

City of Tempe
Personnel Rules



Human Resources

2015

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Definitions

Accrual: the amount of paid leave time an employee earns each month.

ASRS: Arizona State Retirement System. All non-sworn City employees are required by state law to participate in this retirement system if they work more than 20 hours a week for more than 20 weeks in the fiscal year.

At-will employment: employment that can be terminated at any time by the employee or the City, with or without reason and with or without notice.

Benefits eligible employee: an employee working 20 hours or more in a non-temporary position/classification approved by City Council. Also referred to as a “regular” employee.

Bump / Bumping: the option, under the provisions in these personnel rules governing lay-off only, to take the position of another employee in the same classification with less seniority, or the position of another employee with less seniority in a classification in the same job family with a lower salary range, or to take the position of another employee with less seniority in a previously held classification. The employee with the most seniority “bumps” into the other applicable position.

Calendar Days: all days of a week, month or year regardless of whether those are working days

Calendar Year: January 1 – December 31 of any year.

City Charter: the City charter is the legal document establishing the City of Tempe as a municipality.

City Code: all the ordinances (City laws) that have been enacted and codified by the City Council.

City Ordinance: any individual City law enacted by the City Council.

Classification: a designated job with a title and with duties described in an official City written job description. A job classification may include one or more positions.

Confidential Employees: employees in positions as designated by the City Manager that, due to the nature of the work they do are not permitted to belong to a meet and confer employee group and are not part of the Senior Management Team.

Continuous Service: City service that is not broken by any periods of non-employment or any type of leave of absence that is specifically noted as not being considered City employment service time.

De-minimis: (latin) too trivial or minor to merit consideration – usually referring to minimal time worked past the end of a shift for a non-exempt employee who is not subject to overtime pay.

Discipline: formal actions to address violations of the Personnel Rules.

Discrimination: to exclude individuals from an opportunity or participation in any activity because of race, color, gender, gender identity, sexual orientation, religion, national origin, familial status, age, disability, or United States military veteran status, and occurs whenever similarly situated individuals of a different group are accorded different and unequal treatment in the context of a similar situation.

Displaced Employee: an employee who is bumped from his or her position by another employee, but is not laid off because he or she also is eligible to bump into another position.

Domestic Partner: an employee's partner, either same or different gender, to whom he or she is not married but has declared as a domestic partner through signing the required affidavit designating that the couple has met the eligibility for City-provided dependent benefits.

Exempt Employee: an employee whose job classification is exempt from the overtime provisions of the FLSA (and so the employee is not eligible for overtime pay) and whose compensation is based on an annualized salary for work performed.

Fiscal Year: the City's fiscal year runs from July 1 through June 30. The City budget follows the fiscal year as does the Health Benefits Plan.

FLSA: Fair Labor Standards Act – federal law establishing minimum wage, overtime pay and other requirements for employers.

FMLA: Family & Medical Leave Act – federal law establishing, among other requirements, leave provisions and job protection for eligible employees with serious health conditions, eligible employees required to care for family members with serious health conditions or for the birth or adoption of a child.

FTE: Full Time Equivalent – 1.0 FTE designates a position that is full time (min. 40 hours/wk).

Full Supervision: the authority to direct the work load and tasks of another employee, as well as the authority to hire, discipline and terminate a subordinate employee.

Functional /Technical Direction: the authority to direct the functional/technical work load and tasks of another employee, usually a subordinate, but not the authority to hire, discipline, or terminate an employee.

General Fund: the budgeted monies for general administrative and operating expenses not specific to any special purpose.

Hourly Rate: the hourly base rate of pay for a classification that is documented in the City's pay plan without the inclusion of any other compensation.

Hostile Work Environment: shall be defined by pertinent law and may include a work environment where repeated offensive comments, jokes, cartoons or remarks are pervasive and are offensive to a reasonable person, making it difficult for the employee to perform his or her job. A hostile work environment may be sexually, racially, or religiously hostile among other things. If one incident is of a serious enough nature, it may be considered the basis of a hostile work environment.

I-9 Form: form required by the federal government to document an employee's authorization to work in the United States.

Long-Term Disability: partial income replacement benefits provided by the City and/or the ASRS for qualifying employees who have a documented serious, long-term illness or disability that prevents them from working.

Memorandum of Understanding (MOU): a written agreement negotiated by the City and an employee group under the City's meet and confer ordinance.

Merit System: the process of hiring and promoting government employees based on the employee's ability to perform a job, rather than on political connections or other considerations unrelated to job performance.

May: as used in these personnel rules indicates that the action that follows is permitted but not mandatory.

Non-Exempt Employee: an employee whose job classification is not exempt from the overtime provisions of the FLSA (and so the employee is eligible for overtime pay) and whose compensation is based on an hourly rate for hours worked.

Part-Time Employee: an employee who works less than 40 hours/week but at least 20 hours/week and receives pro-rated benefits.

Pay Period: the recurring two-full week (fourteen day) periods, beginning on a Monday and ending on a Sunday, for which City employees are paid.

Pay Plan: the document detailing all job classifications for the City and the designated hourly base rate of pay and annualized salary for each classification.

Pay Range: the pay scale for any specific job classification that states a minimum pay and a maximum pay.

PAR (Personnel Action Request): an electronic form completed by supervisors or timekeepers to request/implement any change in an employees status, cost center, pay, etc.

PIP: Performance Improvement Plan. A tool for supervisors to assist employees in addressing performance issues over a set period of time with specific guidelines established in a written document.

Position: a specific job designated by a unique number and approved by the City Council. Job classifications may include one or more position(s).

Probation: period of training/familiarization for a new employee during which the employee is at-will and in an unclassified status.

Promotion: movement of an employee into a position that is in a classification with a higher salary range maximum than the classification of the employee's previous position.

PSPRS: Public Safety Personnel Retirement System. All public safety sworn City employees are required by state law to participate in this retirement system.

Regular Employee: employees in classified or unclassified positions approved by City Council and that are fully benefitted. A regular employee must work at least 20 hours/week.

Rehire: reemploying a former employee who resigned and is hired back to the employee's former position or to another position more than 30 days after the employee's resignation. Employees who retire from City service and return to employment with the City at any time are also considered rehired employees.

Reinstatement: reemploying a former employee who resigned and is reinstated back to the employee's former position no more than 30 days after the employee's resignation. Employees who are laid-off and on an active lay-off list and are brought back to the employee's former position or to another position are considered reinstatements.

Retaliation: shall be defined by pertinent law and may occur when an action is taken against an employee because he or she engaged in a protected activity such as opposing any practice made unlawful under the Federal employment discrimination statutes.

Retirement: separation from City employment when an employee is immediately eligible for retirement benefits from ASRS or PSPRS.

Safe Haven: offices within the City for employees who wish to report work place concerns outside of the employee's chain of command. The Diversity Office and Human Resources are designated as "safe havens" by the City.

Salary: the annualized hourly base rate of pay for a classification that is documented in the City's pay plan without the inclusion of any other compensation.

Senior Management Team: department directors, deputy directors and other employees as designated by the City Manager that form senior management.

Sexual Harassment: shall be as defined by pertinent law and may include such actions as unwelcome persistent comments of a sexual nature, the display of obscene or sexually oriented photographs or drawings, sending sexually-oriented emails or text messages, and consistently playing obscene or sexually oriented music or recordings. A person of any gender may be the victim of sexual harassment, and a person of any gender may be the accused.

Shall: as used in these personnel rules indicates that the action that follows is mandatory.

Supervisor: an employee whose job classification provides him or her with the authority to exercise full supervision over subordinate employees.

Temporary (variable-hour) employees: non-benefitted, at-will employees.

Threat Management Team: the group of employees responsible for reviewing potential threats to the City and/or City employees from any source. The team has representatives from the Police Department, the Attorney's office, Human Resources, Social Services and Risk Management.

Workweek: designated seven-day (168 hours) work period that may vary for flex schedules.

Rule 1: General Provisions

NOTE: All references within these Personnel Rules to the City Manager, any City department directors and any other management position, also shall cover any designee to whom those individuals may choose to delegate responsibility.

Section 101: Authority and Purpose

A. City Charter

[Article IV, Section 4.02](#) of the Tempe City Charter establishes the merit principle as the basis for the City's human resources (personnel) system. The Charter also provides the following:

1. The personnel officer appointed by the City Manager shall be responsible for administration of the City's human resources (personnel) system.
2. The Merit System Board, which consists of 3 members and 2 alternates who are residents of the City appointed by the City Council, shall be responsible to review personnel rules and conduct disciplinary review hearings.
3. Personnel rules shall be developed and provide procedures necessary for administering the City's merit based human resources (personnel) system.
4. The personnel rules shall be prepared by the personnel officer, submitted to the City Manager, and reviewed by the Merit System Board which may make recommendations to the City Manager. Personnel rules shall be referred to the City Council for adoption.

B. City Code

[Section 2-139](#) of the Tempe City Code establishes the authority of the City Manager and Internal Services Director with regard to administration of the City's human resources (personnel) system and details the responsibilities of Human Resources.

C. City Ordinance

[City Ordinance 88.53](#) stipulates that adoption or amendment of the City's personnel rules shall be by resolution of the City Council.

D. Tempe Municipal Court Employees

As established by Tempe Municipal Court Administrative Order No. 10-01, all employees of the Tempe Municipal Court will be subject to the [Arizona Code of Conduct for Judicial Employees](#) and the provisions of these Personnel Rules, except that Judges shall be subject to the Arizona Commission of Judicial Conduct.

This provision does not limit the authority of the City Council to appoint the Presiding Judge, execute contracts for appointments of Municipal Court judges, or remove any Municipal Court judge from service to the City.

E. Memorandums of Understanding

[Section 2-427](#) of the Tempe City Code stipulates that a memorandum of understanding (MOU) between the City and any designated employee organization shall take precedence over the personnel rules on any issue where there is conflict between the personnel rules and that MOU.

F. Guidelines

Human Resources may develop guidelines to provide additional information and/or clarification of any section or subsection of these personnel rules. Prior to implementation, proposed guidelines will be provided to all employee groups and the department directors for comment and review, and then submitted to the Internal Services Director and the City Manager for approval.

Section 102: Classified Service

A. Definition

Classified service includes all regular, benefitted full-time and part-time employees in positions that meet each of the following criteria:

1. The position has been classified, has an approved job description, and is not designated as an “at will” position.
2. The position has been approved by the City Council.
3. The position is governed fully by the City’s merit system and by the policies and provisions of these personnel rules.

Even when hired to fill a classified position, any employee who is under initial (new hire) probationary status is not considered part of the classified service and is “at will” until probation is successfully completed.

B. Merit System

Recruitment and selection, promotion, and any other employment decision relative to positions that are designated as classified service positions shall be based on merit and ability and free of any unlawful and/or political considerations. Employees in positions that are covered under the City’s merit system are able to:

1. appeal certain disciplinary actions as defined under Rule 4 of these personnel rules,
2. file grievances for alleged violations of a section or sub-section of these personnel rules, in accordance with Rule 4.

Section 103: Unclassified Service

A. Definition

Unclassified service means employees who are hired to fill positions that are not covered under the merit system and are not eligible to appeal discipline, but who may file complaints regarding alleged violations of federal and state employment law and/or file grievances as permitted under these personnel rules. Unclassified service includes positions in which administrative necessity may dictate responsiveness and accountability to City policy or positions that are temporary and/or provisional in nature. Employees in unclassified service positions cannot be part of any employee group permitted under City ordinance to meet and confer.

Unclassified service positions are:

1. Elected officials
2. All City Officers appointed by the City Council:
 - a) City Manager
 - b) City Attorney
 - c) City Clerk
 - d) Presiding City Judge
 - e) City Judge(s)
3. All regular, benefitted full-time and part-time employees whose classification has been designated as “at-will” by the City Manager.
4. Any new employee in a position under the classified service who is on probation.
5. Temporary, contractual and seasonal employees.
6. Volunteers, interns and any other individuals appointed to serve without pay.

B. Provisions of Unclassified Service

Employees in unclassified service positions are at-will employees; employment is subject to termination by the employee or the City at any time for any reason, unless otherwise stated in a written contract of employment.

Recruitment and selection, promotion, and any other employment decision relative to positions that are designated as unclassified service positions shall be free of any unlawful considerations.

With the exception of positions that report to the Mayor and Council, all unclassified positions shall be subject to the recruitment and selection policies in these personnel rules. All other policies and provisions of these personnel rules apply to those covered under the unclassified service unless specifically noted.

Section 104: Personnel Records

A. Employee Records

The City maintains an official employee personnel file in Human Resources for all regular, temporary and seasonal employees. City departments may also maintain other employee records. Electronic personnel records are maintained in the City's Human Resources Information System (HRIS). As required by current federal and state law, confidential personnel medical records are maintained separately in Human Resources and Risk Management only.

B. Employee Record Changes

Employees are required and responsible to notify their supervisors and Human Resources and to update their electronic data record within ten business days of a change of address or any other change of personal data maintained in the employee's personnel record.

C. Retention

Employee personnel files/records are retained based on current record retention requirements established by Federal law and/or Arizona Revised Statutes.

D. Public Records Requests

Employee records may be considered public information and may be subject to disclosure pursuant to a public records request under Arizona Revised Statutes. All public records requests are reviewed by Human Resources and the City Attorney's Office prior to the release of any information or materials. The City will make reasonable efforts to notify employees whose records are disclosed through a public records request release of information and shall allow the employees to review what information was released.

[A.R.S. § 39-123](#) prohibits the disclosure of the home address or home telephone number of a current police (peace) officer except as authorized by law. This restriction also applies to a photograph of a peace officer who is serving in an undercover capacity or is scheduled to serve in an undercover capacity within 60 days.

Access to Tempe Municipal Court administrative records, including judicial officer, employee, and volunteer personnel records, and applicant records, is subject to [Arizona Supreme Court Rule 123: Public Access to the Judicial Records of the State of Arizona, Section \(e\)](#).

E. Employment Verification

Unless it is presented in the form of a public records request, which will be addressed in accordance with subsection D above, all requests for verification of employment for current or former employees must be referred to Human Resources. Departments shall not release any information on any current or former employee of the City, unless first authorized by the Internal Services Director, or as required by law.

The following information shall be disclosed by Human Resources upon request:

- Name
- Job Title
- Department
- Supervisor's Name
- Date(s) of Employment
- Salary

1. **Employees holding CDL licenses**

Information pertaining to driving records and drug and alcohol testing of employees who are required to have commercial driver licenses (CDL) shall be released in accordance with applicable law.

2. **Sworn Police Personnel Only**

[A.R.S. § 41-1828.01](#) requires the City of Tempe to advise a requesting Arizona law enforcement agency of a past or present employee's or past or present applicant's "known misconduct." The City of Tempe Police Department will be responsible for responding to such requests.

Rule 2: Classification & Compensation

Section 201: Classification Administration

A. Establishment of Job Classifications

The Internal Services Director is responsible for the establishment and maintenance of job classifications. Classifications may encompass one or more positions.

Departments will work with Human Resources to develop a description of the duties and responsibilities for any new position being requested. The position will be assigned to an existing classification if appropriate, or Human Resources will establish a new classification for the position. New positions are established upon approval by the City Council.

Each classification will be designated to fall within one of the following organizational levels: non-supervisor, supervisor, manager, deputy director, director or City Council appointee and will be assigned a job title, job code, salary range, minimum qualifications and [Fair Labor Standards Act \(FLSA\)](#) status. Classifications may also be grouped into various job families.

