of another person.
 - 16. Misuse of government property.
 - 17. Violation of county or departmental policies or procedures.
 - 18. Violation of the Code of Ethics.

- B. An appointing authority, subject to A.R.S. § 11-356 and these Rules may suspend a regular employee for cause without pay for a period not exceeding 30 calendar days for any single cause. The appointing authority shall give the employee written notice of the intention to effect any such suspension and an opportunity to respond before the date it is intended to become effective. Such notice shall set forth the factual basis and cause for the suspension in sufficient detail to indicate the reasons for the action and shall be prepared in such form and given in such manner as the Director prescribes.
- C. An appointing authority, subject to A.R.S. § 11-356 and these Rules may demote a regular employee for cause from a position in any given pay rate to a position with a lower pay rate for which the employee possesses necessary qualifications. The appointing authority shall give the employee written notice of the intention to effect any such demotion and an opportunity to respond before the date it is intended to become effective. Such notice shall set forth the factual basis and cause for the demotion in sufficient detail to indicate the reasons for the action and shall be prepared in such form and given in such manner as the Director prescribes.
- D. An appointing authority, subject to A.R.S. § 11-356 and these Rules may dismiss a regular employee for cause. The appointing authority shall give the employee written notice of the intention to effect any such dismissal and an opportunity to respond before the date it is intended to become effective. Such notice shall set forth the factual basis and cause for dismissal in sufficient detail to indicate the reasons for the action and shall be prepared in such form and given in such manner as the Director prescribes.
- E. Failure to perform at a level required of the position to meet the business needs of the department is cause to dismiss when progressive or corrective steps have not resulted in needed improvements. Failure to perform does not imply misconduct.
- F. Inability for medical reasons is cause to dismiss but connotes no improper conduct on the part of the employee nor does it contemplate corrective or progressive steps.
- G. In addition to the causes prescribed herein, the Board may establish other causes that are deemed necessary.

SECTION 16. APPEAL BY EMPLOYEE

- A. Any regular employee who is suspended, involuntarily demoted or dismissed may appeal to the Commission. The appeal shall be in writing and filed with the Director or designee, as ex officio Clerk of the Commission, not later than ten calendar days following the date of personal delivery or certified mailing of the written notice suspending, demoting, or dismissing the employee by the appointing authority. If mailed, the notice shall be sent to the employee's last known address.
- B. A copy of such appeal shall be forwarded by the Director to the appointing authority. The ex officio Clerk of the Commission shall thereupon assign a time and place for a hearing and shall give notice thereof to all parties concerned. Within 20 calendar days from the filing of the appeal, the Commission shall set a date for the hearing to either affirm, modify, or revoke the appeal, or continue the hearing date for good cause shown.
- C. The appellant may appear personally, produce evidence, have legal counsel or lay representation. Unless requested otherwise by both parties, hearings are conducted privately. Private hearings restrict who may be present while testimony is being taken. Upon the conclusion of taking testimony, the entire proceedings become a matter of public record.

- D. The Commission may request the Board to issue and enforce subpoena to compel attendance of any person and the production of documents relevant to the issues in the appeal.
- E. Both the employee and appointing authority shall be notified reasonably in advance of the hearing. The conduct of the hearing shall not be bound by technical rules of evidence. An official record of the hearing, including exhibits, shall be made.
- F. If, after the hearing, a majority of the quorum determine that the action appealed from was arbitrary or taken without reasonable cause, the appeal shall be sustained; if a majority of the quorum find the action appealed was not arbitrary or taken without reasonable cause, the appeal shall be dismissed. If there is no majority vote, no action on the appeal may be taken.
- G. The Commission shall recommend to the Board the amount of back wages and leave accruals, where appropriate, and shall do so after taking into consideration just and equitable relief to the employee and the best interests and effectiveness of the county service.
- H. The findings and decisions of the Commission shall be final and shall be subject only to administrative review as provided in A.R.S. § 12-901 et seq. The appointing authority shall have 35 calendar days from the date of the decision of the Commission to either file for an administrative review or to take such measures as are necessary to comply with the decision of the Commission.
- I. An employee who has been subject to a reduction in force by reason of lack of funds, lack of work, or abolition of position may file an appeal with the Commission only on the grounds that the calculation of the employee's retention points was inaccurate and resulted in that employee being selected for separation before another.
- J. An employee who has been subject to a furlough may file an appeal with the Commission only on the grounds that the furlough was imposed in an arbitrary manner that negatively impacted the employee more than other similarly situated employees in the employee's division in the same market range title.

