

Separation and Reinstatement of County Employees

Objective:	To establish policies and procedures covering the separation, reinstatement, or rehiring of employees.	Policy/Procedure Number:	02-09
Reference: (All applicable federal, state, and local laws)	Agreements between the County of Tompkins and Tompkins County Collective Bargaining Units; Civil Service Rules for Tompkins County; New York State Civil Service Law	Effective Date:	January 12, 1981
Legislative Policy Statement:	It is Tompkins County's policy to ensure that the separation, reinstatement, or rehiring of employees are handled in a professional manner and in accordance with all applicable Civil Service laws and collective bargaining agreements.	Responsible Department:	Human Resources
General Information:		Modified Date (s):	June 28, 1988; March 2020
		Resolution No.:	2020-61
		Next Scheduled Review:	March 2025

I. Definitions:

Leave Benefits - Paid time off allotments provided to employees to allow time off away from work. Depending on the employee's position or union contract this may include any of the following: sick, disability, personal, vacation, holiday, floating holiday, compensatory, and bereavement.

Involuntary Separation - Occurs when an employee is separated/terminated from a position by action of Tompkins County. Involuntary separations include, but are not limited to, disciplinary actions resulting in termination of employment, probationary removals, layoffs, and involuntary disability separations.

Rehire - To hire (someone) back into the same organization.

Reinstatement - To place (someone) back in a previously held job or position.

Terminal Pay - Refers to specific sums paid to an employee for leave benefits they have accrued but did not work. Depending on the employee's position or union contract this may include any of the following: sick, personal, vacation, holiday, or compensatory.

Voluntary Separation - Occurs when an employee separates from employment at their own request. Employees may voluntarily terminate employment at any time. Examples of voluntary separations include, but are not limited to resignations, voluntary disability separation, disability retirement, service retirement or death. Separation is deemed to have occurred when an employee is absent from work for more than three (3) consecutive workdays and fails to contact their supervisor (job abandonment or no call/no show).

II. Policy:

A. An employee who decides to voluntarily separate from a position shall be required to give ten (10) working days written notice to their Department Head and the Commissioner of Human Resources of their intention to leave County employment.

B. In the event an employee may need to be separated involuntarily from County employment, Department Heads (Appointing Authority) must first contact the Commissioner of Human Resources before proceeding with any action. All involuntary discharges or dismissals must be in accordance with New York

State Civil Service Law, Tompkins County Civil Service Rules, and the terms of any applicable collective bargaining agreements.

- C. A resignation may not be withdrawn, canceled, or amended after it is delivered without the consent of the appointing Department Head.
- D. Department Heads are responsible for seeing that all keys/fobs to County buildings, ID cards/badges, County credit cards (including P-Cards), and all other County property is obtained from a separating employee prior to their exit. Access to County computers and systems (emails, phones, social media/web account access, etc.) must also be removed for the separated employee.
- E. Employees who separate voluntarily will be provided with the opportunity to complete a written or in-person exit interview conducted by the Department of Human Resources on or before their last day of work.
- F. Reinstatement or being rehired is not a right conferred upon the employee. Reinstatement is wholly discretionary with the County in accordance with all Civil Services rules, laws, and regulations.

III. Procedure:

A. Voluntary Separation

1. When an employee desires to voluntarily separate from employment with the County, the employee must notify the Commissioner of Human Resources in writing, with a copy to their Department Head, at least ten (10) working days in advance of the proposed date of resignation.

Note: The date that will be used to determine if an employee has given the required minimum notice will be the date the resignation letter is received by the Commissioner of Human Resources.

2. The resignation notice shall include an effective date of employment separation. If no effective date is specified in a resignation, it shall take effect when the notice is delivered to the appointing Department Head or to the Commissioner of Human Resources.
3. Department Heads or their designee must notify the Department of Human Resources of all resignations by completing an MSD428 (Supplemental Payroll Certification and Report of Personnel Change form) showing the reason for the separation of employment and the effective date.

Note: The MSD428 form can be located on the Department of Human Resources website or by contacting the department directly.

4. Department Heads or their designee must forward the completed MSD428 and a copy of the resignation letter as soon as the Department Head or designee has received the resignation in writing. The effective date shown on the MSD428 form should be the last date the employee will actually be reporting regular time worked. All paperwork must be processed in a correct and timely fashion to permit health insurance continuation notification pursuant to existing laws.
5. If a resignation is submitted while an employee is on leave of absence without pay, such resignation, for the purposes of determining eligibility for reinstatement, shall be deemed to be effective as of the date of the commencement of such leave of absence.

6. A separation due to the death of an employee will be made effective as of the date of death.
7. Terminal pay for accumulated leave benefits shall be determined by the employee's applicable collective bargaining agreement. If a separating employee has used more leave benefit time than would have been accrued based on a pro-rated calculation of time served during a calendar year, payment for those days will be deducted from the employee's last paycheck.

B. Involuntary Separation

1. When an employee may need to be involuntarily separated from County employment, Department Heads must seek guidance from the Commissioner of Human Resources before taking any action to ensure compliance with all applicable collective bargaining agreements, NYS Civil Service Law, and Tompkins County Civil Service Rules. Department Heads and the Commissioner of Human Resources should also consult with the County Attorney.
2. Involuntary separation may be necessary for several reasons (e.g., unsatisfactory performance during probationary period, layoff, misconduct, incompetence, etc.). In most cases, progressive discipline shall be used prior to separation to identify and correct performance issues. However, certain types of employee misconduct are so severe that one incident of misconduct can result in immediate dismissal without prior use of progressive discipline.
3. If an involuntary separation is deemed appropriate after the above consultations, the Department Head or their designee must forward the completed MSD428 to the Department of Human Resources. The effective date shown on the MSD428 form should be the last date the employee worked.
4. Terminal pay for accumulated leave benefits shall not be granted to those involuntarily discharged or dismissed from employment by the County. If a separating employee has used more leave benefit time than would have been accrued based on a pro-rated calculation of time served during a calendar year, payment for those days will be deducted from the employee's last paycheck.

C. Reinstated or Rehired Employees

1. Department Heads or their designee notify the Department of Human Resources of all reinstated or rehired employees by completing an MSD428 form (*Also see Policy 02-04: Processing New Employees*).
2. For any employee reinstated or rehired, pay rates and leave benefit allotments received will be based in accordance with the applicable collective bargaining agreement(s).
3. For any employee on an unpaid leave of absence, the original anniversary date will remain unchanged and fringe benefits will be

prorated. Unpaid leave statuses shall not count as active employment for the purposes of fringe calculations.