B. Job Descriptions

All classifications shall have a job description that provides information such as the purpose, reporting structure, essential functions, minimum qualifications, physical/mental requirements, competencies, licensing, certifications, and any other information regarding the classification requirements deemed necessary by the Internal Services Director. Essential functions of a classification listed in a job description are descriptive only and are not restrictive in nature. Supervisors may assign different job duties to a position when the duties and responsibilities are similar to those in the job description. Human Resources shall maintain and provide access to copies of all current job descriptions.

C. Changes to Job Descriptions

Changes to a job title and/or minimum qualifications or responsibilities in a job description may be requested by a department and shall be reviewed by Human Resources. These types of changes are updates only and shall not change the organizational level of the classification or the established salary range.

D. Reclassifications

Reviews of a job classification may be requested by a department. If Human Resources recommends changing a position's classification to a different organizational level and/or a different salary range, it is considered to be a *reclassification* and shall be approved by the department director and the Internal Services Director. Jobs may be reclassified to a different,

current classification, or to a newly established classification, whichever is deemed most appropriate by Human Resources. Reclassifications may occur under the following conditions:

1. Vacant positions may be reclassified prior to a recruitment and selection process to fill the position.
2. An occupied position may be reclassified if a competitive reclassification process is utilized to select the most qualified incumbent to fill the reclassified position.
3. An incumbent employee may have his or her position reclassified if there are other circumstances approved by the Internal Services Director and the City Manager.

E. Flexible Classifications

Flexible Classifications may be established by Human Resources if appropriate to allow flexibility in hiring and training less experienced applicants. Flexible classifications will incorporate two levels within one classification. Level I will be an entry or trainee level. Level II will be the full journey-level, with greater minimum experience, training, or licensing/certification requirements.

Employees hired at level I will be given no less than six months and no more than one year (unless otherwise specified and approved in the flexible classification job description), to work on the job in order to gain the minimum necessary experience, training, certification and/or licensing requirements to qualify for level II. Supervisors shall “flex” an employee to level II once the employee meets the additional minimum qualifications.

New employees hired into a level I position will remain on probation while in that position. Those who do not meet the requirements to flex to level II within the designated time frame may have their probation extended for not more than 6 months and, if extended, shall be placed on a Performance Improvement Plan (PIP).

Current non-probationary employees hired into a level I position who do not meet the requirements to flex to level II within the designated time frame shall be placed on a Performance Improvement Plan (PIP).

Flexible classifications may be established with different criteria if approved by the Internal Services Director and if all criteria is clearly documented in the classification job description.

Hiring supervisors may elect to recruit and hire employees at either level of a flexible classification. New employees hired directly into a level II position shall meet all additional minimum requirements of that classification and shall serve the usual new hire probationary period.

F. Abolishing Positions and Classifications

Any position not established by City Charter may be abolished by the City Council. Employees transferred, demoted, or laid-off because their position has been abolished do not have the right of appeal.

Any established job classification that no longer includes at least one position may be abolished by the Internal Services Director .

Section 202: Compensation Administration

A. Establishment of Salaries

The Internal Services Director is responsible for establishing a salary range for each classification through a market survey or other analysis and any other appropriate compensation review. The Municipal Court Presiding Judge establishes Court Commissioner salaries.

The City adheres to a policy of paying equal compensation to all employees who perform work under the same job classification unless a differential in compensation is made pursuant to the established seniority system or pursuant to any other factor, other than gender, that is part of the City's established compensation system.

Any employee's salary shall never be lower than the established salary range minimum. Unless governed by other provisions of these personnel rules, no employee's salary shall be higher than the established salary range maximum.

Any classification falling under a skill-based pay program may have an adjusted salary range as dictated by the written program provisions. Any such program shall be approved by the Internal Services Director.

Special salary increases may be granted with the approval of the City Manager unless the employee is at the maximum of his or her salary range.

Unless the result of a disciplinary action, any changes to salary or salary range adjustments are not subject to the personnel rules grievance procedure and cannot be appealed to the Merit System Board.

B. Salaries Determined by City Council

Starting salaries and any salary increases for the City Manager, City Clerk, City Attorney, Presiding City Judge and City Judges are determined by City Council.

C. Starting Salaries

New employees shall be hired at the minimum of the salary range for their classification. The City Manager shall approve any starting salary higher than the minimum requested by the hiring department director and justified based on special qualifications and/or experience held by the employee. Departments must provide the following information to the City Manager for consideration of approving a starting salary higher than the minimum:

1. The minimum of the salary range and the requested starting salary with the percentage difference;
2. The names, actual current salaries and hire dates of all other incumbents in the same classification as the new hire;

3. The qualifications, experience, education or any other factors outside the specific minimum qualifications for the classification that may warrant consideration of a higher starting salary.

D. Annual Salary Increases

The City Manager may negotiate any annual increases to salaries for employees governed under an MOU and determine any annual salary increases for other employees not covered under an MOU. All annual increases will be approved by the City Council. The increase for any individual employee cannot be more than the maximum of their classification's salary range.

Annual salary increases may occur in one of two ways:

1. An increase within the current salary range - a percentage increase cannot result in a salary higher than the maximum salary of the range.
2. An increase related to an upward "market" adjustment of the salary range. Only an employee whose salary is below a newly established minimum shall be eligible for an increase, and the adjustment shall only be up to the new minimum salary in the salary range.

E. Promotional Salary Increases

Employees who are promoted shall receive a 10% increase not to exceed the salary range maximum or be placed at the minimum of the new salary range, whichever is higher.

A promoted employee who is involuntarily demoted or seeks voluntary demotion to his or her former position or another position with the same or lower salary range within six (6) months of being promoted shall return to the rate of pay he or she was receiving prior to promotion, including any step or market increases that may have occurred.

F. Flexible Classification Salaries

Level I of a flexible classification shall have a salary range established with a minimum salary that is 10% below the minimum of the salary range established for the level II.

Employees who meet the requirements and are "flexed" to level II shall receive a 10% increase.

New employees hired into a level I or II position shall be governed under the provisions of [Section 202.C](#). Current employees promoted into a level I or II position will fall under the provisions of [Section 202.E](#).

G. Supervisory Salary Differentiation

When moving into a supervisory position, the employees' salary shall be at least 5% higher than the salary of his or her highest paid, fully and regularly supervised subordinate employee, disregarding any extra compensation of the subordinate employee, except assignment pay for MOU covered fire positions and maximum staffing pay for MOU covered police positions.

H. Reclassification Salary Adjustments

An employee selected to fill a reclassified position through a competitive reclassification process is considered to have been promoted and shall fall under the provisions in these personnel rules for promotional salary increases.

Any employee occupying a position that is reclassified, without a competitive process, to a classification with a higher salary range maximum shall not receive a salary increase unless it is to be placed at the minimum of the new range.

Any employee occupying a position that is reclassified to a classification with a lower salary range maximum shall have his or her salary frozen if the new salary range maximum is lower than their current salary. The employee shall receive no salary increases until the new salary range maximum is higher than the employee's salary.

I. Salary Range Adjustments

Adjustments to the minimum and maximum salaries of salary ranges may be made on a periodic basis following a market survey, a reclassification, or other appropriate review process conducted by Human Resources.

Employees occupying a position where the salary range has been adjusted upward shall not receive any increase to their salaries unless they are lower than the new minimum of the adjusted salary range, in which case their salaries shall be adjusted to the new minimum.

Employees occupying a position whose salary range has been adjusted downward shall have their salaries frozen if the new salary range maximum is lower than their current salaries. The employee shall receive no salary increases until the new salary range maximum is higher than the employee's salary.

J. Salary Reductions for Exempt Employees

Exempt employees may have their salaries subject to reductions for absences after all available accrued leave has been exhausted, in accordance with current [FLSA law](#).

K. Salary Reductions through Furlough Programs

In the event that the City of Tempe experiences a loss of revenues and utilizes employee furloughs to reduce salary expenditures, the City Manager may create a written policy establishing leave programs directly related to furlough implementation. Such leave programs shall be designed to better facilitate required salary reductions and may allow employees some input in determining which work days will be identified as furlough days. Any leave program created by the City Manager shall be temporary and only implemented during the furlough reduction period.

Section 203: Additional Compensation

A. Overtime Pay

Non-exempt (overtime eligible) employees working a standard work week, who work more than 40 hours within their established work period, shall be compensated at 1.5x their hourly rates of pay.

Overtime pay is calculated in accordance with the criteria established by the [FLSA](#). Overtime under eight minutes is considered de minimis and is not subject to overtime compensation. Overtime shall be pre-approved by the supervisor. Working unapproved overtime may result in disciplinary action.

Fire Medical Rescue employees who work 24-hour shifts receive overtime pay for hours worked in excess of 204 in a 27-day work period.

Excess hours worked as a result of an authorized shift trade are not eligible for overtime compensation.

Work performed on behalf of third parties is not governed by this section, and shall be paid at a rate established by contract with those parties.

B. Overtime-Compensatory Time

The City may substitute compensatory time in lieu of paid overtime in accordance with criteria established under the [FLSA](#).

Acceptance of this compensatory time policy is a condition of employment for all employees hired on or after April 15, 1986. Newly hired employees are required to sign a Memorandum of Understanding and Acceptance. Failure to do so is grounds for non-hire.

Employees working 40 hours per week may accrue up to 240 hours of compensatory time, which equates to 160 hours of actual overtime worked.

With supervisory approval and in accordance with current FLSA provisions, employees may use accrued compensatory time at their discretion.

C. Shift Differential Pay

Shift differential will be paid to non-exempt employees (excepting seasonal and temporary employees) who work shifts that include any hours between 10:00 p.m. and 4:00 a.m.

Two shift differential hourly rates, a lower and a higher rate, shall be established by the Internal Services Director and approved by the City Manager.

When working a shift which ends anywhere from and including 10:00 p.m. to 12:00 midnight, an employee will be paid the lower shift differential rate per hour for all hours of the work shift.

When working a shift that includes work between the hours of 12:01 a.m. and 4:00 a.m., an employee will be paid the higher shift differential rate per hour for all hours of the work shift.

Shift Differential is not paid to an employee receiving overtime pay or any other additional pay component that already compensates for hours worked outside his or her regular shift.

Shift differential is not paid to employees on paid leave.

D. Stand-By Pay

Regular, full or part-time, non-exempt employees scheduled for stand-by duty are paid an hourly rate (as established by the Internal Services Director and approved by the City Manager).

To be eligible for stand-by duty, employees must meet all of the following requirements:

1. Be able to respond to call-outs in a work-ready condition within 30 minutes of notification unless the Department Director determines otherwise in accordance with department policy.
2. Refrain from consuming alcoholic beverages or using any intoxicant, including prescribed or over the counter substances, that may impair one's ability to satisfactorily perform required job duties.
3. Be accessible by phone.
4. Not be on any type of paid or unpaid leave, except holiday off.

Stand-by duty does not count as hours worked for overtime eligibility; however, stand-by pay is included in the calculation to determine hourly rate of pay for overtime purposes. Stand-by shall not be paid in conjunction with any other type of compensation except "holiday off" pay if approved by the department to meet the needs of the City. Stand-by duty is not an entitlement and shall be fairly distributed among all eligible employees. If a participating employee does not respond to a call for service within a time period designated by the department without a verifiable, valid excuse, the employee will forfeit stand-by pay for that shift and may be subject to disciplinary action. Departments may develop additional guidelines and policies for stand-by duty to address organizational needs.

E. Call-Back Pay

Non-exempt employees (except seasonal and temporary employees) may be eligible for call-back pay if responding to a supervisor's request to return to work or responding to a supervisor's or customer's request to address a work issue occurring outside of their normal work schedules. Any work outside of the normal work schedule that is self-initiated by an employee is not eligible for call-back pay. All call-back pay shall be documented, reviewed and approved by the employee's supervisor. Call-back pay is included in the calculation to determine hourly rate of pay for overtime purposes. Employees on paid leave are eligible to be paid call-back pay, but if any of the call-back hours are during their regular work shifts, they shall not receive paid leave for those hours.

If required to return to work after the end of his or her work shift, an employee shall receive a minimum of two hours call-back pay at the overtime rate. Employees shall be compensated for a total (round-trip) of 30 minutes of travel time from the time they are called out. Travel time is included in the minimum two hours pay and will only be paid in addition to actual hours worked if the total work hours plus the allowed travel time exceeds two hours.

An employee may not be paid for more than one call-back at a time. When call-back hours overlap the employee's regular work schedule, call-back pay ends when the regular schedule begins or when the two hour minimum for call-back pay is met.

An employee called back because of his or her negligence shall be compensated at straight time for actual time worked, may have the remainder of his or her regular schedule adjusted to avoid payment of overtime, and may face disciplinary action.

An employee called to address a work issue that does not require him or her to come in to work, shall receive one hour of pay at the overtime rate or the actual time worked, whichever is greater, only if the work involved, including the call itself, is not de minimis as defined in [Section 203.A](#). An employee cannot receive more than one hour of call-back pay when called to address a work issue that does not require him or her to come in to work unless the employee actually works more than 60 minutes.

F. Holiday Worked Pay

1. Working on a City-observed Holiday

A non-exempt employee required to work on a City-observed holiday shall receive 1.5X his or her regular hourly rate of pay for each hour worked in addition to his or her regular pay.

An exempt employee required to work on a City-observed holiday shall be given a substitute day off during the same pay period. If a substitute day off cannot be scheduled due to documented operational need, the employee shall be paid an additional eight hours of pay at his or her regular rate.

2. When a City-observed Holiday Falls on a Non-Workday

An employee shall be given a substitute day off during the same pay-period when a holiday falls on his or her non-work day. If a substitute day off cannot be scheduled due to documented operational need, the employee shall be paid an additional one day of pay at his or her regular rate.

G. Emergency Closure Pay

If employees are required to leave work during one of their regularly scheduled work days due to an emergency closure, they will be paid for the balance of their scheduled hours for that day.

If the emergency closure continues and employees are instructed to not report to work, they will be paid emergency closure pay up to a maximum of 40 hours for any regularly scheduled

work hours that occur during the closure. If the closure continues beyond that time, employees may elect to utilize their accrued compensatory time or vacation leave or may elect leave without pay.

Employees required to work during an emergency closure may be required to change their schedule and will not receive emergency closure pay for hours of their regular schedule that they do not work unless the total hours paid for a work week are less than their usual work schedule.

Emergency closure pay shall not count as time worked towards the calculation of eligibility for overtime pay.

Emergency closures can only be authorized by the Mayor and/or the City Manager.

H. Temporary Detail Pay

With his or her agreement, an employee may be assigned temporarily by their supervisor to a vacant position in a classification with a higher salary range.

Employees assigned to temporary detail shall receive a minimum of 5% to a maximum of 10% above their salary for the duration of the assignment, or the department director may authorize paying the employee at the minimum of the salary range for the higher classification (if that minimum is more than 10% higher than the employee's salary) based upon the scope and degree of the duties performed and the duration of the assignment.

The supervisor will determine when temporary detail pay may be appropriate. The employee must fully perform the duties and responsibilities of the higher classification for a minimum of one full work day to receive temporary detail pay. Employees providing emergency services shall be paid temporary detail pay if they work four hours or more in a higher-classified position.

Temporary detail pay is limited to six months. An extension requires review and approval by the Internal Services Director. Human Resources must be notified of all temporary detail assignments lasting longer than two pay periods.

I. Temporary Special Assignment Pay

With his or her agreement, an employee may be assigned temporarily by his or her supervisor, with department director approval, to assignments that involve work outside his or her regular job duties and responsibilities.

Temporary special assignments may be up to six months duration. An extension requires review and approval by the Internal Services Director. Selection for a temporary special assignment may involve a competitive process but is not appealable under these rules.

Employees on special assignment lose no rights or entitlements held in their regular positions.

