CITY OF MESA
MERIT SYSTEM BOARD MEETING
Monday, May 4, 2015
Personnel Conference Room #3
20 E. Main Street, Suite 130
4:00 p.m. - 5:00 p.m.

A G E N D A

I. Introductions – Mary Dellai

II. Elect a new Chair

III. Background and overview – Gary Manning

IV. Review the attached proposed revisions to the Personnel Rules

Note: Text deletions will have ~~strikeout~~ and new additions are in red.

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4/30/15

CITY OF MESA

PERSONNEL RULES

EFFECTIVE DATE

~~JANUARY 27, 2013~~ APRIL 23, 2015

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4/23/15

THE PERSONNEL RULES BOOK
IS A HANDBOOK AND NOT A CONTRACT OF EMPLOYMENT.

IT IS SUBJECT TO CHANGE
AT THE DISCRETION OF THE MESA CITY COUNCIL.

TABLE OF CONTENTS

PAGE

CHAPTER 1: GENERAL 1

SECTION 110. DEFINITIONS 1
SECTION 120. GENERAL PROVISIONS 6
SECTION 130. APPLICABILITY 7
SECTION 140. EQUAL EMPLOYMENT POLICY STATEMENT 7
SECTION 150. PERSONNEL RECORDS 7

CHAPTER 2: EMPLOYMENT 9

SECTION 210. GENERAL EMPLOYMENT PROVISIONS 9
SECTION 220. EMPLOYMENT LISTS 11
SECTION 230. RECRUITMENT 12
SECTION 240. EXAMINATIONS 12
SECTION 250. CERTIFICATION, SELECTION, AND APPOINTMENT 13
SECTION 260. EMPLOYMENT OF RELATIVES 14
SECTION 270. PUBLIC SERVICE EMPLOYMENT PROGRAMS 15

CHAPTER 3: CLASSIFICATION AND COMPENSATION 16

SECTION 310. CLASSIFICATION 16
SECTION 320. SALARY PLAN 16
SECTION 330. PERFORMANCE INCREASES AND DECREASES 19
SECTION 340. STABILITY PAY 20
SECTION 350. OVERTIME 21
SECTION 360. STAND-BY AND CALL-OUT PAY 23
SECTION 370. EXECUTIVE/ADDITIONAL BENEFITS 23

CHAPTER 4: BENEFITS 24

SECTION 410. ABSENCE FROM WORK 24
SECTION 420. PAID TIME OFF 24
SECTION 421. HOLIDAYS 25
SECTION 422. VACATION TIME 26
SECTION 423. SICK TIME 28
SECTION 424. BEREAVEMENT TIME 30
SECTION 425. INDUSTRIAL INJURY PROGRAM - WORKERS' COMPENSATION LEAVE 31
SECTION 426. JURY DUTY OR WITNESS TIME 31
SECTION 427. MILITARY LEAVE 31
SECTION 430. UNPAID TIME OFF 31
SECTION 440. SPECIAL LEAVES 32
SECTION 450. FAMILY AND MEDICAL LEAVE 33
SECTION 460. CRIME VICTIM RIGHTS ACT 33
SECTION 470. SHORT-TERM DISABILITY BENEFIT 33
SECTION 480. INSURANCE PROGRAMS 33
SECTION 490. TRAINING PROGRAMS 34
SECTION 495. TUITION REIMBURSEMENT 34

CHAPTER 5: CONDITIONS OF EMPLOYMENT 35

SECTION 510. STANDARDS OF CONDUCT 35
SECTION 520. WORK RULES 36
SECTION 530. PERFORMANCE EVALUATIONS 37
SECTION 540. PROBATION 37
SECTION 550. ALCOHOL, DRUG, AND/OR CONTROLLED SUBSTANCE TESTING 39
SECTION 560: ADMINISTRATIVE LEAVE 39

CHAPTER 6: CHANGES IN ASSIGNMENT 40

SECTION 610. PROMOTION 40
SECTION 620. TRANSFER 40
SECTION 630. SPECIAL ASSIGNMENT 40

CHAPTER 7: GRIEVANCE PROCEDURE 42

SECTION 710. GRIEVANCES 42

CHAPTER 8: DISCIPLINARY ACTIONS 44

SECTION 810. TYPES OF DISCIPLINARY ACTIONS 44
SECTION 820. SUSPENSION 44
SECTION 830. DEMOTION 45

CHAPTER 9: SEPARATIONS 47

SECTION 910. RESIGNATION 47
SECTION 920. REDUCTION IN WORKFORCE 47
SECTION 930. DISMISSAL 48

PROFESSIONAL CONDUCT (ETHICS) 49

LOYALTY OATH 50

CHAPTER 1: GENERAL

SECTION 110. DEFINITIONS

The following words and phrases used in these Rules have the defined meanings unless otherwise clearly indicated by the context.

