



*Section 4
Non-
Represented
Employee
Policies*

Link River Falls - 1895

Courtesy of Klamath County Museum

SECTION 4: NON-REPRESENTED EMPLOYEE POLICIES
(Supervisory and Confidential Employees)

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Section 4 – Non- Represented Employees City of Klamath Falls

This Policy is written to amend the Sick Leave and Vacation benefit terms as of July 1, 2011, for all regular non-Represented (including supervisory and confidential) personnel (hereinafter referred to as "Employee") of the City of Klamath Falls.

Sick Leave:

Every employee will receive sick leave as follows:

a. Sick leave will accumulate at the rate of eight (8) hours per month for each full month of service. Sick Leave accumulated prior to July 1, 2011, and remaining on the books as of July 1, 2011, will be tracked in the Employees "Frozen Sick Bank". Sick Leave after June 30, 2011, will be tracked in the Employees "Current Hour Bank" and is not subject to payout under section "b" below.

b. Upon termination, layoff, death or voluntary or disability retirement, Employee shall receive cash payment for accrued sick leave remaining in his/her "Frozen Hour Bank" as follows:

<u>Years of Service</u>	<u>Percentage of Payment</u>
0 - 5 years	12.5%
6 years	15.0%
7 years	17.5%
8 years	20.0%
9 years	22.5%
10+ years	25.0%

Alternatively, upon retirement, the Employee may choose to have 40% of the sick leave converted to an Insurance Account that will remain with the City and be used to pay Health Insurance Premiums for the Employee remaining on the City's Retiree Health Plan.

c. Sick Leave Incentive: An employee who on July 1 of any year accrued 96 hours and retained more than 64 hours from the previous fiscal year's sick leave, will have the previous fiscal year's sick leave hours above 64 hours converted to cash and contributed to a VEBA account in the Employee's name. The hours converted to a VEBA account will be subtracted from the Current Hour Bank. The remaining hours in the Current Hour Bank will be allowed to accumulate up to no more than 960 hours. This sick leave incentive will be effective July 1, 2011, for conversion on or after July 1, 2012, for the previous fiscal year.

Employee's accumulated sick leave after payout, including the Current Hour Bank and the Frozen Hour Bank will be reported to Oregon PERS for credit toward the employee's retirement benefits, as allowed by State law (8 hours per month up to 960 hours). For purposes of this subsection, employees may cash-out and report no more than nine hundred sixty (960) hours.

d. In the event of an occupational-related accident or disease as certified by the City's worker compensation insurance carrier, an injured employee may utilize accrued sick leave to receive the difference between payments received under workers' compensation and his/her regular net salary. In such instances, pro-rated charges will be made against the employee's sick leave.

Vacation:

Employees will accrue vacation leave on the following basis:

Years of Consecutive Service	Vacation Hours Accrued
Up through three (3) years	Eight (8) hours per month worked
After three (3) years through five (5) years	Ten (10) hours for each month worked
After five (5) years through ten (10) years	Twelve (12) hours for each month worked
After ten (10) through (15) years	Fourteen (14) hours for each month worked
After fifteen (15) years and over*	Sixteen (16) hours for each month worked

*Except employees with 20 Years or greater of Consecutive Service on June 30, 2011, shall continue to receive twenty (20) hours for each month worked.

Vacation will be accrued but cannot be taken during the employee's probationary period.

The maximum allowable accumulation of vacation time shall be reduced such that an employee shall utilize accrued vacation credit within one year of accrual. Excess vacation time will be forfeited.

In establishing a vacation schedule, supervisory employees will be given preference over non-supervisory personnel. An employee or his/her beneficiaries shall be entitled to payment for unused, accrued vacation upon termination or death.

Holidays:

Employees will receive the following paid holidays:

New Year's Day (January 1st)
Martin Luther King Day (3rd Monday in January)
Washington's Birthday (3rd Monday in February)
Memorial Day (Last Monday in May)
Independence Day (July 4th)
Labor Day (1st Monday in September)
Veteran's Day (November 11th)
Thanksgiving Day
Day after Thanksgiving
Day before Christmas
Christmas Day (December 25th)

Holidays continued:

One Floating Holiday - All Employees

Plus: One Administrative Day - FLSA Exempt Employees only

Plus: One Executive Day - Supervisory Employees only

If a holiday falls on a Saturday, the Friday prior will be considered the holiday. If the holiday falls on a Sunday, the Monday after will be considered the holiday.