An employee on special assignment receives a minimum of 5% to a maximum of 10% (above his or her current base pay) special assignment pay that is immediately discontinued when the employee returns to his or her regular position. Special assignment pay higher than 10% must be reviewed and approved by the Internal Services Director .

J. Uniform, Safety Gear and Tool Allowances

Regular employees who perform work requiring a uniform, safety gear and/or tools may be provided those items through their department or provided with an allowance to cover certain costs as established by departmental policy and/or MOU provisions.

K. Bilingual Pay

Regular employees in a position that requires either significant (defined as regular and frequent) or occasional interaction with the public using a language other than English may receive bilingual pay as established by administrative policy. Eligible employees must receive authorization from their department directors and successfully complete the required competency examination for their positions. Employees who participate in the program may be required to be re-certified at the discretion of their department directors. Employees who do not successfully pass the competency examination will be removed from the program and their bilingual pay will be discontinued. Employees must wait 60 days before re-testing.

Employees are not eligible to receive additional compensation for speaking additional languages. Compensation for part-time employees will not be pro-rated. Employees on paid or unpaid disability leave will not be paid bilingual pay. Compensation will be discontinued once an employee's participation is no longer authorized by the department director; or the employee has voluntarily withdrawn from the program; or has been transferred, promoted, or demoted to a position that no longer requires interaction with the public in a language other than English.

Employees who participate in the program must be available on a regular basis and may be required to be available for standby and/or call-back situations during non-work hours.

L. Skill-Based Pay

Any employee in a classification falling under a skill-based pay program may be eligible for additional compensation in the form of skill-block pay and/or team-bonus pay as dictated by the written program provisions and compensation plan.

M. Compensation Agreements

The City Manager may establish specific compensation and benefits agreements governing provisions in this section and in [Section 202](#) for classifications not governed under an MOU and where organizational need dictates. Any such agreements will be in writing and shall be reviewed by the Internal Services Director .

Rule 3: Employment

Section 301: Requirements for Employment

A. Citizenship and Authorization to Work

The City adheres to Federal and State requirements to review evidence of United States citizenship or authorization to work in the United States.

The Arizona Peace Officer Standards and Training Board (AZPOST) requires United States citizenship for any person prior to appointment to a sworn law-enforcement position ([Arizona Administrative Code, Title 13, Article 1, R13-4-105 A.1](#)).

B. Residency

The City Manager, the City Attorney, the Presiding Judge, the City Clerk, the Deputy City Manager(s), the Police Chief, the Fire Medical Rescue Chief and department directors for Public Works and Internal Services shall be residents of Tempe within a time period after their appointment dates designated by the City Council or the City Manager, respectively.

All other City employees shall reside within a reasonable distance of the City. A reasonable distance is defined as a distance that does not prevent employees from meeting the requirements established for their jobs by the department director.

C. Physical and Mental Fitness

All employees shall be of sufficient mental and physical condition to satisfactorily perform the essential functions of their positions. Post offer, pre-employment and fitness-for-duty physical and/or mental fitness examinations by City-approved physicians may be required and shall be paid for by the City. Any additional examinations, tests, or analyses required for post-offer, pre-employment physicals may require payment by the applicant.

The City will comply with the [Americans with Disabilities Act, 42 U.S.C. § 12101 et seq.](#) (“ADA”). This means, generally, that unless it would cause undue hardship to City operations, the City will provide a reasonable accommodation to any employee with a disability known to the City. A “disability” for this purpose is defined by the ADA, as a physical or mental impairment that substantially limits an employee in one or more major life activities.

The employee or representative may initiate a request for accommodation by contacting his or her direct supervisor or Human Resources. The request should identify an adjustment or change at work that, due to a disability, is needed for the employee to perform an essential job function. The City is unable to provide an accommodation if it is not aware of the need.

D. Employment of Relatives

No employee shall directly supervise a relative, be directly supervised by a relative, or exercise any administrative responsibility for any employment-related decisions over a relative, as “relative” is defined at the end of this sub-section.

Temporary (non-benefitted) employees may work in the same department, but not the same division, as a relative who is a regular City employee.

If a situation that violates the previously listed provisions is created by marriage, establishment of a domestic partner relationship, or for any other reason, one of the employees shall submit a request to the Internal Services Director for a transfer. While the City will make every reasonable effort to facilitate an appropriate transfer, if a transfer cannot be made within 90 days of the event creating the violation, the related employees shall take any necessary action to cure the violation, including one employee resigning from City service and choosing to be placed on a lay-off list. The Internal Services Director shall review such situations and, if extenuating circumstances exist, may request the City Manager to approve another course of action.

“Relative” includes all of the following:

Spouse	Grandparent (in-law & step)
Domestic Partner	Grandchild (in-law & step)
Child (foster & step)	Aunt
Parent (in-law & step)	Uncle
Sister (in-law & step)	Nephew
Brother (in-law & step)	Niece
Son/Daughter in-law	

E. Loyalty Oath

To the extent that it is required by Arizona law, every City employee shall sign the loyalty oath prior to beginning employment with the City.

F. Background Investigations

The Internal Services Director shall, in accordance with state and federal privacy and security laws, examine criminal history information from and through the [Arizona Department of Public Safety \(DPS\)](#) and the [Federal Bureau of Investigation \(FBI\)](#) and driving records through the [Arizona Department of Transportation, Motor Vehicle Division \(MVD\)](#), concerning any employee or applicant. The same information will be reviewed for any prospective volunteers who will either be in direct contact with minors or incapacitated adults while not under direct supervision of a regular City employee or a prospective public safety volunteer as authorized by [A.R.S. § 41-1750](#).

NOTE: The following provision does not apply to applicants for Police Department positions, both sworn and non-sworn.

Applicants for City positions will not be required to provide criminal history information during the application process and no criminal background questions will be on the application.

Applicants selected as finalists must complete a criminal background questionnaire prior to participating in a second interview or other finalist selection process. Successful applicants will

be fingerprinted and a criminal background check completed as a condition of accepting employment.

As appropriate, additional background checks may be conducted for employees whose job duties require access to highly confidential information.

G. Temporary Employment

Temporary employment is not to exceed 24 months unless approved by the Internal Services Director. Longer temporary employment is restricted to positions requiring a considerable period of training and preparation, where a change of personnel would have an adverse effect on the program, or those funded by non-City money, for example, grants. Ongoing seasonal employment does not require re-approval.

Supervisors should limit the hours worked by temporary and seasonal employees to less than twenty (20) per week unless services and/or programs would be negatively impacted, as employees who work 20 or more hours per week for more than 20 weeks in a fiscal year are required to contribute to the Arizona State Retirement System.

Section 302: Recruitment

A. Concurrent Recruitments

1. All vacant positions shall be recruited for initially using a competitive, concurrent (internal and external) process overseen by Human Resources.
2. When a concurrent recruitment results in an eligibility list (applicants meeting the minimum qualifications) with five or more internal applicants, the hiring supervisor is required to first conduct a selection process for only the internal applicants.
3. Hiring supervisors shall not be permitted to review applications from external applicants if an internal selection process is required to be conducted first. External applications will be provided for review only after an internal selection process does not result in the position being filled.
4. Only regular employees who have completed their initial probationary period may apply as internal applicants. An employee shall no longer be considered as an internal applicant upon termination of employment with the City.
5. Current temporary/seasonal employees who meet all of the following criteria shall be eligible to apply as an internal applicant:
 - The temporary/seasonal employment must be directly with the City and not through a temporary agency or under a contract;
 - The employee must have worked a minimum of 1040 hours during the past four years in his or her current temporary/seasonal position;
 - The employee must have completed an application for his or her temporary/seasonal position and that application must be on file in his or her employee file in Human Resources.

B. Internal Recruitments

1. Hiring supervisors may request to be exempted from the requirement of Section [302.A.1](#) and conduct an internal only recruitment. Such requests shall be reviewed by the Internal Services Director .

2. Any competitive internal recruitment processes shall be overseen by Human Resources.

C. Applications and Minimum Qualifications

Internal and external applicants must submit a City application and any required supplemental forms to apply for a vacant position.

All classification job descriptions include requirements for minimum qualifications related to experience, education, training and/or certifications.

Any application may be rejected for the following reasons:

1. The applicant does not meet, or the application does not document, the required minimum qualifications for the positions.
2. The applicant has made a misstatement of any material fact or has practiced any deception or fraud in his or her application.
3. The applicant has either been convicted of a crime involving moral turpitude or has been convicted of a crime that is directly related to the duties and responsibilities of the desired position.

D. Suspension of Recruitment & Selection Policies

In the event that the City of Tempe experiences loss of revenues or legal requirements that, if not resolved, would result in the lay-off of City of Tempe employees or the serious curtailment of services provided to the residents of Tempe, the City Manager may suspend [Section 302: Recruitment](#) and [Section 303: Selection](#) of the Personnel Rules for a finite period. During such times, a written policy shall be developed that establishes a system in which current employees who are in positions targeted for elimination may, prior to lay-off, be placed in vacant or newly created positions in a fair and equitable manner, as determined by the City Manager.

Section 303: Selection

A. Selection/Hiring Priority

Vacancies in classified service positions are filled by one of the following methods listed in order of priority:

1. Administrative transfer
2. Demotion (administrative or disciplinary)
3. Hiring from a lay-off list
4. Hiring from an existing eligibility list

B. Eligibility Lists

Eligibility lists are established by classification following recruitments and list in alphabetical order all applicants who meet the minimum qualifications. Additionally, employees who are laid off are placed on a lay-off list. Hiring supervisors shall select applicants for further consideration from existing lists in the following priority:

1. Lay-off
2. Internal applicants if there are five (5) or more on the list
3. All applicants if there are four (4) or less internal applicants on the list

The duration of eligibility lists is six (6) months but may be extended upon approval of the Internal Services Director. When an existing eligibility list has three or fewer names, the department director may elect to retire the list with the approval of the Internal Services Director.

C. Selection Processes

The City of Tempe Charter in Article IV, Section 4.02(a) states:

All appointments and promotions of City officers and employees shall be made solely on the basis of merit and fitness demonstrated by examination or other evidence of competence.

Selection processes will be job-related and may include interviews, written exercises, performance reviews, physical/mental fitness testing, background reviews and any other appropriate method of evaluation.

Alternate job-related selection processes will be used where possible and appropriate to accommodate disabled applicants.

Veteran preferences shall be as provided per [Arizona Revised Statute § 38-492](#).

Post offer, pre-employment medical examinations may be required for some positions.

Examinations are given by a medical provider designated and paid for by the City. The applicant may be required to pay the cost of any additional tests, analyses or examinations not required

by the City and/or required for further clarification of any medical condition. The City will review reasonable accommodations under the ADA if necessary.

D. Orientation & Probation

All new employees shall attend a mandatory City orientation program. Departments and divisions also may provide additional orientation sessions for employees.

New employees hired into a classified position remain in an unclassified status during a probationary period with no rights to an administrative review or appeal to the Merit System Board. They become classified employees only after satisfactory completion of probation.

The minimum and usual probationary period is six months. Some classifications, as noted in their job descriptions, require a longer probationary period. Police Officers and Firefighters shall complete a probationary period of 12 months following graduation from recruit training academy.

Excused absences, including industrial leave, of up to 20 working days, or ten working days for 56-hour Fire employees, are credited toward completion of probation. Absences in excess of those days are not credited towards completion of probation.

Probation may be extended by the supervisor with Department Director approval, not to exceed an additional six months. When performance issues warrant extension of an employee's probation, the employee shall be placed on a Performance Improvement Plan.

Probationary employees are not eligible for pay increases unless it is to be placed at a new pay range minimum that is higher than their salary.

Section 304: Employment Changes

A. Administrative Transfer

Employees may be administratively transferred from one position to another within the same classification and to a *different* department* or from one classification to another classification at the same organizational level and with the same salary range either within the same department or to another department. The employee shall meet the minimum qualifications for that classification. The transfer must be in the best interest of the City and/or the betterment of the employee. The impacted department director(s) and the Internal Services Director shall approve the transfer.

Employees who are administratively transferred retain the rate of pay and all benefits of the original position if the new position is governed under the same MOU or personnel rule as the previous position.

*Transfers within the same classification *within* a department are considered a change of assignment only and may occur at the discretion of the department director.

B. Voluntary Transfer

Employees wanting to transfer from one position to another position in the same classification, unless it is an approved change of assignment within a department, shall compete through an internal or external recruitment and selection process. If selected for the position, it will be considered a voluntary transfer. Any employee selected through a competitive recruitment process for a position in a different classification with the same salary range as his or her previous classification also will be considered to have voluntarily transferred.

Employees who are voluntarily transferred retain the rate of pay and all benefits of the original position if the new position is governed under the same MOU or personnel rule as the previous position.

C. Administrative Demotion

Employees may be administratively demoted from a position in one classification to a position in another classification with a lower salary range maximum. The employee shall meet the minimum qualifications for the classification. The demotion must be in the best interest of the City and/or for the betterment of the employee. The impacted department director(s) and the Internal Services Director shall approve the transfer. Administrative demotions are not disciplinary in nature.

An employee who is administratively demoted may retain his or her rate of pay, even if it is higher than the maximum of the range of the classification into which he or she is demoted. If that occurs, the employee shall receive no salary increases until the salary range maximum of the new classification is higher than his or her "red-lined" salary. Reducing the employees rate of pay to the maximum of the range of the new classification may occur if appropriate with City

Manager approval. All other benefits remain the same unless governed under a different MOU than the previous position.

D. Disciplinary Demotion

An employee demoted as the result of a disciplinary action cannot be paid at a higher salary than the maximum of the range of the classification into which he or she is demoted and shall receive a minimum 5% reduction in salary from the position held prior to the demotion. The employee shall meet the minimum qualifications for the classification into which he or she is demoted. Disciplinary demotions can be appealed.

E. Voluntary Demotion

Employees wanting to voluntarily demote from one position to another position in a different classification with a lower salary range maximum shall compete through a recruitment and selection process. If selected for the position, it will be considered a voluntary demotion.

An employee who voluntarily demotes cannot be paid at a higher salary than the maximum of the range of the classification into which he or she is demoted. All benefits remain the same unless governed under a different MOU than the previous position.

Section 305: Termination of Employment

A. Resignation

An employee resigning from the City shall verbally notify and/or submit a written resignation notice to his or her supervisor at least ten working days prior to separation. Failure to comply with this requirement may be cause for denial of future employment with the City. The supervisor shall forward all resignation paperwork to Human Resources.

Once the City has received a resignation notice, it may only be rescinded at the discretion of the department director, which must occur prior to the effective date of the resignation.

At the discretion of the department director and with the approval of the Internal Services Director, an unauthorized leave of absence of more than three consecutive working days may be considered a resignation (job abandonment).

B. Retirement

Separation from City employment when an employee is immediately eligible for retirement benefits from ASRS or PSPRS will be considered a retirement. Any City post-employment benefits and/or accrued leave payouts also require a minimum of 10 years of continuous service.

Employees retiring from the City shall verbally notify and/or submit a written retirement notice, and any other required paperwork, to their supervisors and to Human Resources at least 30 working days prior to their separation if they are intending to immediately take ASRS or PSPRS retirement benefits.

Once the City has received a retirement notice, it may only be rescinded at the discretion of the department director, which must occur prior to the effective date of retirement.

C. Severance Agreements

The City Manager may, in his or her sole discretion, negotiate and execute severance agreements with City employees for an amount not to exceed the employee's total salary for a six month period. Any such agreement shall contain, at a minimum, a full release of liability and waiver of all claims by the employee in favor of the City. To the extent permitted by the City Charter, any negotiated severance agreement which exceeds six months total salary shall require approval by the City Council.