Administrative Leave - Management-directed time off with pay for an employee that is not charged against the employee's paid time off categories.

Alcohol - Includes Brandy, Whisky, Rum, Tequila, Mescal, Gin, Wine, Porter, Ale, Beer, any Malt Liquor, Malt Beverage, Absinthe, or compound or mixture of any of them with any vegetable or other substance, alcohol bitters, bitters containing alcohol, and any liquid mixture or preparation, whether patented or otherwise, which produces intoxication, fruits preserved in ardent spirits and beverages containing more than one-half of one percent (½ of 1%) of alcohol by volume.

Anniversary Date - The date on which an employee's eligibility for paid time off accruals is based.

Announcement - The public notice of examination to fill positions by open competition, or the notice to employees of an examination to fill positions from within the City.

Applicant - A person who has filed a valid application for employment.

Appointment - The placement of a qualified individual (following examination or other evidence of competence) in an at-will position.

At-Will Employee - An at-will employee (previously referred to as unclassified) is not protected by the merit system, serves at the will and pleasure of the City, and may be dismissed at any time, with or without cause and without right of appeal. Such employees include part-time employees, seasonal employees, temporary project employees, grant funded employees, employees on initial regular employment ~~City~~ probation, and generally, but not exclusively, those serving in administrator-level positions and above. ~~(See At-will List linked here)~~ The City Manager has the discretion to designate positions as at-will when they become vacant. Dismissal of at-will employees other than part-time, seasonal, temporary project, and employees on initial regular employment ~~City~~ probation, shall require the approval of the City Manager or ~~Assistant~~ City Manager designee. Termination of service or assignment by sworn employees in designated at-will positions will be in accordance with public safety at-will procedures approved by the City Manager. At-will employees are protected by state and federal employment anti-discrimination laws.

Benefited Part-Time Employee - An employee who is budgeted to work a minimum of forty (40) hours per pay period on a fiscal year basis (fifty-two [52] weeks per year) and is eligible for regular part-time benefits. A benefited part-time employee is at-will. (See Management Policy 320 - Benefited and Non-Benefited Part-Time Employee Benefits)

Benefited Full-Time Employee - An employee who is budgeted to work a minimum of forty (40) hours per week on a fiscal year basis (fifty-two [52] weeks per year) and is eligible for regular full-time benefits. (See Management Policy 320 – Benefited and Non-Benefited Part-Time Employee Benefits)

Biweekly Pay - Includes the employee's current range and step and any components of pay (not including overtime) for the pay period before taxes and voluntary deductions.

Candidate - An applicant who has successfully completed the selection process and is being considered for employment.

City Manager Designee - For purposes of these rules, a "City Manager designee" includes but may not be limited to: Assistant City Manager, Police Chief, Fire Chief, City Attorney, City Magistrate, City Clerk, City Auditor, and Assistant to the City Manager. The City Manager may designate other positions as such when deemed appropriate.

Classification - (Class) A group of positions sufficiently similar as to duties performed, scope of discretion and responsibility, minimum requirements of training, experience, or skill, and such other characteristics that the same title and the same pay range apply to each position in the group.

Class Title - The designation given to a class, each position allocated to the class, and to the occupant of each position.

Classified Employee - All City employees in designated classified positions who have passed an initial regular employment probation period.

Classified Position - A position with a designated initial regular probationary period.

Common Review Date – A common date of July 1 in which employees are evaluated for step pay increases.

Components Of Pay - extra compensation given to an employee who has additional and/or specialized knowledge, skill and ability that meets the City's requirements for such extra compensation (for example: bilingual compensation, hazardous materials, toxicology paramedic, advanced life support etc.).

Contract Worker - An individual who is not employed by the City of Mesa and has been retained to perform services for the City under a contractual agreement and is left free to do the contracted work and to choose the method for accomplishing it.