Other Leaves:

Employees will be entitled to the following leaves.

- a. **Education Leave:** Leaves taken at the request of the City will be funded by the City. The City Manager's prior approval is required (See Administrative Policy dated August 1989).
- b. **Jury Duty:** The City will continue regular wage during jury duty. The employee shall endorse any jury fee (excluding mileage and meal allowances) to the City as a condition to the receipt of regular pay.
- c. **Witness Duty:** The City will continue regular wage during witness duty when subpoenaed. The employee shall endorse any witness fee (excluding mileage and meal allowances) to the City as a condition to the receipt of regular pay.

- d. **Compassionate Leave:** Employee shall be allowed sick leave compensation when an employee is unable to work due to the death of the employee's husband, wife, father, mother, brother, sister, son, daughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, grandfather, grandmother, foster son, foster daughter, stepfather, stepmother, stepson, stepdaughter, or relative of either spouse residing in the immediate household of the employee. Sick leave may also be used for purposes of medical and dental appointments. Employees shall be allowed to use sick leave in accordance with the Family Leave Act described in **Section 3, Personnel Rules and Regulations, Section 5.3, "Family Leave."**

Overtime:

Overtime in the form of compensatory time-off at the rate of one and one-half (1 1/2) hours of comp. time for each hour of overtime will be granted to those employees who are not exempt under FLSA in accordance with applicable law .

Public Employees Retirement System:

The City will "pick-up", assume and pay the six percent (6%) employee contribution required by ORS 237.071 to the Public Employees Retirement System (PERS).

Retiree Health Insurance:

Employees who retire from the City may elect to continue their group health insurance coverage for themselves or for themselves and their spouse. The cost of the monthly insurance premiums shall be paid by the insured to the City. This benefit continues until eligibility for Medicare is reached, or until premium payments are discontinued.

PROFESSIONAL MEMBERSHIP POLICY

Recognizing that there may be mutual benefits derived from personnel growth and increased work competence, it is the administrative policy of the City to pay the dues for management employees to join professional organizations which are specifically germane to the position held and will clearly meet the department objectives and benefit the City. The process for this determination will be by formal request with substantiating attachments (i.e. organizational brochure, membership information, etc.).

The employee should submit the request to his/her Department Director, who will review the content objectively for appropriateness and funds availability, and recommend approval to the City Manager. The City Manager will review applications and the Department Director's recommendations to determine City administrative policy compliance and make final determination. The formal request format will consist of the employee's name, position title and name of organization for which membership is sought. The narrative section should include a brief description of the organization, why it would benefit the City for the employee to be a member, and itemize all related costs of membership. Department Directors may request further information in order to make a recommendation.

DISCIPLINARY ACTIONS POLICY

Application

This policy applies only to non-represented regular City employees appointed by the City Manager. Represented employees continue to be covered by such disciplinary and termination provisions as may be contained in their collective bargaining agreements.

Dismissal

1. GENERAL PROVISIONS:

- a. **Application:** Any regular unrepresented employee may be dismissed for cause.
- b. **Cause for Dismissal:** Cause for dismissal shall be a single flagrant act or a series of lesser offenses constituting one or more of the following:
 - i. **Misconduct:** Conduct an employee knows or should know, is not proper behavior.
 - ii. **Inefficiency:** Failure to produce required result, even though the employee is competent to do so.
 - iii. **Incompetence:** Absence of ability or qualifications to perform required tasks.
 - iv. **Insubordination:** Refusal to obey an order or directive.
 - v. **Indolence:** Behavior indicating unwillingness to work.
 - vi. **Malfeasance:** Wrongful conduct showing derelictions, mismanagement, maladministration, gross negligence, abuse or over stepping.
 - vii. **Other Unfitness to Render Effective Service:** Any other employee conduct which tends to obstruct a department in fulfillment of its mission or that justifies the department in questioning whether it should continue to employ the employee.
- c. **Prior Discipline, Prior Warning:** Principles of progressive discipline shall be applied prior to dismissal. However, dismissal action may be taken without prior warning or discipline to those situations where the

conduct or other unfitness of the employee warrants dismissal and the employee knows, or could be expected to have known, that dismissal would be logical under the circumstances.