D. Layoff

A layoff may occur when one or more of the following conditions exist:

- Lack of work for the employee or the employee's work group or lack of funds to pay the current workforce.
- Contractual or technological changes that affect the need for the employee or affect the employee's qualifications for a job.

- Business necessity.
- Other appropriate reasons as determined by the City Manager.

1. **Selection for Layoff**

The City Manager shall determine the specific position(s) or classification(s) targeted for elimination. A minimum of 90 calendar days' notice shall be provided to any employee targeted for layoff.

Non-essential, unclassified employees, as determined by the City Manager, shall be laid off before any regular employees.

Selection of regular (benefitted) employees for layoff shall be based on seniority defined as total years of current consecutive service (including years, months, and days) as a regular City of Tempe employee.

- a) Seniority shall not include time worked prior to retirement from the City for employees who were rehired after retirement. (This does not include employees participating in the PSPRS Deferred Retirement Option Plan).
- b) Regular, part-time employees shall have their years of service prorated based on the number of hours worked per week.
- c) When two or more employees in the same classification with positions targeted for lay-off were hired as regular employees on the same date, any time worked as a temporary employee for the City shall be included in determining seniority.
- d) A random drawing shall be held by the City Manager, to determine which of two or more employees hired on the same date (who do not have temporary employee service time) shall be laid-off.
- e) For sworn police officers and sergeants, seniority is defined as consecutive years of service with the Tempe Police Department.
- f) A part-time employee in a classification with positions targeted for elimination shall move or bump into a full-time position, if required, or be laid-off.

Employees who believe they were selected for layoff for any reason other than seniority may appeal their selection to their department directors, in consultation with Human Resources, within five days of receipt of their layoff notice. Layoffs are not appealable to the Merit System Board.

2. **Bumping Options**

When a specific position is targeted for elimination, the incumbent employee shall have the right to any one of the following options, if applicable, instead of being laid off:

- a) Bump an employee in the same classification with less seniority within the department or in another department.
- b) Bump an employee with less seniority from lower classifications within that job family.
- c) Bump an employee with less seniority who is occupying a position in a classification the targeted employee previously held.

No employee shall bump into any position for which he or she does not meet the minimum qualifications. When an employee transfers into another position in the same classification, it will be handled as an administrative transfer (see [Section 304 A.](#)). When an employee bumps into a lower classification, the move shall be treated as an administrative demotion (see [Section 304 C.](#)).

Employees eligible to bump shall notify Human Resources within ten business days of notification of layoff which option the employee has chosen. Failure to notify Human Resources of the option chosen within ten business days is a waiver of the employee's right to bump to another position. An employee who elects to bump shall be considered a displaced employee.

3. Reinstatement after displacement or layoff:

Names of displaced and laid off employees are kept on a layoff reinstatement list for two years from the date of each displacement or layoff.

- a) If the specific position from which an employee was displaced becomes vacant, that employee and any other employees displaced from the same classification will be offered the opportunity to be reinstated to that position. The employee with the most City seniority will be selected.
- b) If the specific position from which an employee was laid off becomes vacant, that employee and other employees laid off from the same classification will be offered the opportunity to be reinstated to that position. The employee with the most City seniority will be selected.
- c) If a position in the same classification that displaced or laid off employees occupied immediately prior to their displacement or lay-off becomes vacant, those displaced or laid off employees will be offered the opportunity to be reinstated to that position in order of their seniority.
- d) Laid off employees may apply for reinstatement to any vacant City position through an internal or external recruitment process but shall be required to compete for positions in classifications other than the one from which they were laid off and must meet the minimum qualifications for any classification for which they apply.

When a position becomes available, the City will make every effort to notify those on the list. However, it is the individual's responsibility to apply for any position the employee did not occupy at the time of their displacement or lay-off.

Those reinstated from the list, who return to their previously held positions or to another position in the same classification, or to a position in a classification with the same salary range, shall return to the salary they had at the time they were displaced/laid off. Displaced employees reinstated to their previously held positions are not eligible for a promotional pay increase.

Reinstated laid off employees resume their employment without any loss of seniority and their vacation accrual rate, unreimbursed sick leave, any forfeited Mediflex monies, and any other applicable benefits will be restored (see [Section 306 A.](#)).

Section 306: Re-employment

A. Reinstatement

A regular employee who resigns from City service after completing his or her probationary period may request in writing to the department director and the Internal Services Director to be reinstated to his or her position if it is vacant and if it is within 30 calendar days of his or her resignation. If the request is approved, the reinstatement must occur within two weeks of the approval.

Reinstated employees will return to the same salary and benefits as when they left and will not be considered to have had a break in service, although their service date with the City will be adjusted to remove the time they were gone. Their vacation accrual rate, any unreimbursed sick leave, any forfeited Mediflex monies, and any other applicable benefits will be restored.

Former employees who were laid off and who are returning to City service from an active lay-off list into any City position will fall under this reinstatement provision; however, no adjustment will be made to their service date with the City as their period of lay-off will be considered City service.

Employees who retire from City service are not eligible for reinstatement.

B. Rehire

Regular employees who resigned from City service after completing their probationary period may be rehired (if not eligible for reinstatement) if they apply for and are selected through an external recruitment and selection process for any City position.

Former employees rehired within one year of their resignation date may be required to submit to hiring requirements as new employees and may be required to serve probationary periods as determined by the department director.

Employees rehired within one year of their resignation date shall have their service date adjusted to account for the break in service, but are then considered to have continuous service, and will have their vacation accrual rate, 20% of any unreimbursed sick leave, and any other applicable benefits restored. Rehired employees are required to serve the waiting period for health insurance.

Any former employee who is hired by the City into any position more than one year following his or her resignation date is considered to be a new hire and is not eligible for any of the previously listed provisions. Any employee who retires from City service and is hired by the City at any time after his or her retirement is not eligible for any of the previously listed provisions and will be considered a new hire.

C. USERRA-Return to Work

Any employee who is on approved leave from City service to enter active duty in the armed forces, voluntarily or involuntarily, will be covered under the provisions of the [Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. §§ 4301 et seq.](#), (USERRA) on his or her return to work for the City.

Section 307: Work Schedules

A. Work Week, Work Schedules & Shifts

The City's standard work week shall be seven consecutive days commencing on Monday morning at 12:01 a.m. and ending the following Sunday at midnight. Each pay period shall cover two work weeks.

The standard full-time work schedule is five, eight hour days, or 40 hours in a work week. If consistent with City and departmental operation and with department director approval, alternative work weeks and schedules (e.g. "flex" schedules) for regular employees may be established in any manner consistent with provisions of the FLSA. Standard flex schedules are "9/80" schedules (eight days working nine hours and one day working 8 hours over a two week pay period) or "4/10" schedules (eight days working ten hours over a two week pay period). Other flex schedules may be established only with approval through Human Resources and Payroll. (In accordance with FLSA, an alternative work week shall be any fixed and regularly recurring period of seven consecutive 24 hour periods).

All schedules for non-exempt employees shall be entered in the City's payroll system and updated immediately when approved schedule changes are made. Alternative work schedules are not an entitlement and may be revoked at the discretion of the supervisor with appropriate notification.

Full-time work schedules consist of shifts of eight or more hours in 24 hour periods within the established work week. Any shift in progress at midnight, 12:00 a.m. Sunday shall be included as part of the work week in which that shift commenced.

The Fire Medical Rescue Department operates a 27-day work schedule under [§ 207\(k\)](#) of the FLSA. The Fire Medical Rescue Chief specifies the work duty cycle for sworn Fire employees assigned to 24-hour shifts (not more than 216 hours per pay period) over the 27 consecutive calendar days (648 hours).

B. Shift-Trades

Shift trading is permitted only as dictated by the provisions of [§ 7\(p\)\(3\)](#) of the FLSA. If a division or department, with department director approval, allows employees to trade shifts, employees shall notify their supervisors each time they agree to a trade. Each employee will be paid as if he or she had worked his or her usual schedule for that shift, so time worked as a result of trading shifts is not counted as hours worked for overtime purposes, nor can it be paid as either straight time or overtime. Employees working a shift through a shift trade that falls on a holiday are not eligible for any additional pay. All shift trades must be made voluntarily by employees and shall not be made for performing off-duty employment. The unfilled obligation resulting from failure of any employee to pay back a shift trade is not assumed by or transferred to the City, is not the responsibility of the City, and is not grievable.

C. Breaks and Lunch Periods for Non-Exempt Employees

Non-exempt employees who work at least eight hours in a shift may be allowed two, 15 minute paid breaks. Breaks, which are not guaranteed, are scheduled by the supervisor who shall ensure that work areas are covered. Breaks cannot be combined together, combined with a lunch period, or “banked” to shorten the workday. Compensatory time or overtime pay is not granted for breaks not taken or for work performed during a break.

Unpaid lunch periods should be scheduled by the supervisor for non-exempt employees working six hours or more a day and may be scheduled for non-exempt employees working less than six hours with approval of the supervisor and employee. The lunch period should be either one half-hour or one hour and scheduled by the supervisor.

Except as follows, non-exempt employees must be completely relieved from all job duties during a lunch period. Any work done during a lunch period requires supervisory approval and requires the employee to be paid for the full lunch period.

- Sworn Police employees on patrol receive a paid one half-hour scheduled lunch period, when possible. They respond to all calls during meal periods.
- Fire employees working 24-hour shifts eat during paid time. They respond to calls during meal periods.
- Water Plant Operators and Water Security Officers must remain on duty during their entire shifts and are paid for their one half-hour lunch period.

Section 308: Alternative Working Arrangements

Working at any site other than the usual workplace, for example telecommuting, on any regular basis, or working a reduced schedule, for example job-sharing, are alternative work arrangements that a department may offer to some employees when it would benefit the City and the employees. An alternative working arrangement does not change the basic terms and conditions of employment with the City and is a management option, not an employee entitlement. The department director has the right to determine which positions may be suitable for an alternative working arrangement, to refuse to make such arrangements available to any employee, and to terminate an arrangement at any time.

Section 309: Light Duty

A. Light Duty, Non-Job Related

If granted, light duty assignments are a privilege and may not be considered a right or entitlement. Light duty is intended for employees with a non-job related temporary illness, injury, or medical condition and may be provided only if there is a reasonable expectation that the employee will resume his or her regular duties at the end of the light duty assignment.

Every light duty non-job related assignment must be approved in writing by both Human Resources and the employee's department and only after an employee completes a written request for light duty and provides medical documentation to support the request. Such assignments may be approved for an initial period up to 90 calendar days. Light duty is not guaranteed and if no suitable assignment is available, the employee will be required to take medical leave until released to full unrestricted duty by a medical provider. Light duty assignments may only be available for part of the employee's normal schedule, requiring the employee to take medical leave for the remainder of the time.

An employee may request in writing an extension of a light duty assignment up to an additional 90 calendar days. The employee shall provide supporting medical documentation, and the request must be approved by the department director.

Extensions of light duty assignments beyond 180 days must be approved by the department director and the Internal Services Director and cannot exceed up to an additional 180 days.

An employee on light duty has no rights to a light duty position or task no matter how long he or she is on light duty.

B. Light Duty On-the-Job

Light duty assignments for on-the-job injuries, illnesses or medical conditions will be made in accordance with requirements of the Arizona Industrial Commission and current federal and state workers compensation law. All light duty assignments for on-the-job injuries will be handled through and approved by Risk Management.

Rule 4: Code of Conduct

Section 401: Ethics and Workplace Behavior

A. Standard of Conduct

It is the policy of the City of Tempe to uphold, promote and demand the highest standard of ethics from all of its employees. Accordingly, all City employees should maintain the utmost standards of personal integrity, truthfulness, honesty, and fairness in carrying out their public duties, avoid any improprieties in their roles as public servants, and never use their City positions or powers for improper personal gain.

Tempe Municipal Court employees are subject to the [Arizona Code of Judicial Administration, Section 1-303: Code of Conduct for Judicial Employees](#). Judicial officers are subject to the Arizona Code of Judicial Conduct, Arizona Supreme Court Rule 81. The minimum standards provided in the Code of Conduct for Judicial Employees and Arizona Code of Judicial Conduct do not preclude the adoption of more rigorous standards. In circumstances of conflicting conduct requirements, the more stringent standard is applicable.

B. Political Activity

1. Tempe Municipal Elections

The City Charter Section 9.01 prohibits all employees from engaging in certain political activities in Tempe municipal elections. For example, employees are prohibited from soliciting or attempting to solicit support for a candidate involved in a Tempe municipal election from any employee or appointed official. Additionally, employees are prohibited from taking part in the campaign of a candidate in a Tempe municipal election, but may exercise any other rights of a qualified elector.

2. Other Municipal, State & Federal Elections

Employees may exercise their rights as citizens to vote and to express opinions as an individual citizen, but not as a representative of the City of Tempe.

Employees may exercise their right as citizens to sign petitions during non-work hours and while not in uniform.

No paid employee shall use his or her position to sell, solicit, or distribute any campaign material during working hours and/or in a uniform used by or identified with the City government.

No paid employee shall use his or her position to introduce, guide or recommend any candidate for public office on City property.

3. Employees Holding Public Office

No paid employee shall seek election to public office with the City of Tempe while still employed by the City.

C. Gifts and Gratuities

No one seeking hire or promotion to a City position or appointed office shall directly or indirectly give any money, service or other item to any person in connection with his or her hire, promotion, or proposed appointment.

No employee or individual holding appointed office shall accept a fee, gift, service or other item in the course of performing the duties and responsibilities of his or her position, if the gift is given in hope of receiving a favor or preferred treatment or if the gift is given after receipt of the favor or preferred treatment.

D. Outside Employment, Activity, or Enterprise

Employees may engage in employment other than their jobs with the City under the following conditions:

1. Approval

Before entering into outside employment, an employee must obtain prior written approval from his or her direct supervisor and department director on an "Outside Employment Request" form. The completed form shall be sent by the supervisor to Human Resources for review and placement in the employee's personnel file.

2. Re-approval

The employee shall obtain re-approval for any changes, additions, or deletions to his or her outside employment circumstances or if any changes occur with his or her City position. Any such changes shall be reported to his or her supervisor within 30 days. Re-approval shall be forwarded to Human Resources for placement in the employee's personnel file.

3. Requirements

An employee shall not engage in outside employment that constitutes a conflict of interest, or the appearance of a conflict of interest, with the employee's City duties and responsibilities.

An employee shall not engage in outside employment that is inconsistent or incompatible with the employee's City duties and responsibilities, working hours, assignments, or emergency assignments. The written approval of outside employment may restrict the number of hours an employee may work at outside employment.

An employee shall not engage in any outside employment activities at any time during the employee's City of Tempe on-duty shift or while on site of the employee's City employment. On site includes City vehicles, property, and facilities. Employees may conduct outside

employment activities during meal periods and work breaks only with the written approval of their direct supervisors.

An employee shall not use City of Tempe property or equipment for outside employment purposes at any time. This restriction includes computer hardware and software, email, internet, copiers, faxes, calculators, office equipment and supplies, telephones, vehicles, heavy equipment, furniture, buildings, and facilities.

An employee shall not provide under any circumstances outside employment services that are directly related to an employee's City of Tempe job to the employee's City of Tempe job-related external customers or contacts. Incidental outside employment contact may be acceptable unless it constitutes a conflict of interest or perceived conflict of interest.

City of Tempe employees shall not solicit, market, or make recommendations about their outside employment activities to their City of Tempe position-related external customers or contacts.