Corrective Action Plan - A written plan that alerts an employee about a performance problem and provides a period of time to correct the performance problem. The plan outlines the supervisor's performance expectations, steps to be completed by the employee, and warns the employee of the potential consequences for failing to complete the plan successfully. A corrective action plan is signed by the employee, or a witness (if the employee refuses to sign) and shall be forwarded to the Human Resources Department for inclusion in the employee's official personnel file. (See Management Policy 339 - Implementing Corrective Action and Discipline)

Criteria-Based Promotion - The advancement of an employee from one class to another class (with a higher maximum pay range) in a class series based on pre-approved criteria, without a competitive examination. In most instances, the class eligible for a criteria-based promotion will be a trainee or entry-level position not yet functioning at a "full performance" level. Full performance includes the ability to perform journey-level duties in a class that requires independence and/or duties with a higher level of difficulty. (See Management Policy 343 - Criteria-Based Promotions)

Critical City Services Personnel - All full-time non-sworn employees in classifications where the number of employees available to perform the function is limited (minimum staffing); the function requires specialized skills; or failure to perform the function may have serious consequences.

Days - Calendar days unless otherwise stated.

Demotion - Considered the fourth (4th) level of formal discipline as per Section 810 of the Personnel Rules. Demotion is the movement of an employee from one (1) class to another class having a lower maximum rate of pay. (See Management Policy 339 - Implementing Corrective Action and Discipline)

Department - A major unit of the City government.

Department Director - The City employee responsible for the operation of a department.

Disciplinary Probation - Considered the second (2nd) level of formal discipline. In accordance with the Personnel Rules, Section 540 D. ~~E~~, an employee may be placed on disciplinary probation for violations of the Standards of Conduct listed in Section 510 of the Personnel Rules. (See Management Policy 339 - Implementing Corrective Action and Discipline)

Dismissal - Considered the fifth (5th) level of formal discipline as per Section 810 of the Personnel Rules. Dismissal is the separation of an employee from City of Mesa employment for cause.

Division - A unit of a department.

Dock Status - Unpaid time away from work

Drugs - Includes prescription-only drugs, marijuana, peyote, dangerous drugs, narcotic drugs, vapor releasing substances containing a toxic substance or a controlled substance, all as defined by the laws of the state of Arizona.

Effective Hourly Rate (Effective Rate of Pay) - The employee's base hourly rate of pay (pay range and step).

Elimination Period - A waiting period for the short-term disability benefit.

Essential Personnel - Full-time sworn fire and police employees in classifications where the number of employees available to perform the function is limited (minimum staffing); the function requires specialized skills; or failure to perform the function may have serious consequences.

Examination - The evaluation procedure used to determine the relative qualifications of applicants.

Executive Benefits Plan - A plan, considered by the City Council during budget hearings that provides a flexible pay scale and additional benefits to attract and retain management personnel.

FLSA - Federal Fair Labor Standards Act, and amendments.

Grievance - A grievance is an allegation by a classified employee that the Personnel Rules or the written rules and procedures of any City department have been misinterpreted or misapplied as to that employee; or that the employee has been ~~discriminated against in violation of federal or state law or has been inappropriately~~ denied a regularly scheduled step pay increase.

Hire Date - The date an individual begins work.

Human Resources Director - (See Personnel Director)

Initial Regular Employment Probation - Formerly known as original City probation. A stipulated time period beginning at hire or rehire to the City that a full-time employee must successfully complete in order to be protected by the Merit System.

Job Share - Two (2) employees filling one (1) full-time budgeted position by each employee working one-half (½) of the regular work shift. (See Management Policy 321 - Job Sharing)

Management Policy - Provides Citywide policy statements, administrative regulations, and associated procedures for the efficient and effective operation of the organization and the administration and execution of Citywide matters. Management policies are created and modified at the sole discretion of the City Manager.

Non-Benefited Part-Time Employee - An employee appointed to perform the duties of a position for nineteen (19) hours or less a week on a fiscal year basis and is not eligible for benefits. A non-benefited part-time employee is at-will. (See Management Policy 320 – Benefited and Non-Benefited Part-Time Employee Benefits)

Paid Time Off - The time an employee is absent from work but receiving pay. The following absences are paid time off: observance of a holiday, vacation, sick, compensatory time, discretionary time, voting, jury duty/witness, bereavement, administrative leave, and donated time.

~~**Part-Time Employee -** A person who is appointed to perform the duties of a position for less than forty (40) hours a week. Part-time employees shall not work more than thirty-two (32) hours per week, or sixty-four (64) hours biweekly for more than nine (9) pay periods or eighteen (18) weeks in a fiscal year. (See Management Policy 320 - Benefited and Non-Benefited Part-Time Employee Benefits)~~

Performance Appraisal - The evaluation of an employee's performance of job duties and responsibilities.