2. **PRE-DISMISSAL PROCEDURE:** When dismissal from City services is contemplated, the Department Director shall give the employee an opportunity to be heard in a pre-dismissal proceeding before taking final action:
 - a. **Notice of Pre-Dismisssal Proceedings:** The Department Director shall deliver to the employee a notice in writing indicating that dismissal is being considered. The notice shall state the charges against the employee and such facts as are necessary to apprise the employee of the nature of the charges: indicate the time, date and place of the employee's opportunity to refute the charges or present the matters of mitigation to the Department Director or designee(s); consequences of failure to appear; and state that the employee may be represented during the pre-dismissal proceedings. A copy of the notice shall be sent to the City Attorney and to the City Manager.
 - b. **Date of Pre-Dismisssal Meeting:** The date shall not be sooner than the eight (8th) calendar day following the postmark date or date of personal delivery of the notice to the employee and not later than the fifteenth (15th) calendar day following the postmark date or date of personal delivery.
 - c. **Action Pending Completion of the Pre-Dismisssal Process:** Pending completion of the pre-dismissal process, the employee may be:
 - i. Authorized to continue the normal work assignment;
 - ii. Reassigned to another work assignment or duty station, including personal residence; or
 - iii. Suspended with pay;
 - d. **Failure to Appear:**

The failure of the employee to offer any testimony or to appear at a scheduled meeting is the employee's waiver of the right to refute or present matters of mitigation, but does not constitute any admission or denial of the charges. Upon reasonable request by the employee or the employee's representative in advance of the meeting, the appointing authority may change the date and time of the meeting.

e. **Conduct of Meeting:**

- i. The Department Director or designee shall conduct the meeting.
- ii. The Department Director or designee may appoint City staff to attend the meeting and act as an investigation team.
- iii. The Department Director or designee shall verify that the employee has read and understood the pre-dismissal notice.
- iv. The Department Director or designee shall inform the employee of the employee's right to refute the charges and/or present matters in mitigation and shall give the employee the opportunity to do so.
- v. The meeting shall not be a formal hearing procedure and shall not include rights of direct examination and cross examination of witnesses.
- vi. The employee may be represented at the meeting by a representative of his/her choosing.

f. **Action after Meeting:**

Within seven (7) calendar days after completion of the pre-dismissal meeting, the Department Director shall determine appropriate action. If the Department Director determines that the employee should be dismissed, the Department Director shall, as set forth in Section 6 of this Policy, notify the employee in writing that dismissal action is being taken, the effective date of dismissal, and the charges and facts supporting the dismissal.

g. **Discovery of New Facts:**

If new facts are discovered during the pre-dismissal process:

- i. The Department Director may send a new notice to the employee incorporating the new facts as an additional basis for discipline and give the employee a new opportunity to refute the new charges if the new facts are unfavorable to the employee.
- ii. The Department Director may disregard the new facts and

proceed with the original action based on the original charges, but only if the new facts are unfavorable to the employee, or if, in the judgement of the Department Director, the remaining facts still justify dismissal.

- iii. A portion of the charges may be withdrawn; however, no withdrawal by the City of any portion of the charges supporting a dismissal or other disciplinary action shall require the City to rescind the action or take new action.

h. **Alternative to Dismissal:**

The Department Director may choose to impose other discipline, in lieu of dismissal, in addition to any pre-dismissal suspension without pay, in accordance with Part III below.

i. **Effective Date of Action:**

A dismissal or a pre-dismissal suspension may take effect on the date of delivery to the employee of written notice of the action being taken, or at any date following such delivery.

3. **WRITTEN NOTICE OF DISMISSAL OR PRE-DISMISSAL SUSPENSION WITHOUT PAY:**

The Department Director shall notify the employee of dismissal or pre-dismissal suspension without pay in writing:

a. **Contents of Notice:**

- i. **Action Being taken:** Dismissal, or pre-dismissal suspension without pay.
- ii. **Effective Date:** The specific day the action takes effect. This must be on or after the date of delivery of the notice, as specified in Subsection "b" of this Section.
- iii. **Grounds:** State grounds for disciplinary action misconduct, inefficiency, incompetence, insubordination, indolence, malfeasance or other unfitness to render effective service (either one or in combination).
- iv. **Supporting Facts:** State dates, times, and places, if known, and facts sufficient to apprise the employee of the acts, omissions

and conditions being charged.

