

Section Name: Employee Relations
Section Number: 400
Policy Number: 423

Effective Date: March 9, 1999
Date of Revision: November 1, 2022

Subject: Separation of Employment

Purpose:

The purpose of this policy is to provide guidelines for the fair and consistent treatment of an employee when separation of employment is necessary to serve the best interest of the County of Monroe and Monroe County Courts in order to achieve organizational goals. Goals include managing risks of litigation and operational disruptions associated with employment relations, and through amicable resolution, all parties may agree that separation is the best outcome.

This policy outlines the framework and principles for implementation of the separation and/or termination of an employee by the County, its elected officials, and Chief Judges of the Monroe County Courts.

This policy provides for temporary pay and/or benefits to eligible employees whose employment is involuntarily terminated.

Scope:

This Policy applies solely to individuals who are eligible employees with the exclusion of all elected officials of Monroe County and elected judiciary officials.

Statement of Policy:

This policy is not intended to create a vested entitlement to employees; nor is this policy intended to provide compensation or benefits to employees who are offered a comparable position of employment with the County of Monroe, or to provide compensation or benefits to employees who are terminated for a non-eligible termination reason.

Employment with the County of Monroe is not for any definite term and may be terminated at any time with or without cause and without advance notice. At all times the policy shall be consistent with all separately provided collective bargaining or employment agreements and the policy may supplement the provisions within collective bargaining agreements.

An employee may be separated from employment upon determination of the supervising employee, elected official, or court official.

- A. Eligibility. Except as provided below, all employees of Monroe County, except elected officials including elected judiciary officials are eligible to receive Severance Benefits according to the terms of this Policy if their employment is terminated after the Effective Date of this Policy for any reason set forth in Section B below. Generally, any employee who is determined by the County to have failed to meet performance or conduct standards at the time of job elimination or employment separation (“Non-Performing

Employee”) shall not be eligible for benefits under this Policy. However, the County Administrator/Chief Financial Officer may decide to make a Non-Performing Employee eligible for benefits under this Policy by taking into consideration: (1) length of service with the County; (2) whether the Non-Performing Employee would have been likely to improve his/her performance; (3) personal circumstances of the Non-Performing Employee; and (4) any other criteria the County Administrator/Chief Financial Officer determines to use in his or her sole and absolute discretion upon consultation with the Human Resources Director, Labor Counsel and the highest ranking department/office official of the Non-Performing Employee.

B. Eligible Termination Reasons. Eligible termination reasons include:

- Involuntary Termination of employment with the County as a direct result of position elimination or reduction in force provided the employee is not offered a Comparable Position with the County.
- Any other Termination of employment the County Administrator/Chief Financial Officer determines should result in the payment of Severance Benefits under this Policy.

C. Non-Eligible Termination Reasons. A non-eligible termination reason is any reason for Termination that is not considered an Eligible Termination Reason as described in Section B. above. Examples of reasons for Termination that generally will be regarded as non-eligible termination reasons include, without limitation, the following:

- Voluntary resignation, including job abandonment or constructive termination.
- Termination of employment if the employee is offered a Comparable Position with any Court or an elected official’s office of the County of Monroe (without regard to whether such employment is in a Comparable Position).
- Misconduct as defined for purposes of this Policy.
- Excessive absenteeism or lateness.
- Failure to report to work or to return from a leave of absence beyond the approved leave period.
- Return from an unprotected leave of absence and no position is available.
- Death or retirement.
- Failure to meet performance standards or management's loss of confidence or trust in the employee.
- Transfer to a position of employment that is not eligible for Severance Benefits under this policy.

- D. Severance Pay and COBRA Continuation Benefits. Severance pay under this policy shall be paid in an amount approved by the County Administrator/Chief Financial Officer. Using the following as a guide, severance pay may be calculated using one week's regular base pay for each complete year of service to the County, computed from the employee's last date of hire.