4. Appeal for denial of request

- a) The employee may appeal a department director's denial of a request for outside employment through Human Resources. Representatives of the 6-sided partnership shall convene as an Advisory Hearing Committee. A chairperson shall be chosen from the six committee members. The chairperson shall not vote except in the case of a tie.
- b) All members of the committee shall be regular City employees.
- c) The Advisory Hearing Committee shall conduct an informal hearing without courtroom procedures or formal rules or procedures of evidence, which is facilitated by Human Resources. Attorney representation is not allowed. All involved parties shall be given an opportunity to present their positions.
- d) The committee will attempt to mediate the dispute and shall vote on the issues by secret ballot. A majority vote determines the Advisory Hearing Committee's recommendation to the City Manager.
- e) In the case of a department director who has denied continued outside employment to an employee who was previously approved, the employee shall be allowed to continue the disputed outside employment until a final decision is rendered by the City Manager.
- f) The City Manager's written decision shall indicate the basis for the decision and the Advisory Hearing Committee's recommendation. The decision of the City Manager is final.

E. Strike

Strikes by employees are prohibited. Any employee who engages in a strike shall be dismissed. The term "strike" as used in this section means concerted action that disrupts or interferes with

the carrying out of any City function for the purpose of inducing, influencing, or coercing a change in the conditions, compensation, rights, privileges or obligations of employment.

An employee's right of appeal to the Merit System Board due to termination based on a violation of this section is limited to a dispute over whether or not the employee engaged in a strike as described in this sub-section.

Section 402: Diversity and Inclusion

A. Policy

The City of Tempe is committed to maintaining an inclusive work environment in which all individuals are treated with respect and dignity.

The City supports and promotes equal employment opportunity to all qualified persons based solely on an individual's ability to perform the essential functions of a job without discrimination or harassment based on race, color, gender, gender identity, sexual orientation, religion, national origin, family status, age, disability, United States military veteran status or any other status protected by law. This applies to all employment actions and/or human resources practices and processes.

Any type of discriminatory behavior in the workplace is prohibited. Any violations of this policy shall result in disciplinary action up to and including termination of employment.

Department directors, managers, and supervisors, as part of their management responsibilities, shall monitor the conduct of employees to ensure that day-to-day interactions are consistent with the City's diversity and inclusion policies and practices.

B. Harassment and Discrimination

Under this policy, harassment and/or discrimination is any conduct that denigrates or shows hostility or aversion toward an individual because of his or her race, color, gender, gender identity, sexual orientation, religion, national origin, familial status, age, disability, or United States military veteran status or any other status protected by law and that:

1. Has the purpose or effect of creating an intimidating, hostile, or offensive work environment.
2. Has the purpose or effect of unreasonably interfering with an individual's work performance; or
3. Has the purpose or effect of otherwise adversely affecting an individual's employment opportunities.

C. Diversity Office

The Diversity Office is responsible for the development, implementation, coordination, and monitoring of the City's diversity and inclusion policies and practices and shall serve, along with Human Resources, as a safe haven for all City employees.

D. Safe Haven Process

Employees may file safe haven complaints directly with the Diversity Office or with Human Resources. The City will not take any adverse action against any employee for filing a safe haven complaint. The findings of safe haven investigations may be made available in Merit System Board hearings.

E. Retaliation

Retaliation against an individual for reporting discrimination and/or harassment or for participating in an investigation of a claim of discrimination and/or harassment is a serious violation of this policy and shall be subject to disciplinary action, up to and including termination. Acts of retaliation shall be reported immediately to the Diversity Office or Human Resources.

Employees who report actual or potential violations of Federal or State law, abuse, fraud or waste of City resources are protected under the City's Non-Retaliation Guideline.

Section 403: Performance Management

The City of Tempe provides all employees with a comprehensive performance management and planning program that maximizes employee engagement and performance through a collaborative and transparent process that better aligns the employee's goals, objectives, and future development opportunities to the organization's purpose.

The Performance Improvement Process (PIP) may be utilized by supervisors as a non-disciplinary tool to address some performance issues and provide a framework to assist employees to improve performance through informal discussions and the establishment of goals and objectives. A PIP may also be used in conjunction with progressive discipline.

Training opportunities for the professional development of employees, including general education, job training and other programs will be provided by the City wherever possible. Some employees may be required to successfully complete special training as a condition of employment. Employees may also pursue their own education and utilize the City's Tuition Reimbursement benefit to receive partial reimbursement of eligible costs.

HR Guidelines for Performance Management, the Performance Improvement Plan and Tuition Reimbursement govern the program specifics.

Section 404: Safety

A. Development & Maintenance of Workplace Safety

The City of Tempe complies with the [Occupational Safety and Health Act \(OSHA\) Standards](#) to ensure a safe workplace.

The City Manager is responsible for ensuring the implementation and coordination of safety programs throughout the City and has the authority to stop employees from performing unsafe work or using unsafe equipment.

1. It is the responsibility of each department director to ensure the enforcement and the maintenance of safe working conditions.
2. Managers and supervisors shall undertake all of the following:
 - a) Detect and correct unsafe working conditions and practices.
 - b) Ensure employees are trained in correct work procedures and City safety policies.
 - c) Ensure that each employee knows and follows safety rules.
 - d) Encourage safety suggestions and discussions.
 - e) Ensure that all accidents and injuries are reported promptly and properly.

B. Employee Safety

Employees are required, as a condition of employment, to observe all safety regulations and all safety directives given orally or in writing.

Failure to procure safety equipment when required or to properly use and wear required safety equipment shall result in disciplinary action. Inability to wear required safety equipment for any reason, including medical, may be grounds for disqualification of job applicants and grounds for transfer, demotion, or dismissal of City employees.

In addition to guarding their own safety and City property, employees shall do everything possible to safeguard co-workers and others affected by the work.

An employee shall immediately report to his or her supervisor or other management employee any accident, illness, or disease arising from his or her employment that affects the employee or anyone else. An employee also shall report immediately, or as soon as possible, any unsafe condition to his or her supervisor or other management employee.

C. Drug-Free Workplace

1. Policy

The City of Tempe recognizes that the use of alcohol and/or drugs impairs safe and effective work performance. In order to maintain a safe, healthful, and productive work environment employees are prohibited from possessing, purchasing, manufacturing, distributing, using, or selling alcohol, unauthorized drugs or controlled substances, or any other intoxicants on City property, while operating City equipment or while performing City duties, unless specifically authorized to do so.

Employees who test positive for alcohol or drugs, or whose use or possession of alcohol or drugs adversely affects job performance, safety, or the City's reputation, shall be subject to disciplinary action up to and including termination. An employee may be referred to a substance abuse professional for evaluation. The employee will be required to complete a return-to-duty test before returning to work, if applicable.

Employees who use any prescribed or over-the-counter substance that may impair their abilities to satisfactorily perform a safety-sensitive function, or may impair their abilities to safely and effectively perform their regular job duties, shall notify their supervisors as soon as possible and prior to starting their shifts or performing any job duties. Human Resources may require written notification by a physician stating that the drug does not affect the employee's ability to safely perform any of the essential functions of his or her position, including driving a City vehicle.

As a condition of continued employment, an employee charged or convicted under a criminal drug or alcohol statute must report that charge or conviction to his or her department director and Human Resources no later than five (5) days after the charge or conviction.

Employees needing assistance in dealing with problems as a result of drug and/or alcohol use are encouraged to use the Employee Assistance Program (EAP) and health insurance plans, as appropriate, to obtain counseling and treatment.

2. Drug and Alcohol Testing

For purposes of this policy, "under the influence of drugs" shall mean the presence of a controlled substance as reflected by a positive drug test. "Under the influence of alcohol" shall mean either observable impairment due to alcohol consumption or a test result reflecting blood alcohol content of 0.04 or greater.

- a) All applicants, including temporary employees, offered a position in a job classification that requires a Commercial Driver's License (CDL) or in a designated safety-sensitive classification or position, shall be subject to a post-offer, pre-employment drug and alcohol test that must be taken within 24 hours of notification. Any applicant refusing to test, or testing positive for controlled substances, shall not be hired.
- b) All employees in job classifications that require a Commercial Driver's License (CDL) shall be subject to random, post-accident and reasonable suspicion drug and alcohol testing based on the requirements of federal and state law and the provisions of the City of Tempe CDL program.
- c) All employees may be subject to post-accident drug testing through an intoximeter breath test, blood, urinalysis, hair, saliva or any other appropriate test to detect and substantiate the presence of drugs and/or alcohol, within 32 hours and/or alcohol

testing within eight hours of being involved in a motor vehicle accident while on duty and/or conducting City business under one or more of the following conditions:

- i. there is a loss of life.
- ii. the employee is issued a citation.
- iii. there is an injury.
- iv. a vehicle is required to be towed from the scene.
- v. it appears the employee may have been at fault.

A drug and alcohol test may be conducted on sworn employees who drive Police and Fire Medical Rescue vehicles at the Police or Fire Medical Rescue Chief's discretion.

- d) All employees may be subject to reasonable suspicion drug and alcohol testing through breath, blood, urinalysis, hair, saliva or any other appropriate test to detect and substantiate the presence of drugs and/or alcohol.
 - i. The decision to require a test for reasonable suspicion will be based upon objective observation, by one or more supervisors who have received reasonable suspicion training of at least 60 minutes for alcohol misuse and 60 minutes for controlled substances use, and who have been appropriately trained to determine if reasonable suspicion exists.
 - ii. Supervisors also may take into account statements from others. The supervisors shall complete a "Drug and/or Alcohol Reasonable Suspicion Checklist."
 - iii. The supervisor shall obtain the approval of his or her department director and the Internal Services Director, before referring any employee for reasonable suspicion drug and/or alcohol testing.
- e) Any employee reasonably believed to be under the influence of alcohol or drugs shall be prevented from engaging in further work. The employee's supervisor or appropriate designee shall be available to transport the employee to the drug-testing facility and home. The employee shall not be allowed to return to work until results have been obtained.
- f) If a test for alcohol indicates a blood alcohol concentration of less than 0.02, the test will be considered negative and further testing will not be conducted. If blood alcohol concentration is 0.02 or higher, a confirmation test will be conducted. If a confirmation test confirms a blood alcohol concentration of 0.02 or greater but less than 0.04, the employee will not be permitted to perform any work related functions for the City for at least 24 hours.
- g) All test results shall be treated in accordance with reasonable standards of privacy, and shall be disclosed only to the Internal Services Director, and individuals as determined by the Internal Services Director .
- h) An employee's refusal to submit to any required drug or alcohol test or any tampering, switching or adulterating of test samples shall be considered a violation of this section

of these Personnel Rules and will be grounds for disciplinary action up to and including termination.

D. Weapons

Except for police officers or military personnel acting in an official law enforcement or military capacity, an employee or volunteer may not bring a weapon into any City of Tempe municipal building or workplace. If an employee or volunteer wishes to keep a weapon in his or her privately owned personal vehicle, the vehicle must be kept locked and may not be used for City business. The weapon must be kept in a locked compartment in the vehicle and must be concealed from outside view at all times. Weapons include, but are not limited to firearms, ammunition, explosives, daggers or knives (other than utility knives used in the performance of job duties, pocket knives or kitchen knives).

E. Workplace Violence

The City of Tempe is committed to providing a safe environment for its employees and those who conduct business with the City. The City shall not tolerate acts of violence committed by or against City employees or members of the public while on City property or while performing City business. Threats of violence made by or against City employees and/or any other intimidating behavior occurring in the workplace will not be tolerated and should be reported immediately to any supervisory or management employee, the City's Threat Management Team, Human Resources, or by calling 911. Supervisory personnel notified of an incident should immediately call 911 if necessary, and shall notify Human Resources and/or a member of the City's Threat Management Team of the situation. Any employee at any time has the right to bring forward concerns regarding workplace threats to the City's Threat Management Team.

Any workplace violence incident committed by an employee while on City property or in the course of City business shall result in discipline, up to and including termination and may result in criminal charges being filed.

Work place violence shall mean an act or behavior that consists of one or more of the following:

1. Physical assault.
2. Attempted physical assault.
3. A communicated threat or an act of communication reasonably perceived as a threat, of harm or endangerment to self, another individual, or property.
4. Action or behavior reasonably perceived as demonstrating potential for physical harm to self, another individual, or property.
5. Carrying or displaying a deadly weapon.

Examples of conduct prohibited by the City of Tempe include, but are not limited to the following:

1. Intentionally and/or knowingly causing physical injury to another person.

2. Making threatening remarks by any means including verbally, in writing, by any electronic means, over the phone, by voicemail, or through another person.
3. Aggressive or hostile behavior that creates a reasonable fear of injury to another person or subjects another person to emotional distress.
4. Stalking, following or harassing an employee or member of the public by creating a reasonable fear of injury or subjects that person or another person to emotional distress.
5. Intentionally damaging City property, the property of another employee or property belonging to a member of the public.
6. Intentionally bringing or delivering into the workplace any contaminants, hazardous or toxic materials, biohazards, and/or illegal drugs.
7. During scheduled work hours, possession (on person or in a personal vehicle being used for City business) of a deadly weapon, either concealed or unconcealed, while on City property or in a City vehicle at any time. Deadly weapons include, but are not limited to explosives, firearms, and prohibited weapons as those terms are defined by Arizona law. This prohibition applies to all City employees and contract employees, excluding employees engaged in law enforcement activities who are authorized to carry a weapon.

F. Workplace Searches

When the City reasonably believes that workplace safety is threatened or that an employee has violated City rules, policies and/or guidelines relating to workplace safety, the City reserves the right to search any and all employees and personal property in the workplace, including but not limited to purses, briefcases, baggage, toolboxes, lunch containers and clothing.

City of Tempe property, (including but not limited to offices, desks, files, computers and computer files, email, lockers, work spaces, City vehicles and any phone or other employment records) may be inspected or searched at any time with or without an employee's approval and whether or not they are present, in order to review or remove items relating to City business or to remove personal items that are unlawful or inappropriate.

A pat-down search of an employee's outer clothing is permissible. Every effort shall be made to do the search in private with two or more persons of the same gender as the employee to be searched, one of whom will conduct the search.

Section 405: Technology

A. Use of Technology

Access to the City's computer and phone systems including the internet and intranet and use of any City-owned electronic equipment such as phones, cell phones, desktop and lap top computers, etc., is provided to employees as necessary to conduct official City business. Oversight of these systems and all equipment is the responsibility of Information Technology, which may also provide additional usage rules and guidelines. Employees must be aware of and adhere to all City policies, rules and guidelines.

Non-exempt (overtime eligible) employees are not permitted to remotely access City systems, email and/or data at times other than their regularly scheduled hours of work without the prior approval of their supervisors.

On a regular basis, when logging on to the computer system, all employees will be asked to consent to the City's current technology access policy.

Employees should have no expectation of privacy in the use of the City's computer or phone system. Accessed internet sites including social networking sites, email contents, and any documents generated or received on the computer system should not be considered confidential. All data stored within the City's computer system or printed as a document is subject to audit and review by Information Technology at any time.

Limited personal use of the computer or phone systems and/or equipment such as desktop computers and cell phones may be permitted with supervisory approval during authorized work breaks, or before or after work hours. Limited personal use includes scheduling personal appointments, conducting research, preparing educational papers, making brief local or necessary urgent/emergency calls and similar matters.

Failure to follow policies, rules, and guidelines governing computer and telephone system and equipment usage may result in disciplinary action up to and including termination. The City enforces a zero tolerance for intentionally accessing inappropriate internet sites and/or telephonic locations as detailed in this section.

Permissible limited personal use does not include any of the following:

1. Intentionally accessing any website, emails, telephone locations or any other type of material(s) which could be construed as pornographic, sexually explicit, scandalous, discriminatory, defamatory, libelous, illegal or immoral.