- v. **Notice of Appeal:** Notify the employee that the action taken may be appealed to the City Manager in accordance with Section 4 of this Policy.
- b. **Delivery of Notice:** Notice may be delivered in either of the following ways:
 - i. The notice may be personally handed to the affected employee or a person at the residence of the affected employee.
 - ii. The notice, if mailed to the employee, shall be by certified mail to the employee's last known address. The effective date shall be at least three (3) days after the postmark date on the letter.
- c. **Copies of Notice:**

A copy of each notice sent to an employee shall be sent to the City Manager, City Attorney and Personnel.

4. **APPEALS:**

- a. **Appeal to City Manager:** An employee who has been dismissed or suspended without pay pending dismissal may appeal such action to the City Manager not later than ten (10) calendar days after the effective date of the dismissal.
- b. **Appeal Limited:** There shall be no appeal from the City Manager's decision to the City Council.

5. **FAILURE TO COMPLY WITH THIS POLICY:**

Failure of the City to comply with one or more provisions of this Policy in taking any action against an employee shall not invalidate the action taken unless it deprives the employee of a constitutionally protected right. When noncompliance is brought to the attention of the City, the Department Director may rescind the action taken and may take new action of the same or different nature or may let the action taken stand and take other corrective action.

6. **DISMISSAL OF DEPARTMENT DIRECTOR:**

Dismissal actions taken against Department Directors shall follow the above

procedure substituting the City Manager as acting in the place of the Department Director.

DISCIPLINE OTHER THAN DISMISSAL

1. **DISCIPLINE IN GENERAL** (Includes Reprimand, Suspension Without Pay, Salary Reduction, or Demotion:
 - a. **Application:** Any regular unrepresented employee may be disciplined for cause.
 - b. **Cause for Discipline:** Cause for discipline shall be a single flagrant act or a series of lesser offenses constituting one or more of the following grounds:
 - i. **Misconduct:** Conduct an employee knows, or should know, is not proper behavior, such as violations of rules, policies or procedures of the department or City, or violation of general standards of reasonable conduct.
 - ii. **Inefficiency:** Failure to produce required results even though the employee is competent to do so, such as failure to meet minimum efficiency standards in the performance of duties.
 - iii. **Incompetence:** Absence of ability or qualifications to perform required tasks.
 - iv. **Insubordination:** Refusal to obey an order or directive, such as willful or repeated violations of a rule, policy or procedure of the department or City, the refusal to perform work assigned or the refusal to comply with written or oral supervisory instructions.

- v. **Indolence:** Behavior indicating unwillingness to work, such as laziness.
 - vi. **Malfeasance:** Wrongful conduct showing dereliction, mismanagement, maladministration, negligence, abuse or overstepping.
 - vii. **Other Unfitness To Render Effective Service:** Any other employee conduct which tends to obstruct a department in fulfillment of its mission or that justifies the department in questioning whether it should continue to employ the employee, such as personality traits, personal habits or behavior, which adversely affect work performance.
- c. **Determination by Department Directors:** The Department Director shall determine the severity of the disciplinary action based on the seriousness of the fault or unsuitability of the employee and the needs of the department. The severity of the discipline must have a reasonable basis in fact.

2. **TYPES OF DISCIPLINE:**

- a. **Reprimand:** A reprimand shall be in writing and shall reasonably inform the employee of the problem giving rise to the reprimand. The reprimand need not follow the form for other types of discipline as set forth in Sections 3 and 5 of this Policy. A performance appraisal is not a reprimand.
- b. **Suspension:** A suspension shall be without pay for one or more weeks. Employees covered under this policy can not have their pay docked or reduced in any manner that would be inconsistent with the salary test.
- c. **Salary Reduction:** A salary reduction shall be for a period of time determined to be necessary to improve performance or behavior. The initial period of salary reduction may be shortened based upon the Department Director's assessment of the employee's subsequent performance or behavior.
- d. **Demotion:** A demotion shall lower the employee's present classification to one entailing less responsibility, with a commensurate permanent reduction in salary. Disciplinary demotions shall not be used if employee is not qualified for employment in the lower class or

if such action will cause a regular employee in the lower class to be laid off.