SECTION 17. NONDISCRIMINATION

Discrimination, as defined by state or federal law, and this Section, in any manner by a county official, appointing authority, or employee against or in favor of any applicant or employee because of race, gender, religion, color, national origin, age, disability, sexual orientation, pregnancy, veteran status, genetic information or any other characteristic defined by law or Board approved policy shall be prohibited.

SECTION 18. POLITICAL ACTIVITY

- A. It is the intent of Maricopa County to conform to the public policy that government programs be administered in an unbiased manner and without favoritism for or against any political party or group or any member in order to promote public confidence in government, government integrity, and the efficient delivery of governmental services and to ensure that employees are free from any express or implied requirement or any political or other pressure of any kind to engage or not engage in political activity.
- B. Regular employees shall not:
 - 1. Make political endorsements by which they identify themselves as county employees.

2. Use or promise to use any official authority or influence for the purpose of influencing the vote or political action of any person or for any consideration.
- C. A regular employee shall not be a member of any national, state, or local committee of a political party, or an officer or chairman of a committee of a partisan political club, or offer himself as a candidate for nomination or election to any public office which is either paid or partisan by filing nomination papers or making a formal public declaration of candidacy, or take part in the management or affairs of any political party or in the management of any partisan campaign or recall effort.
- D. An employee may when not on duty, not in uniform, or not at public expense unless otherwise provided by state or federal law:
1. Express his opinions;
 2. Attend meetings for the purpose of becoming informed concerning the candidates for public office and the political issues;
 3. Cast a vote;
 4. Sign nomination or recall petitions;
 5. Make contributions to candidates, political parties, or campaign committees contributing to candidates or advocating the election or defeat of candidates;
 6. Circulate candidate nomination petitions or recall petitions;
 7. Engage in activities to advocate the election or defeat of any candidates;
 8. Solicit or encourage contributions to be made directly to candidates or campaign committees contributing to candidates or advocating the election or defeat of candidates;
 9. Campaign for himself and hold unpaid, nonpartisan, public office;
 10. Campaign for or against ballot issues, referendum questions, constitutional amendments, municipal ordinances, etc.
- E. Regular employees holding positions in the Maricopa County Elections department and any other regular employee who may have exclusive possession and control over ballots, shall be prohibited from engaging in the activities permitted other regular employees pursuant to Section 18.D.6 through D.9 in any election to be tabulated by Maricopa County. Regular employees serving as legal counsel to the elections department on a particular matter shall be prohibited from engaging in the activities permitted other county employees pursuant to Section 18.D.6 through D.9 in an election for that particular matter.
- F. The provisions of this section shall not apply to school board elections or community college district governing board elections, and a regular employee may serve as a member of the governing board of a common or high school district or as a member of a community college district governing board.
- G. The provisions of this section shall not apply to Precinct Committeeman elections and a regular employee may serve as a Precinct Committeeman unless the employee holds a position and performs an activity which is funded in whole by federal loans or grants.
- H. A regular employee shall not be discriminated against for engaging in or not engaging in any activity permitted by this section.
- I. No person shall solicit a regular employee to engage in or not engage in activities permitted by this Section with the direct or indirect use of any threat, intimidation or coercion including threats of discrimination, reprisal, force or any other adverse consequence including the loss of any benefit, reward, promotion, advancement or compensation.

- J. Any person in the county service who violates any of the provisions in this section shall be subject to disciplinary action up to and including dismissal.

SECTION 19. NONCONFORMITY WITH FEDERAL AND STATE LAW OR REGULATION

If any provision of this Resolution conflicts or is inconsistent with state or federal law or regulations, state or federal law or regulations shall apply.

SECTION 20. COMPLIANCE

When dealing with regular employees, appointing authorities shall conform to, comply with, and aid in carrying into the effect the provisions of this Resolution and the Rules adopted hereunder.