Note: *Employees who inadvertently access any pornographic or inappropriate website or telephonic location, for example when an inappropriate site appears while in the process of conducting a word search in the Internet or by misdialing a telephone*

number, shall report this to their supervisor immediately, or to appropriate IT staff if their supervisors is unavailable.

2. Using for commercial or financial gain, such as operating a business or posting or selling personal items (other than in the IT-approved intranet exchange site).
3. Soliciting for political campaigns.
4. Soliciting for charitable campaigns except as specifically authorized as part of official City-sponsored events.
5. Forwarding any websites, or issuing or forwarding emails or any other type of material(s) which could be construed as pornographic, sexually explicit, scandalous, discriminatory, defamatory, libelous, illegal, immoral, threatening, slanderous, or racially and/or sexually harassing.
6. Issuing or forwarding chain mail, practical jokes, and other frivolous messages or materials that could be construed as being disruptive or in any way offensive.
7. Unauthorized copying and or distribution of copyrighted material including, but not limited to photographs from magazines, books or other copyrighted sources and copyrighted music.
8. Installation of any copyrighted software for which City of Tempe or the end user does not have an active license.
9. Intentionally propagating a computer worm or virus or any other program or material that may have a debilitating or disabling effect on the City's computer systems.
10. Using a City-supplied telephone line to access a fee-based site where the charges are billed to the line.
11. Disguising or falsifying sources of electronic mail and other electronic communications (i.e. sending anonymous communications or representing yourself as someone else) with the intent of misleading, defrauding or harassing others.
12. Using electronic communication facilities (e.g. email, instant messaging (IM), chat rooms, threaded discussions or systems with similar functions) to send fraudulent, harassing, obscene, threatening, or messages that are a violation of applicable federal, state or other law.
13. Sending "spam" email. Spam is email that includes identical or nearly identical messages that are sent to a large number of recipients who have not granted deliberate and explicit permission for the messages to be sent.
14. Making any long distance or directory assistance personal calls without prior supervisory approval (employees may dial long distance without supervisory approval if using a personal phone card or dialing collect). All charges, including long distance, directory assistance, roaming, and local airtime charges incurred by employees when using City equipment for personal use, shall be reimbursed to the City. Failure to do so shall result in disciplinary action up to and including termination.

B. Hardware and Software Purchase Usage

The purchase of computer hardware, software, and related peripheral equipment or Information Technology consultancy services requires prior review and approval by IT. This

includes PCs, desktop printers, tablet PCs, telephones (including voice-over-IP), analog or digital radios, wireless routers and networking components, satellite dishes, packaged applications, and all hardware and software.

Purchasing products and services outside of the Procurement/IT review process is a violation of the Tempe Procurement Code. An employee who willfully violates the code shall be subject to disciplinary action up to and including termination.

Tampering with City-owned hardware or software is prohibited. Only IT authorized personnel are allowed to make configuration changes to City-owned computer systems, including installing or uninstalling software, adding or removing hardware (internal or external), making any changes to the operating system, adding or modifying authorized users and/or administrators to the system, changing or modifying computer ID tags or Internet address (IP) assignments, or disabling computer anti-virus software.

C. Use of Personal Wireless Devices

Use of a personal wireless device (cell phone, smart phone, tablet etc.) that employees bring with them to the workplace for non-work related purposes shall be restricted to the employee's breaks and/or lunch periods. An employee who excessively makes or takes non-emergency calls, engages in texting, accesses the internet or undertakes other non-work related activities utilizing a personal wireless device during his or her work shift may be disciplined for being unacceptably inefficient.

Employees may be authorized to access emails and/or other City systems and/or to store City data utilizing their personal wireless devices. Any such use requires compliance with all City and IT policies and guidelines relevant to use of City systems and accessing and use of City data.

Non-exempt (overtime eligible) employees are not permitted to utilize personal wireless devices to access City systems, email and/or data at times other than their regularly scheduled hours of work without prior approval of their supervisor.

D. Security

Every employee is responsible for the security of his or her telephone or computer system account password(s). At no time shall employees divulge any account passwords to any other employee or to any other person. Employees shall ensure that unauthorized use of their computer system is prevented by logging off while away from their work stations.

Any unauthorized attempt or entry into another employee's computer or account is called "hacking" and is not permitted. Hacking also may be a violation of federal and/or state law. The IT division provides guidelines for computer and network security. It is the responsibility of all employees using the City computer system and/or telephone equipment to read and be familiar with these guidelines that can be found on the IT Intranet page.

Employees using virtual desktop or VPN (virtual private network) to access the City's network remotely are expected to follow the same policies, rules and guidelines as if they were at a City work location. Employees must be approved to remotely access the City's network and must be aware of and comply with all current IT and City policies and/or guidelines regarding working remotely.

E. Public Records

If an email is considered a public record under current Arizona state law, employees may be required to disclose the email upon request. If the content of the email is considered a public record, employees must retain the record for the period of time required by Arizona state retention schedules for that record.

Section 406: Discipline

A. Authority

The City Manager has authority to take disciplinary action against any classified or unclassified employee, except those appointed by the City Council and Municipal Court employees. The City Manager may delegate this authority to any management employee for subordinate employees. The Municipal Court Presiding Judge may delegate this authority to any Court management employee for subordinate employees.

B. Disciplinary Process

For classified employees, whenever appropriate, a process of progressive discipline is followed to ensure adequate opportunity to correct unacceptable behavior. However, the specific nature and the seriousness of a violation may dictate overriding progressive discipline, and serious offenses may lead to suspension, demotion or termination at any stage of the disciplinary process.

Allegations against any classified employee shall be provided in writing to the employee as Part I of the City's Disciplinary Action process and shall include details of the alleged offense(s) and the section(s) of the City Personnel Rules, specific City or department policy, or City guideline alleged to have been violated.

The employee shall respond to the alleged offense(s) in writing as Part II of the disciplinary process.

If allegations are sustained, the supervisor shall make a recommendation for disciplinary action that shall be documented as Part III of the disciplinary process. The department director shall sign the documentation to approve the disciplinary action. A copy shall be provided to the employee. The original Part I, II & III documents and any other related documentation shall be forwarded to Human Resources for filing in the employee's official personnel file.

If no allegations are sustained, a supervisor may elect, if appropriate, to counsel an employee and document the counseling in the employee's performance log.

C. Grounds for Disciplinary Action

Employees shall face disciplinary action up to and including termination for sustained violations of any provision of any section of these City Personnel Rules or any other written City or Department policy or guideline.

The following reasons constitute grounds for disciplinary action up to and including dismissal:

The employee has...

1. exhibited a lack of sufficient competency or efficiency to perform assigned duties and responsibilities.

2. acted negligently, recklessly, or carelessly in performing his/her duties during a specific incident or incidents.
3. been unacceptably inefficient by loafing, visiting, loitering, lounging, sleeping, or otherwise engaging in non-work related activities during scheduled work hours or has interfered with another employee's efforts to meet work standards.
4. been insubordinate or has failed to follow reasonable direction from a supervisor.
5. violated an applicable safety rule, policy or directive.
6. possessed a weapon while in any City building or workplace, in a City vehicle, or in a personal vehicle which is being used for City business. This excludes police officers or military personnel acting in an official law enforcement or military capacity.
7. caused damage to public property or waste of public supplies through negligence, recklessness, or carelessness.
8. violated City and/or department policies and guidelines regarding access to and use of the City's technology infrastructure.
9. been abusive in attitude, language, behavior, or conduct toward another employee or the public.
10. engaged in behavior that has resulted in physical harm, or threat thereof, to another employee or the public.
11. engaged in behavior that does not meet a reasonable standard of workplace civility and respect in his or her interactions with other employees, or the public.
12. engaged in conduct, on or off duty, that is of such a nature that it causes discredit to the City.
13. violated the City's diversity policy.
14. knowingly been dishonest by deceiving, lying, omitting, misleading, misrepresenting or falsifying any statements, facts, documents or reports in the course of performing their job duties and/or during a City investigation or official inquiry.
15. failed to notify Human Resources within five days of being charged with a criminal offense while employed by the City.
16. failed to notify Human Resources within five days of being convicted of a criminal offense while employed by the City.
17. lost his or her driving privilege through suspension or revocation of a Commercial Driver's License (CDL) or non-CDL license, and driving is required to perform an essential job function in his or her position with the City.
18. driven a City vehicle or a personal vehicle on City business during a period of driver's license suspension or revocation.
19. stolen public or private property, misappropriated City funds, or has been an accomplice in any of these practices while employed by the City.
20. made unauthorized use and/or removal of City property.
21. violated the City's drug-free workplace rule.
22. violated the City's outside employment rule.
23. violated the City's gift rule.

24. violated the City's strike rule.
25. violated the City's political activity rule.
26. concealed or failed to properly report or document any information or incident required to be reported to federal and/or state agencies, and/or City management as part of the employee's job duties and responsibilities.
27. knowingly or intentionally engaged in the unauthorized release or improper disclosure of proprietary or confidential information or records.
28. refused to subscribe to any oath or affirmation required in connection with City employment.
29. had excessive absenteeism or tardiness.
30. had unexcused, unpaid absences or has failed to receive prior approval for any paid leave.
31. exceeded the authorized number and/or length of lunch periods and breaks.
32. left the assigned work area while on duty without his or her supervisor's permission.
33. refused to perform reasonable light duty that is assigned because of an illness, injury or disability that resulted from the performance of their assigned duties.
34. violated the City's FMLA policy.
35. failed to adhere to Tempe Police Department Policies and Procedures, Tempe Fire Medical Rescue Department Policies and Procedures, Arizona Code of Conduct for Judicial Employees, Arizona Judicial Code of Conduct, or any other applicable City department written policy or guideline.
36. been involved in any other conduct of equal gravity to the reasons enumerated in this section.

D. Non-Appealable Disciplinary Actions

The following actions are non-appealable to the Merit System Board and may be recommended by the supervisor and become final when approved and signed off by the department director.

1. **Written Reprimand**

A written reprimand is an official notification to an employee that there is cause for dissatisfaction with the employee's job performance and/or that there is misconduct.

2. **Suspension- 40 hours or Less**

Suspension of 40 hours or less (56 hours for firefighters) is the temporary separation of an employee from City service without compensation. Suspensions for exempt employees shall be administered in accordance with current federal law under the [Fair Labor Standards Act \(FLSA\)](#).

An employee who has completed his or her original probation may request to use accrued vacation leave to offset some or all of the hours of suspension with the approval of the department director. If an employee is approved for this option, he or she must work the offset vacation hours.

E. Appealable Disciplinary Actions

The following appealable actions may be recommended by the supervisor but do not become final until an administrative review is completed by the department director. The action then becomes appealable to the Merit System Board.

1. Suspension- Greater than 40 hours

Suspension of greater than 40 hours (56 hours for firefighters) is the temporary separation of an employee from City service without compensation. Appealable suspensions must be more than 40 hours, up to 160 hours maximum (56/224 hours for firefighters). Suspensions for exempt employees shall be administered in accordance with current federal law under the [FLSA](#).

An employee who has completed his or her original probation may request to use accrued vacation leave to offset some or all of the hours of suspension with the approval of the department director. If an employee is approved for this option, he or she must work the offset vacation hours.

2. Disciplinary Pay Reduction

Disciplinary pay reduction is the reduction of an employee's salary not to exceed 10%. The reductions may be permanent or temporary. Temporary disciplinary pay reductions for exempt employees shall be subject to current federal law under the [FLSA](#).

3. Disciplinary Demotion

Disciplinary demotion is the movement of an employee from one position to another position with a lower salary range maximum. The demotion may be permanent or temporary. For a disciplinary demotion, the reduction in pay shall be no less than 5%.

4. Termination

Termination is the discharge for cause of an employee from City service.

At any time during a disciplinary process but prior to a Merit System Board hearing, an employee who has been recommended for termination may request to resign from City service. The request shall be considered by the department director and the Internal Services Director. If the request is approved, the employee waives all rights to any further appeal and may not be eligible for rehire by the City.

Section 407: Employee Rights

A. Disciplinary Process Documentation

Documentation of a Part I disciplinary action shall include sufficient details of the specific charges to allow the employee the opportunity to explain his/her action or behavior in the Part II response.

All sustained disciplinary actions that are appealable shall be documented in the Part III and shall include information for the employee regarding the right to an administrative review, appeal to the Merit System Board, and appeal to the City Manager. Employees shall be provided with a copy of the Part I, Part II and Part III and any other related documentation.

B. Disciplinary Process Timeline

Departments should fully complete a Part I and provide it to the employee within 30 calendar days of the incident or within 30 calendar days from the time the department first became aware of the incident; the Part III should be completed and provided to the employee within 30 calendar days of the employee's receipt of the Part I. Exceptions to the above shall be approved by the department director. Failure of the department to timely complete the disciplinary process shall not prejudice the propriety of the discipline.

C. Silent Witness

Upon request, classified employees not provided with representation rights through an MOU may have another classified employee of the City present as a silent witness in any meeting in which discipline may result or the employee is discussing a Performance Improvement Plan (PIP) with a supervisor. Employees will be given up to one and one half hours to arrange for a silent witness to be present, except when exigency or safety concerns may prohibit it.

D. Personnel File

Employees have the right to review their own personnel files maintained in Human Resources and/or maintained by their supervisors. If the employee objects to any document(s) other than those required by federal or state law, or City ordinance including the Tempe Personnel Rules, guidelines and department policies, the employee has the right to place a Memo-to-File in his or her personnel file documenting his or her objections.

E. Disciplinary Action Administrative Review

An employee may request an administrative review with his or her department director, or request that the City Manager select the director of another department, to discuss the recommended disciplinary action. In either case, the request from the employee must be made by 5 p.m. one workday after receiving the part III recommendation from his or her supervisor. If the employee does not request an administrative review, the department director shall sign off on the recommendation, the discipline becomes final and the employee waives the right to any further appeal.

If another department director is requested by the employee and conducts the administrative review, he or she shall act in an advisory capacity only and provide a written response to the employee's department director who will make the final decision and the disciplinary action then becomes final and appealable to the Merit System Board.

The administrative review for Tempe Municipal Court employees will be conducted by the Court Administrator. If a Court employee makes a request to the Presiding Judge for another department director to conduct the administrative review, the Presiding Judge will request the City Manager to designate a department director. The designated department director who conducts the administrative review shall act in an advisory capacity only and provide a written response to the Court Administrator who will make the final decision. The disciplinary action is appealable to the Merit System Board which shall sit in such cases as the Tempe Municipal Court Merit System Board.

F. Disciplinary Action Merit System Board Appeal Process

Employees who receive a Part III with sustained allegations that result in an appealable disciplinary action may appeal such action by requesting a hearing with the Merit System Board after an administrative review has been completed.

1. Merit System Board Hearing

The request for a Merit System Board Hearing from an employee shall be in writing and submitted to the Internal Services Director within seven calendar days following the administrative review and final decision by the department director. The Internal Services Director serves as Secretary to the Board.

The Board determines the order of business for the conduct of its meetings and is not bound by technical rules of evidence or civil procedure. The appealing employee has the burden of proof and makes the first presentation.

2. Appeal to the City Manager

An appeal to the City Manager may be made only by an employee following the Merit System Board hearing. The request for an appeal shall be in writing and submitted to the City Manager within three business days following notification of the Merit System Board recommendation. The decision of the City Manager is final and binding.

3. Disciplinary Appeals for Tempe Municipal Court Employees

Applicable disciplinary appeals for non-judicial Court employees shall be forwarded to the City Merit System Board, which shall sit in such cases as the Tempe Municipal Court Merit System Board. The Board recommendations shall be forwarded to the Presiding Judge who solely will be responsible for final decisions. Matters involving a conflict with the Presiding Judge shall be forwarded to the Presiding Judge of Maricopa County.