The County Administrator/Chief Financial Officer may also approve payment of an amount to an eligible employee's coverage pursuant to the Consolidated Omnibus Budget Reconciliation Act (COBRA). The employee must timely elect COBRA coverage and will pay the employee rate that would have been otherwise paid during regular employment. Following the severance period, the employee will be required to pay the full COBRA rate.

The County will deduct all taxes or other withholdings that are required by law to be withheld from Severance Benefits.

- E. Requirement of Release. Payment of Severance Benefits is conditioned upon the employee timely signing an agreement and release (in a form satisfactory to the County Administrator/Chief Financial Officer) which will include such restrictive covenants as the County Administrator/Chief Financial Officer deems appropriate and a comprehensive release of all claims, including but not limited to, all employment-related claims. Payment of Severance Benefits will commence following the Employee's execution of the agreement and release.

If an employee's employment is terminated for a reason covered under Section B but the employee dies prior to executing an agreement and release, his or her estate or representative may not execute an agreement and release and no Severance Benefits will be paid under this Policy.

- F. Method of Payment. Severance Pay will be paid in accordance with the County's regular payroll schedule.
- G. Offsets. Severance Benefits payable under this Policy will be offset by any other severance, termination, or similar benefits the County provides, including but not limited to any amounts paid under any employment agreement or other individual contractual arrangement. Severance Benefits payable under this Policy also will be offset by any amounts received by the employee during the severance period pursuant to short-term or long-term disability plans or financial support maintained or contributed to by the County. The County also may, in its discretion and to the extent permitted under applicable law, offset against the employee's Severance Benefits the value of unreturned property and any outstanding loan, debt or other amount the employee owes to the County. The County may recover any overpayment of Severance Benefits made to an employee or an employee's estate under this Policy or, to the extent permitted by applicable law, offset any other overpayment made to the employee against any Severance Benefits or other amount the County owes the employee or the employee's estate.

- H. Re-employment and Other Employment. In the event an employee who has been impacted by job elimination is re-employed by the County prior to the commencement of or within the period during which the Severance Benefits are paid, the payment of any Severance Benefits payable with respect to the prior termination immediately will cease and such Severance Benefits will no longer be payable under this Policy. In the event that Severance Pay was paid in a lump sum, such an employee must repay any Severance Pay that was attributable to the post-rehire severance period. Provisions of this policy section shall be part of any release under E. above.
- I. Bridge of Service. Employees who are re-employed by the County after their Termination Date will not, for purposes of determining the number of months of Severance Benefits to which they may be entitled in connection with any future Termination, receive credit for the Years of Service they accumulated on or before their prior Termination Date.
- J. Funding. This Severance Policy is not funded, and payment of benefits hereunder is made from available funds of the County after review and determination by the County Administrator/Chief Financial Officer that sufficient funding exists within the cost center where the employee is employed or within the fund of the cost center including each Court and its respective cost centers individually or in aggregate.
- K. Miscellaneous. No employee vests in any entitlement or eligibility to benefits under this Policy until he or she has satisfied all requirements for eligibility specified in the Policy, his or her employment has Terminated under eligible conditions, and the County Administrator/Chief Financial Officer has determined that the employee is entitled to benefits under the Policy. No interest accrues on any Severance Benefit to which an employee may be entitled under this Policy. Employees cannot assign or pledge any Severance Benefits that they are eligible for under this Policy. Subject to state and federal law, no creditor may attach or garnish any employee's Severance Benefits.
- L. Changing or Ending the Policy. The County Board of Commissioners reserves the right to amend or terminate this Policy at any time and for any reason, without retroactive effect.

Definitions. For purposes of this policy only, the terms set forth below shall be defined as indicated.

- Comparable Position is an employment position with the County of Monroe, an elected official's office or Court, which as a whole, provides substantially the same level of compensation and fringe benefits, as determined by the County in its sole discretion. A Comparable Position does not have to provide an identical level of compensation and fringe benefits and does not have to be identical or even similar to the employee's previous position with the County (or result in the employee performing identical or even similar job responsibilities).
- County shall include the Board of Commissioners and all Chief Judges and other elected officials of Monroe County.