3. **PRIOR DISCIPLINE, PRIOR WARNING:**

- a. **Need for Warning:** Progressive discipline is not required under this Section. However, except for reprimands, warning of the department's concerns and opportunity to correct the problem shall be given to the employee prior to discipline in those situations where the employee could not reasonably have known that the conduct was contrary to department or City standards. In the case of a reprimand, the reprimand itself shall serve as the warning and no other warning shall be necessary.
- b. **Form of Warning:** The warning may take any reasonable form, but should be specific enough to communicate the problem as well as necessary corrective action. One warning, in most cases, is sufficient.
- c. **Further Discipline:** Prior to imposition of further discipline, the employee shall have a reasonable opportunity to correct the problem.
- d. **Failure to Correct:** If the employee fails to correct the problem after a reasonable opportunity to do so, further discipline should be imposed as soon as possible.

4. **PRE-DISCIPLINARY ACTION:**

When disciplinary action, other than dismissal or reprimand, is contemplated, the Department Director shall give the employee an opportunity to respond before taking final disciplinary action. After considering the employee's response, if any, the Department Director shall determine the appropriate level of discipline.

5. **WRITTEN NOTICE OF DISCIPLINARY ACTION:**

- a. **Contents of Notice:**
 - i. **Action being taken:** Suspension, reduction in pay or demotion.
 - ii. **Effective date:** The specific day the action takes effect. This must be on or after the date of delivery of the notice as specified in Subsection "b" of this Section.
 - iii. **Grounds:** State the grounds for disciplinary action: misconduct,

inefficiency, incompetence, insubordination, indolence, malfeasance or other unfitness to render effective service (either one or in combination).

- iv. **Supporting facts:** State dates, times and places, if known, and facts sufficient to apprise the employee of the acts, omissions and conditions being charged.
- v. **Notice of Appeal:** Notice to the employee that the action taken may be appealed to the City Manager in accordance with Section 6 of this Policy.

b. **Delivery of Notice:** Notice may be delivered in either of the following ways:

- i. The notice may be personally handed to the affected employee or a person at the residence of the affected employee.
- ii. The notice, if mailed to the employee, shall be by certified mail to the employee's last known address. The effective date shall be a least three (3) calendar days after the postmark date on the letter.

c. **Copy to Personnel:** A copy of each notice of discipline sent to an employee shall be sent to Personnel.

6. **APPEALS:**

- a. **Actions Appealable:** Any employee who has been subject to disciplinary action in the form of suspension, reduction in pay or demotion, may appeal such action to the City Manager. An employee may be represented by legal counsel or by another individual. Any expenses resulting from such representation shall be borne by the employee.
- b. **Time Limitation for Filing Appeals:** Any such appeal shall be filed with the City Manager within ten (10) calendar days after the effective date of the disciplinary action.
- c. **No Appeal:** There shall be no appeal from the City Manager's decision.

7. **FAILURE TO COMPLY WITH THIS POLICY:**

Failure of the City to comply with one or more provisions of this Policy in

taking any action against an employee shall not invalidate the action taken unless it deprives the employee of a constitutionally protected right. When noncompliance is brought to the attention of the City, the Department Director may rescind the action taken and may take new action of the same or different nature or may let the action taken stand or take other appropriate corrective action.

8. DISCIPLINE OF DEPARTMENT DIRECTOR:

Disciplinary actions taken against Department Directors shall follow the above procedure substituting the City Manager as acting in the place of the Department Director.

9. PERSONNEL FILES:

All disciplinary actions are maintained in the employee's permanent personnel file, located only in the Personnel Department. If reversed on appeal, all documents shall be immediately purged. Disciplinary actions other than dismissal and demotion may be purged from the file at any time after one year at the discretion of the Department Director (City Manager for disciplinary actions against Department Directors) and shall be purged after three years at the request of the employee.

GRIEVANCE PROCEDURE

An employee has the right to file a written grievance with his/her supervisor within two (2) calendar weeks of the occurrence giving rise to the grievance. The supervisor shall respond to the grievance within one (1) calendar week of receipt of the employee's grievance.

In the event the grievance is not resolved to the satisfaction of the employee, the employee may request in writing to the department director (City Manager in cases where the department director is the immediate supervisor of the grieving employee), a hearing with the department director.

The department director shall within two (2) weeks of receipt of the written request, meet with the parties concerned to discuss the grievance and facts of the occurrence. Within one (1) week of the hearing, the department director shall render a written decision of the grievance.

If the grieving employee or supervisor feels the department director's decision is arbitrary or made in bad faith, the employee or supervisor may appeal the decision in writing to the City Manager where applicable.

The City Manager will, within two (2) weeks of the appeal, respond in writing to the appealing party and department director.