Personnel Director - The Personnel Director position title is required by the Mesa City Charter; however the working title for this position is Human Resources Director.

Pre-Deprivation Hearing - A hearing where a classified employee is given an opportunity to present reasons, either orally or in writing (or both) as to why a proposed disciplinary reduction in pay, disciplinary action of suspension (of more than sixteen (16) working hours), demotion, or dismissal, is not warranted. (See Management Policy 339 - Implementing Corrective Action and Discipline)

Probation - A pre-determined period of time during which an employee is required to demonstrate ability to perform the duties of the job in a satisfactory manner.

Probationary Employee - An employee who has not completed the probationary period for a rehire, reinstatement, or new hire.

Promotion - The advancement of an employee from one (1) class to another class with a higher maximum rate of pay.

Public Service Employee - A person appointed under the provisions of a public service employment program. These persons shall not be entitled to benefits unless specifically approved by the City Manager.

Qualified - Meeting the minimum qualifications as defined in the job description plus any special requirements that may be published for that position.

Rater - The individual who completes the Performance Appraisal Form.

Reclassification - Changing the classification of a position when a material change in duties or responsibilities occurs.

Recruitment Summary List - A list of qualified applicants for an open competitive recruitment.
Regular Full-Time Employee - A person who is appointed to a full-time position that requires working a

full schedule or regular workweek for the job class, who has successfully passed a probationary period.

Regular Rate Of Pay - An hourly rate of pay determined by dividing the total compensation actually earned for the normal non-overtime workweek by the total number of hours worked. Includes all remuneration for employment paid to, or on behalf of, the employee, except payments specifically excluded under Section 7(e) of the FLSA.

Reinstatement - An employee who has resigned or been separated in good standing and is rehired into a position at the same or lower range as that held at the time of separation. Reinstated employees serve a new probation period.

Reinstatement List - A list of names of persons qualifying for reinstatement.

Resignation - A written notice filed by an employee indicating his/her intention to terminate employment with the City.

Retirement - Any employee covered by either the Public Safety Personnel Retirement System or the Arizona State Retirement System ~~Plan~~ who has reached the designated age and possesses the appropriate number of years of service, and who elects to receive an annuity benefit from either plan.

Salary Adjustment – An increase in pay based on the needs of the department with approval of the Human Resources Director and Deputy City Manager.

Seasonal Employee - A person who is appointed to perform the duties of a position that requires staffing during certain parts of each year. Seasonal employees are hired for a defined period of time in support of a specific program (e.g., Summer Recreation or Aquatics) and shall not work more than nineteen (19) pay periods in a fiscal year. A seasonal employee is at-will.

Section - A unit of a division.

Seniority - Total consecutive years/months of City of Mesa employment (except in cases of reinstatement for sworn employees as stipulated in Section 250 E). Active duty reserve military training during City of Mesa employment will be considered as credited employment (without a break in service) up to the limits stated in Management Policy 338 - Military Leave. Federal active duty or active duty for special work during City of Mesa employment shall be credited toward continuous employment providing the employee's obligation to report back to work or request reemployment is met. Absences authorized under the Family Medical Leave Act and the Crime Victims' Rights Act shall be considered continuous employment. Absences caused by a compensable industrial injury shall be considered credited employment. An employee hired in a full-time classification, who subsequently converted to part-time status, and then returned to full-time status, shall only receive credited employment for one-half (½) service credit for the time spent in part-time status, in addition to the years/months employed in a full-time classification.

Separation - The end of employment with the City of Mesa via resignation, reduction in workforce, retirement, dismissal or death.

Service - Duties or work performed.

Special Leave - Any time-off in excess of thirty (30) consecutive calendar days that is not covered by the Family Medical Leave Act (FMLA), Crime Victims' Rights Act or Military Leave.

Step Pay Increase – a salary increase within the limits of a pay range established by class.

Suspension - Considered the third (3rd) level of formal discipline. The employee is released from work duties for a specified period of time without pay. The suspension form is signed by the employee or a witness (if the employee refuses to sign) and shall be forwarded to the Human Resources Department for inclusion in the employee's official personnel file. (See Management Policy 339 - Implementing Corrective Action and Discipline)

Temporary Agency Worker - A person employed by a temporary employment agency and on assignment to the City of Mesa. (See Management Policy 331 - Temporary Agency Workers on Assignment to the City)

Temporary Project Employee - Appointments either full or part-time, generally for a period of less than one hundred-eighty (180) days.