G. Workplace Issues/Complaints Resolution Processes

1. Utilizing the Chain of Command

Except for issues as discussed in Section 407.G.2, employees are encouraged to use their “chain of command,” (defined as the employee’s first line supervisor and each respective higher level of management through to the department director), to address other workplace issues or concerns. Employees may also seek assistance from their employee group representatives. The employee and his or her supervisor should document the reasons as to why the concern or issue was not resolved at the first-line level. If the issue is still unresolved after the employee has met with the department director, then the employee may take his or her concern to the City Manager. Work related issues should be reported by the employee and addressed by the chain of command within a reasonable time from when the issue occurred.

If a Court employee has an issue that is still unresolved after the employee has met with the Court Administrator, then the employee may take his or her concern to the Presiding Judge, who has exclusive authority over Court employees.

2. Safe Haven Process

The Safe Haven process allows employees who believe they may be experiencing discrimination, harassment, retaliation, a hostile work environment or any other workplace issue or concern, to circumvent their chain of command and raise issues directly with the Diversity Office and/or Human Resources.

Safe Haven offices will make every effort to keep information provided in this context confidential. Disclosure of information provided by reporting individuals will be limited only to those individuals responsible for investigating and/or responding to Safe Haven complaints, or as otherwise required by law; however, the findings of safe haven investigations may be made available in Merit System Board hearings.

3. Employee Complaint/Grievance Process

Any employee who believes he or she has been impacted in the workplace through an action that may be a violation of any part of these Personnel Rules or any other City and/or department policy and/or guideline may submit a grievance directly to the Internal Services Director specifying the nature of the violation and the specific rule, policy or guideline that has been violated. The grievance must be submitted in writing within 30 days of the alleged violation. Employees should refer to HR guidelines for specifics on the grievance process.

4. Charges of Discrimination/Intolerable Work Conditions

Pursuant to Federal and State law, employees have the right to file charges within 300 days of the alleged discrimination and/or retaliation with the Equal Employment Opportunity Commission and/or within 180 days with the Arizona Civil Rights Division of the Attorney General’s Office. Time limits for filing a complaint are according to applicable law. As advised by the State of Arizona Attorney General’s Office, employees do not have to first

exhaust the City's disciplinary appeal or any other complaint resolution process prior to filing a charge.

Under [Arizona Revised Statute § 23-1502](#), an employee may be required to notify the Internal Services Director, in writing, that a working condition exists that the employee believes is intolerable, that will compel the employee to resign, or that constitutes a constructive discharge, if the employee wants to preserve his or her right to bring a claim against the City alleging that the working condition forced him or her to resign.

An employee is required to allow the City 15 calendar days from the date of the written notification to respond in writing to the matters presented in the employee's written communication.

5. **Mediation**

Mediation is a tool available to all City employees to assist in resolving conflict. It is a non-disciplinary, voluntary, informal process that allows two or more people who are having differences to sit down with a neutral third party to consider possible solutions. Mediators do not take sides or decide how an issue will be resolved, nor do mediators investigate any charges. The mediator may suggest possible resolutions, but the parties control the outcome.

All City personnel who are involved with or are made aware of mediations shall keep information regarding the mediation confidential to the extent permitted by law, except as is necessary to be disclosed to others on a need-to-know basis. Examples of a need to disclose may include the following situations:

- a) When information developed through the mediation indicates physical or sexual abuse;
- b) When information developed through the mediation indicates danger exists to self or others; or
- c) When necessary to implement any resolution reached by the parties.

Rule 5: Leave Programs & Benefits

Section 501: Paid Leave

New employees may use accrued paid leave, with supervisory approval, after working 30 calendar days.

Paid leave may be taken only after it is earned. Accruals shall be posted and available for use as of the first of each month. Paid leaves continue to accrue during any leave with pay, except compassionate and/or catastrophic leave.

Paid leave does not accrue for any employee in an unpaid status or when receiving compassionate or catastrophic leave. Pro-rated accrual amounts will be posted at the end of the month based on any actual hours in an active paid status during the month.

Any employees on a regular work schedule (not including regular overtime) that is more than 40 hours/week shall have leave allotments or accrual rates (including maximum allowable accrual) adjusted proportionally. For example, regular 56 hour/week schedules will result in accruals adjusted by multiplying 56/40 times the 40 hour accrual rates.

Leave hours for part-time regular employees (who work less than 40 hours per week but at least 1,040 hour a year) shall be pro-rated for all leave benefits and programs. Those working 20-29 hours/week will receive .5, and those working 30-39 hours/week will receive .75 of the full benefit. Part-time employees shall not receive paid leave benefits in any one work week that results in their total pay for that week being in excess of their usual pay for their regular part-time schedule.

The number of paid leave hours required to take one day of leave is the number of hours for which the employee is normally scheduled to work on the day requested. For example, if an employee works a 4/10 schedule and takes one leave day on a day normally scheduled as a 10-hour work day, 10 hours of leave must be used. This rule also applies to part-time regular employees.

A. Personal Leaves

Employees shall request supervisory approval for all leave under this section, and pre-approval must be received for the leave to be authorized and paid. All personal leave shall be scheduled and taken in accordance with the best interest of the City. The City reserves the right to postpone or cancel personal leave in the event of any emergency. This includes the right to recall an employee from personal leave. Requests to utilize any personal leaves that are not pre-scheduled may be denied.

1. Vacation Leave

Regular, full-time employees accrue annual vacation leave as outlined in the following table when in an active pay status.

<i>Years of Service</i>	<i>40 hours/week Monthly Accrual</i>	<i>40 hours/week Annual Accrual</i>
<i>Up to 5</i>	<i>9.33</i>	<i>112</i>
<i>5-9</i>	<i>11.33</i>	<i>136</i>
<i>10-14</i>	<i>13.33</i>	<i>160</i>
<i>15-19</i>	<i>16.67</i>	<i>200</i>
<i>20+</i>	<i>18</i>	<i>216</i>

Maximum vacation leave use at any one time is 30 consecutive working days except for employees working 56-hour schedules who may take a maximum of 14 working days.

Employees may carry over a maximum of 450 hours of accrued vacation. Any employee with excess vacation hours over the allowable maximums shall have until the last pay date paid in December to utilize the excess hours, or have up to 40 hours paid out under the annual vacation payout program if eligible, or excess hours shall be forfeited.

The City Manager shall review any request for an extension of the forfeiture date for excess vacation. The City Manager may approve an extension to March 31 of the next year for dire circumstances where organizational need precluded the employee from utilizing excess hours. In that case excess vacation hours not used by April 1 will be forfeited.

2. Personal Day

Regular employees may take one personal leave day anytime during the calendar year. The number of hours of leave regular employees shall receive is based on the employee's normal work schedule for the leave day requested.

The personal leave day cannot be taken incrementally, for example four hours one day and four hours another day.

Employees may take their personal leave day on their last day worked prior to resignation or retirement from the City if they have been employed for at least one full year.

3. Sabbatical Leave

Regular employees who are not covered under one of the negotiated MOU's and who have completed fifteen years of full-time, regular employment with the City are eligible to apply for a one-time extended four-week sabbatical leave of absence that includes two weeks of the employee's accrued vacation leave and an additional two weeks of City-paid sabbatical leave. Program guidelines shall be provided on the sabbatical leave request form.

4. Exempt Leave

Council Appointees, Department Directors, Deputy Directors, and other exempt staff designated by the City Manager are eligible to receive exempt leave. Any eligible employee shall routinely work 50 hours or more per week to qualify for exempt leave.

Each January 1, eligible qualified employees receive exempt leave hours which can be used at the employee's discretion with his or her supervisor's approval. Exempt leave shall be used before the end of the last full pay period paid in each calendar year or be forfeited.

Eligible employees hired or promoted prior to June 30 receive the full allotment of exempt leave for that year. Those hired or promoted July 1 or later, receive a .5 pro-rated exempt leave credit for the year they were hired.

5. Wellness Leave

Regular employees who are not covered under one of the negotiated MOU's and who have sufficient sick leave accruals may make an irrevocable election in November of each year to convert either 16 hours or 32 hours of sick leave at a conversion rate of .5 to either 8 hours or 16 hours, respectively, of wellness leave. Employees must maintain a minimum of 480 hours of sick leave after the conversion. The wellness leave will be available for use as of January 1 of the following year and shall be utilized under the same guidelines as vacation leave. Wellness leave shall not be converted to any other type of leave and shall not be cashed out. Any unused wellness leave remaining after the last full pay period paid in the same calendar year will be forfeited. Employees will be responsible for making the election for wellness leave.

B. Medical Leaves

Medical leaves are provided to allow employees time off work for illness or injury. Employees shall report the need to take time off work promptly to their supervisors, adhering to any department-specific notification policies.

The City reserves the right to require supporting medical documentation. Employees shall provide requested documentation to their supervisors or Human Resources in a timely manner and shall comply with reasonable terms of any provider-prescribed treatment plan or paid leave benefits may be suspended. Employees shall not engage in outside employment, vacation activities, or any travel not related to their medical conditions while on any medical leave unless authorized by Human Resources.

Return to work from medical leave may require a written release from a qualified health-care provider. Any release requiring limited duty with restrictions will require an employee to request a light duty assignment. If light duty is not available, the employee will remain on medical leave until released to full duty with no restrictions.

1. Sick Leave

Regular, full-time employees in an active pay status accrue eight hours of sick leave monthly. There is no maximum accrual for sick leave and all accrued hours shall carry over at the end of the each calendar year unless the employee has elected the sick leave payout option ([Section 502.B.1](#)).

Use of sick leave for medical, dental, vision or mental health appointments also is permissible but requires pre-approval by the employee’s supervisor and is granted in accordance with the best interests of the City and the employee’s health. Documentation of appointments may be requested.

Sick leave may be approved for an employee to care for ill family members, or to accompany them to medical, dental, vision, or mental health appointments if that is reasonably required. Documentation may be requested.

“Family Members” include all of the following:

Spouse	Grandparent (in-law & step)
Domestic Partner	Grandchild (in-law & step)
Child (foster & step)	Aunt
Parent (in-law & step)	Uncle
Sister (in-law & step)	Nephew
Brother (in-law & step)	Niece
Son/Daughter in-law	

Use of sick leave is permissible for all pregnancy or childbirth-related examinations, hospitalization, surgeries, illnesses, and recovery. Sick leave is also permissible before delivery at such point as an attending physician certifies that the employee is unable to adequately perform the duties of her job.

An employee who is on approved vacation leave shall not normally be allowed to request substitution of sick leave for previously approved hours of vacation leave. Department directors may approve an exception for extraordinary, unusual medical situations specific to the employee or his or her immediate family, which is defined as follows: spouse, domestic partner, child (including step), mother, father, brother, or sister. Documentation shall be required.

2. Compassionate Leave

Regular employees who have completed probation may participate in the compassionate leave program which allows employees to voluntarily donate their own accrued sick and/or vacation leave to another qualified employee who has exhausted all paid leave, including all accrued compensatory time, and has requested compassionate leave donations through Human Resources.

Any requesting employee who solicits leave donations from another employee shall forfeit eligibility for this program.

Vacation and sick leave may be donated to eligible employees on approved FMLA leave (see [Section 503.F.](#)) for the employee’s own non-job related serious health condition, to care for

a spouse, domestic partner, child or parent with a serious health condition, or for other extenuating circumstances as approved by the City Manager.

New employees who have completed probation but are not yet eligible for FMLA protection may qualify for compassionate leave if their leave mirrors that defined under the FMLA. Vacation or sick leave hours that will be or are being forfeited due to requirements of those leave programs cannot be donated. The value of donated leave is based on the donor's hourly rate of pay as it relates to the recipient's hourly rate of pay.

While receiving compassionate leave employees are ineligible to earn vacation or sick leave and may have accruals adjusted. Program guidelines shall be provided on the compassionate leave request form.

3. **Catastrophic Leave**

Regular employees who have completed probation may request catastrophic leave which provides up to 160 paid hours per calendar year to eligible employees who are on approved FMLA leave (1) for their own non-job related serious health condition or to care for a spouse, domestic partner, child (including step), or parent with a serious health condition. To qualify for catastrophic leave, the employee must have been out of work for at least 60 consecutive calendar days and have exhausted all paid leave, including all accrued compensatory time, and any compassionate leave donations.

While receiving catastrophic leave employees are ineligible to earn vacation or sick leave and may have accruals adjusted. Program guidelines shall be provided on the catastrophic leave request form.

4. **Industrial (Workers Compensation) Leave**

Employees are covered under [Arizona State Workers' Compensation](#) law for injuries or illness occurring in the course of their City employment. Under this section, except where City benefits exceed what is specified under State law, State law controls if any conflict exists.

Employees shall immediately report every on-the-job injury or illness, regardless of severity, to their supervisors. Supervisors shall report incidents to Risk Management within 24 hours.

An employee with an on-the-job injury or illness who continues to work and is receiving medical treatment authorized by Risk Management may be able to schedule appointments during his or her regular work schedule with the approval of Risk Management and his or her supervisor. If appointments cannot be scheduled during the employee's regular work schedule, no regular pay or overtime pay will be paid to the employee for the time at the medical appointment.

If an employee is absent from work as a result of an on-the-job injury, illness, or disease, the employee is paid industrial leave pay. Any absence greater than three days also will be

considered as qualifying leave under the [Family Medical Leave Act \(FMLA\)](#). Use of sick leave is not permitted for absences that qualify for industrial leave pay.

a) **Schedule of Benefits – Regular Employees**

The Industrial Commission of Arizona requires payment of 66 2/3% of an employee's regular base pay, or 66 2/3% of the Average Monthly Wage (AMW) statutory maximum (as dictated by AZ state law), whichever is lower, for employees who are off work due to a work related injury or illness.

The City supplements the State's minimum pay requirement with the following additional benefits:

- i) For absences of one to seven calendar days, employees receive supplemental industrial leave pay to bring their gross earnings to 100% of their regular base pay.
- ii) For absences of more than seven calendar days, employees receive supplemental industrial leave pay to bring their gross earnings to 90% of their regular base pay for a period of no more than 12 months (a maximum of 2080 hours for 40 hour employees).
- iii) After the initial seven calendar days, employees may voluntarily elect to supplement the 90% supplemental industrial leave pay for the 12-month period specified in the previous bullet point with accrued sick leave or vacation leave, if sick leave is exhausted. Under no circumstances can gross supplemental industrial leave pay with use of accrued sick or vacation be higher than the employee's usual gross regular base pay.
- iv) Employees receiving industrial leave pay shall continue to accrue sick and vacation leave for a period of no more than six months (1040 hours for 40 hour employees). Leave accruals shall then be shut down and any pro-rated accruals, based on light-duty or regular-duty hours worked each month, shall be posted at the end of each month.

For absences beyond 12 months, employees receive industrial leave pay at the level mandated by the Industrial Commission of Arizona with no additional City supplemental industrial leave pay. Employees may be eligible to receive other City paid leave benefits or to utilize accrued sick or vacation leave but under no circumstances shall their pay be higher than 90% of their regular base pay.

Employees are not permitted to engage in unauthorized outside employment while receiving industrial leave pay or other workers compensation benefits.

b) **Schedule of Benefits - Temporary (non-benefitted) Employees**

For absences of one to seven calendar days, temporary employees receive no income. For absences up to 13 calendar days, industrial leave pay as mandated by the Industrial Commission of Arizona begins on the eighth day. For absences of 14 or more calendar days, industrial leave pay is made retroactive to the date of injury or illness.

c) **Off-Duty Workers Compensation**

Employees unable to work as a result of an injury or illness that occurred while performing approved off-duty employment for another employer, and who are receiving workers' compensation benefits from that other employer, shall notify their supervisors, Risk Management and Human Resources as soon as possible.

d) **Light Duty Assignments**

The City shall attempt to find light duty assignments for employees released to light (restricted) duty by a City-designated physician. If assigned to light duty, employees shall return to work in the light duty assignment as directed by Risk Management and shall adhere to all physician-imposed restrictions.