- Misconduct is determined by the County in its sole discretion and includes any actions contrary to or in violation of the County's policies, procedures, mission, values, or work rules, including but not limited to the following:
 - ◆ Theft, dishonesty or other irregularities impacting the County, such as the falsification of any County records including payroll and lying during an investigation.
 - ◆ Damage, loss or destruction of County, employee, resident, or customer property due to negligent or intentional acts.
 - ◆ Unauthorized removal from County premises or use of property belonging to the County without the appropriate level of approval.
 - ◆ Substance abuse on the premises or being under the influence of intoxicants that may negatively impact work performance.
 - ◆ Disruptive behavior or harassment of co-workers including, but not limited to, unwillingness or inability to work in harmony with others, discourtesy or conduct inappropriate to the County's work environment.
 - ◆ Fighting, gambling, disorderly conduct or misconduct, physical or verbal aggression (including, but not limited to, using profane, obscene or abusive language; threatening, intimidating, harassing or coercing others; or carrying weapons while on County premises or at County sponsored functions).
 - ◆ Engaging in any activity inconsistent with the County's stated compliance with state, federal, and other laws governing the conduct of County business.
 - ◆ Conduct which reflects discredit on the individual as an employee of the County.
- Regular Base Pay is the employee's current weekly rate of base compensation paid on each regularly scheduled payday for the employee's regular work schedule as of his or her Termination Date and is calculated to include any before-tax contributions that are deducted for County benefit plans. Regular base pay does not include premium pay, such as shift differential and overtime, taxable or nontaxable fringe benefits or awards, vacation, performance awards, bonus, commission or other incentive pay, or any payments which are not made on each regular payday, regardless of how such payments may be characterized.
- Severance Benefits are Severance Pay and any COBRA continuation benefits payable to an eligible employee pursuant to this Severance Policy.
- Severance Pay is the amount of severance pay payable to an eligible employee pursuant to Section D of this policy.

- Termination whenever used in this policy with respect to employment, shall mean separation of employment with the County of Monroe, an elected official's office of the County or Court.
- Termination Date is the date on which the employee's employment with the County terminates for a reason set forth under Section B above.
- Years of Service are, subject to Section G of this policy, the number of full years of uninterrupted service as a regular full-time employee from such employee's most recent date of hire up to his or her Termination Date. Partial years of service are not taken into account for purposes of this Policy. Years of Service also includes time spent on County-approved leave of absence, provided that no more than one (1) cumulative Year of Service will be credited for such leave of absence. Notwithstanding anything in this Policy to the contrary, any otherwise eligible employee whose anniversary of employment date occurs no later than sixty (60) days after Termination Date shall be credited with one additional Year of Service.

Policy Compliance:

Responsibility. This policy shall be administered by the County Administrator/Chief Financial Officer who shall have the absolute discretion and exclusive right to interpret, construe and administer the policy and to make final determinations on all questions arising under the policy, including but not limited to, questions concerning eligibility for, the amount of and receipt of policy benefits. Severance Benefits under this policy shall be paid only if the County Administrator/Chief Financial Officer determines in his or her absolute discretion that the employee is entitled to them. All decisions of the County will be conclusive, final and binding upon the parties.

Administrative Procedure.

- Prior to terminating an employee, the responsible elected official or department head shall initially consult with the County's Human Resources Director to (i) discuss the contemplated action, (ii) identify the parties to be consulted, (iii) determine the potential pay or benefits to which the employee may be entitled, and (iv) clarify the process to be pursued to effect a timely separation.
- Where appropriate, the Human Resources Director and the responsible elected official or department head shall consult with the County Administrator/Chief Financial Officer and the County's Labor Counsel to matters that may be appropriate under this policy, including preparation of a Separation Agreement, and other issues that arise pertaining to the employee's termination and applicable severance.

Legislative History of Authority for Creation or Revision.

Adopted pursuant to action of the Monroe County Board of Commissioners, dated March 9, 1999.

Revised pursuant to action of the Monroe County Board of Commissioners, dated September 8, 2008 and November 1, 2022.