C. Holidays

The following are official City Holidays:

- New Year's Day
- Martin Luther King's Birthday
- Presidents' Day
- Cesar Chavez Recognition Day
- Memorial Day
- Independence Day
- Labor Day
- Veterans Day
- Thanksgiving Day
- Friday Following Thanksgiving Day
- Christmas Day

NOTE: *When a holiday falls on Sunday, it will be observed the following Monday. When a holiday is on Saturday, it will be observed the preceding Friday*

Regular and probationary employees shall receive the previously listed holidays off with pay unless required to work due to organizational need. Employees on extended unpaid leave may not receive holiday pay as an employee must be in an active status, with paid hours (including approved paid leave, except for compassionate and catastrophic leave) either the day before or the day after a holiday in order to receive pay for the holiday. Employees who are retiring after a minimum of 10 years of continuous service shall be paid for a holiday if it is the day after their

last day worked. Refer to sub-section 203.F. for information on additional compensation paid for work required on a City holiday.

D. Other Paid Leave Benefits

1. Bereavement Leave

Upon the death of a relative, all regular and probationary employees in an active, paid status may request up to one work week (up to 40 or 56 hours depending on scheduled work week) of paid bereavement leave. Bereavement leave may be used consecutively and within 30 work-days of the death, but an employee may request to split the bereavement leave allotment and/or extend the eligibility period by providing the reason for the request to his or her supervisor or Human Resources. Documentation of the death and attendance at the funeral and/or memorial service may be requested by the supervisor.

“Relative” includes all of the following:

Spouse	Grandparent (in-law & step)
Domestic Partner	Grandchild (in-law & step)
Child (foster & step)	Aunt
Parent (in-law & step)	Uncle
Sister (in-law & step)	Nephew
Brother (in-law & step)	Niece
Son/Daughter in-law	

2. Administrative Leave

Administrative leave is the non-disciplinary suspension of an employee from work with pay. Administrative leave shall be approved by both the department director and the Internal Services Director.

Reasons for placing an employee on administrative leave include:

- An internal review or investigation when the employee’s presence on the job or at the work site would hinder the review or investigation; or
- A situation that is perceived to be of an urgent or serious nature in which a supervisor believes the employee should be immediately removed from the workplace, such as when the employee’s presence would be detrimental to the public interest or the continued efficient operation of the City, or may create a safety issue for the employee, other employees, or the public; or
- Other extraordinary circumstances as determined by both the department director and the Internal Services Director.

3. **Military Leave of Absence**

As specified in [A.R.S. § 26-168 & § 38-610](#), employees who are members of the National Guard or the United States armed forces reserves shall be entitled to take leaves of absence to comply with orders of the state or United States for training or active duty. Taking a military leave of absence shall not result in loss of seniority, pay increases, vacation accrual rates or other employment rights. Employees shall submit a copy of their military orders to their supervisors prior to commencement of any military leave of absence less than 30 days and to establish eligibility for military leave benefits. For any military leave of absence that is 30 days or longer, employees shall meet with Human Resources to provide a copy of their military orders and review leave benefits and requirements. Employees shall submit a DD214 form or equivalent on their return from a military leave of absence. The City complies with all requirements of the [Uniformed Services Employment and Re-Employment Rights Act of 1994 \(USERRA\)](#).

- a) ***Paid Military Leave:*** Regular employees shall be entitled to paid military leave not to exceed 30 workdays (240 hours for employees working an annual 2080 hour schedule and 336 hours for employees working 2912 hour schedule) in any two consecutive rolling calendar years.
- b) ***Using Accrued Leave:*** Employees may, at their discretion, elect to use accrued vacation, sick leave, and/or compensatory time, in that order of priority but only after exhausting all available paid military leave during the first 30 workdays of a military leave of absence prior to potential eligibility for military supplemental pay. Employees also may elect to use accrued leave during any applicable end of service leave of absence prior to returning to work. For employees utilizing any paid leave, deductions for medical, dental and/or vision benefits will continue to be taken at the same rate as if the employee were actively working.

Unpaid Military Leave: If the employee has used all available paid military leave and chooses not to utilize accrued leave during the initial 30 workdays, the time shall be unpaid military leave. After the initial 30 workdays and through the end of the military leave of absence, unpaid military leave will be recorded for all employees. Employees on unpaid military leave do not receive holiday pay, accrue paid leave or any other type of compensation (except for military supplemental pay if eligible).

Employees on unpaid military leave may elect to continue medical, dental, and/or vision benefits for up to 24 months, by submitting monthly premiums to the City equal to the rate(s) they would pay if actively working.

- c) ***Retirement Contributions:*** The City will remit employee and employer contributions to the [Arizona State Retirement System \(ASRS\)](#) or the [Public Safety Personnel Retirement System \(PSPRS\)](#) on the employee's behalf for up to

48 months. State law specifies that time spent on a military leave of absence will count as credited service for retirement.

- d) **Military Leave Supplemental Pay:** Thirty workdays (240 hours for employees working an annual 2080 hour schedule and 336 hours for employees working an annual 2912 hour schedule) after commencing an approved military leave of absence for training or active duty, employees may be eligible for military supplemental pay, which will be equal to the difference between an employee's salary (not including any additional components of pay or premium pay) and all pay and allowances received by the employee for his/her military duty, when that amount is less. The City will pay military supplemental pay for a period of up to 24 months. While receiving military supplemental pay, employees shall not accrue paid leave or receive any other type of compensation. Employees may elect to continue medical, dental and/or vision benefits by requesting deductions from their supplemental pay or by submitting monthly premiums equal to the rate(s) they would pay if actively working.

4. **Jury Duty & Court Service Leave**

Employees shall notify their supervisors immediately of a jury summons or subpoena and shall request pre-approval for jury duty leave.

Regular employees in an active, paid status summoned to perform jury duty or serve as a witness (for any matter that does not involve the personal interest of the employee) receive their usual compensation for jury duty leave if serving during their regularly scheduled work hours.

Employees may request to their supervisors to temporarily adjust their regular schedules to accommodate jury duty and court service during non-work hours if it is reasonably required to meet safety or other considerations. Under no circumstances will overtime rates be paid for jury duty leave.

Employees retain any compensation or reimbursement received from the court from performing jury duty.

5. **Voting Leave**

As specified in [A.R.S. § 16-402](#), the City shall allow eligible employees (those employees who are entitled to vote in an election held pursuant to Title 16 of the Arizona Statutes) paid leave from work to vote at a primary or general election held within the State of Arizona on the day of election when the following conditions are met:

- There is less than three consecutive hours between the opening of the polls and the beginning of the employee's regular work shift or less than three consecutive hours between the ending of his or her work shift and the closing of the polls.

- The employee obtains approval before the day of election from his or her supervisor.

Two (2) hours is the maximum time allowed for voting. The time off with pay must be used to vote. If requested, an employee must be able to show proof of being a registered voter.

6. Exceptional Performance Reward

Department directors may reward a regular employee who has performed exceptionally by granting the employee a day off with pay.

Section 502: Payouts of Accrued Leave

A. Personal Leaves

1. Annual Vacation Leave Payout Program

On the first pay date paid in January of each year employees who meet the following criteria shall have up to 40 hours of accrued vacation paid out.

- a. The employee must have used a minimum of 120 hours of vacation during the previous 12 months. Vacation usage must occur between the first pay date paid and the last pay date paid in the current year.
- b. After the payout of up to 40 hours, the employee must retain 450 hours.

2. Payout of Vacation Leave on Termination

Upon termination of employment, employees receive a 100% payout of all unused, accrued vacation hours at their current base hourly rate of pay not including any multiple components of pay.

3. Payout of Personal Day

An employee who has not used his or her personal leave day by the last pay period paid in the current calendar year shall have it paid out at eight hours at his or her current hourly rate of pay in the first paycheck paid in January of the following year. An employee who has been employed for at least one full year and has not used his or her personal leave day by the date of his or her resignation or retirement and who chooses not to use it as his or her last day worked shall have it paid out at eight hours at his or her current hourly rate of pay and included in his or her final paycheck.

B. Sick Leave

1. Annual Sick Leave Payout Option

In December of each year, employees may voluntarily make an irrevocable election for a payout at 25% of any sick leave hours that accrue the following calendar year in excess of 480 hours. If the payout option is elected, it will be in place only for the following calendar year.

The 25% payout will be included in the last paycheck dated in December following the full calendar year for which the employee elected the payout option. The maximum possible payout is 25% of 96 hours (equivalent to 24 hours of pay at the employee's current hourly rate of pay).

Employees who do not make this election will continue to have unused accrued sick leave hours banked.

2. Payout of Sick Leave on Resignation

Employees resigning from City service with a minimum of ten years of continuous service shall receive a 50% payout of all unused, accrued sick leave hours at their current hourly rates of pay.

3. Payout of Sick Leave on Retirement

An employee retiring from City service with a minimum of ten years of continuous service and who is immediately eligible for retirement benefits under the [Arizona State Retirement System \(ASRS\)](#) or [Public Safety Personnel Retirement System \(PSPRS\)](#) shall receive a 50% payout of all unused, accrued sick leave hours at an hourly rate of pay calculated with the inclusion of his or her current base hourly rate plus any applicable assignment, maximum staffing, special operations, bilingual, shift differential, temporary detail, standby and holiday pay (excluding overtime), paid to the employee during the 12 months preceding retirement.

4. Payout of Sick Leave on Death of Active Employee

100% of a deceased employee's accrued sick leave shall be paid to the designated beneficiary on the employee's basic life insurance policy at the employee's current hourly rate of pay, subject to any applicable deduction and taxes.

Section 503: Unpaid Leave

A. General Leave

Regular employees, who have completed their original probationary periods, may request general leave with their supervisors' and department directors' approvals for the following reasons:

- To run for elective office.
- To participate in a training or educational opportunity that will improve the employee's value to the City.

Regular employees, including those on probation, may request general leave with their supervisors' and department directors' approvals for the following reasons:

- To supplement vacation only if all accrued vacation leave and compensatory time has been exhausted, and for no more than a total of 40 hours in any one calendar year.
- For other reasons approved by the Internal Services Director and the City Manager.

B. Unpaid Sick Leave

Employees, who have exhausted all accrued sick leave, are unable to report to work due to a non-work related illness or injury, and who are not eligible for other paid medical leave, shall request unpaid sick leave. An employee on unpaid sick leave shall provide any requested medical documentation to Human Resources to support his or her absence from work and shall be required to provide a release from his or her medical provider before being permitted to return to work.

Use of unpaid sick leave for non-FMLA protected absences is not an entitlement and requires pre-approval by the employee's supervisor.

C. Unauthorized Leave

Absences from work that have not been authorized by the employee's supervisor are unauthorized leave. Unauthorized leave may result in disciplinary action up to and including termination. At the discretion of the department director and with the approval of the Internal Services Director, unauthorized leave of more than three consecutive working days may be considered job abandonment and reason for termination of employment (resignation).

D. Unpaid Administrative Leave

Employees may be placed on administrative leave without pay when both the department director and the Internal Services Director determine it is in the best interests of the City.

An employee shall be notified and provided with documentation detailing his or her rights and responsibilities at the time he or she is placed on unpaid administrative leave.

E. Victim Rights Leave

An employee is entitled to unpaid leave in accordance with [ARS § 8-381 et seq. and § 13-4401 et seq.](#) to attend certain criminal proceedings if he or she was the victim of a crime or the

immediate family member of a person who was killed or incapacitated by a crime. As specified by the statutes, if such leave creates an undue hardship on the City, it may be limited. Employees shall request victim rights leave through Human Resources. An employee may elect to use vacation, compensatory time, and/or his or her personal leave day or may request unpaid general leave.

F. Family and Medical Leave

The City adheres to all requirements of the [Family and Medical Leave Act of 1993 \(FMLA\)](#) and all subsequent amendments.

To determine how much family medical leave an employee has available, the City utilizes a “rolling backward” 12-month period measured backward from the first day an employee uses FMLA.

In addition to the 12 work weeks required under the FMLA, City employees may request up to an additional five work weeks of job-protected unpaid leave under the same provisions as FMLA for a total of 17 weeks.

Any employee not covered under the provisions of a negotiated MOU and his or her spouse or domestic partner, when both employed by the City, are both entitled to utilize up to 17 weeks of FMLA if the leave is taken for an FMLA qualifying event.

Employees are not allowed to work at outside employment while on FMLA unless prior authorization has been received from Human Resources and their departments. Employees are required to advise Human Resources of any travel away from their homes while on FMLA.

Employees on FMLA will be required to use available paid leave prior to unpaid sick leave or unpaid general leave. Paid or unpaid leave will be used concurrently with FMLA, except for compensatory time.

EMPLOYEE RIGHTS AND RESPONSIBILITIES UNDER THE FAMILY AND MEDICAL LEAVE ACT

Basic Leave Entitlement

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for the following reasons:

- for incapacity due to pregnancy, prenatal medical care or child birth;
- to care for the employee's child after birth, or placement for adoption or foster care;
- to care for the employee's spouse, son, daughter or parent, who has a serious health condition; or
- for a serious health condition that makes the employee unable to perform the employee's job.

Military Family Leave Entitlements

Eligible employees whose spouse, son, daughter or parent is on covered active duty or call to covered active duty status may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered servicemember during a single 12-month period. A covered servicemember is: (1) a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness*; or (2) a veteran who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran, and who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness.*

***The FMLA definitions of "serious injury or illness" for current servicemembers and veterans are distinct from the FMLA definition of "serious health condition".**

Benefits and Protections

During FMLA leave, the employer must maintain the employee's health coverage under any "group health plan" on the same terms as if the employee had continued to work. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

Eligibility Requirements

Employees are eligible if they have worked for a covered employer for at least 12 months, have 1,250 hours of service in the previous 12 months*, and if at least 50 employees are employed by the employer within 75 miles.

***Special hours of service eligibility requirements apply to airline flight crew employees.**

Definition of Serious Health Condition

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and

a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

Use of Leave

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

Substitution of Paid Leave for Unpaid Leave

Employees may choose or employers may require use of accrued paid leave while taking FMLA leave. In order to use paid leave for FMLA leave, employees must comply with the employer's normal paid leave policies.

Employee Responsibilities

Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days notice is not possible, the employee must provide notice as soon as practicable and generally must comply with an employer's normal call-in procedures.

Employees must provide sufficient information for the employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the employer if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

Employer Responsibilities

Covered employers must inform employees requesting leave whether they are eligible under FMLA. If they are, the notice must specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, the employer must provide a reason for the ineligibility.

Covered employers must inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the employer determines that the leave is not FMLA-protected, the employer must notify the employee.

Unlawful Acts by Employers

FMLA makes it unlawful for any employer to:

- interfere with, restrain, or deny the exercise of any right provided under FMLA; and
- discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

Enforcement

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer.

FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

FMLA section 109 (29 U.S.C. § 2619) requires FMLA covered employers to post the text of this notice. Regulation 29 C.F.R. § 825.300(a) may require additional disclosures.



For additional information:
1-866-4US-WAGE (1-866-487-9243) TTY: 1-877-889-5627
WWW.WAGEHOUR.DOL.GOV

U.S. Department of Labor | Wage and Hour Division



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