Termination - The end of employment with the City of Mesa via resignation, reduction in workforce, retirement, dismissal or death.

Transfer - The movement of an employee from one (1) position in the City of Mesa to another position in the City at the same pay range.

Unpaid Time Off - The time an employee is absent from work and is not receiving pay. The following are examples of unpaid time off: industrial dock, voluntary dock, disciplinary dock, absent without authority dock.

Written Counseling - A memo from a supervisor that documents and counsels an employee about a performance and/or behavior issue, and identifies potential consequences should the problem continue. Written documents of this nature, regardless of title, shall be signed by the employee or a witness (if the employee refuses to sign) and shall be forwarded to the Human Resources Department for inclusion in the employee's official personnel file. (See Management Policy 339 - Implementing Corrective Action and Discipline)

Written Reprimand - Considered the first (1st) level of formal discipline as per Section 810 of the Personnel Rules. A written reprimand is written documentation to make an employee aware of unacceptable conduct or performance. (See Management Policy 339 - Implementing Corrective Action and Discipline)

SECTION 120. GENERAL PROVISIONS

A. **Delegation of Authority:** Unless otherwise stated in these Rules, upon approval by the City Manager, authority granted in these rules to the Deputy City Manager or City Manager designee may be delegated.

B. **Availability of Funds:** The granting of any compensation in these Rules is contingent upon the availability of funds, as determined by the City Manager. In addition, the City of Mesa works to provide its employees with benefits and employment conditions that are desirable, but the City must and does reserve the right to change benefits and employment conditions when deemed reasonable to do so by the Mesa City Council or City Manager.

C. **Conflict with Federal or State Requirements:** Any provision of these Rules that conflicts or is inconsistent with state or federal rules, regulations or standards shall not be applicable to any department.

D. **Service of Notice:** If any document or notice is to be given to any person or department, the notice or document may be served personally or by certified mail to the last known residence or current business address of the addressee. Unless otherwise provided by law or these Rules, notice is complete upon mailing.

E. **Correction of Errors:** The Human Resources Director may correct a manifest error or clear inequity affecting an employee or an applicant for employment.

SECTION 130. APPLICABILITY

These Rules are applicable to all classified employees and positions in the City, and to all at-will employees and positions unless a specific chapter or section is excluded from applicability for at-will employees or positions. In the event there is a conflict between these Rules and a Memorandum of Understanding (MOU) entered into through the Meet and Confer process set forth in Management Policy 358 - Meet and Confer, the terms of the MOU will take precedent and will apply to those eligible employees as defined in Management Policy 358.

SECTION 140. EQUAL EMPLOYMENT POLICY STATEMENT

The City of Mesa reaffirms its policy, as stated in Section 902 (A)1 of the City Charter, granted August 18, 1967, to consider each applicant for City of Mesa employment on the basis of his/her qualifications for the job, and without regard to race, color, religion, gender, marital status, age, or national origin. In addition, the City will not discriminate against an employee or applicant with disabilities (as provided under applicable state or federal laws), regarding any position for which the employee or applicant is qualified.

The City of Mesa is an affirmative action employer, and every effort will be made to ensure that appointments, promotions, reclassifications, transfers, compensation, training, reduction in workforce, terminations, or any other type of personnel actions are based on merit, fitness, or other factors determined to be nondiscriminatory. (See Management Policy 302 - Equal Employment Opportunity)

SECTION 150. PERSONNEL RECORDS

A. **Content:** Each employee's official personnel file shall contain:

1. Employee application
2. New employee hire form
3. Loyalty Oath
4. Personnel changes
5. Notices of promotion
6. Disciplinary forms and employee responses, (e.g., grievances and appeals)
7. Final p~~P~~erformance appraisals
8. Corrective Action Plans
9. Written Counselings

B. **Access:** An employee shall have access to his/her official personnel file during normal City business hours.

C. **Access to Other Files:** The presence of copies of any item listed in Subsection A in any other informational file concerning an employee shall not in itself confer upon such employee any immediate right of access to such file.

D. **Control:** The official personnel file will remain in the control of the Personnel Office, unless otherwise ordered by a court of competent jurisdiction.

CHAPTER 2: EMPLOYMENT

SECTION 210. GENERAL EMPLOYMENT PROVISIONS

A. **Citizenship:** Applicants for sworn law enforcement positions must be United States citizens. Applicants for all other positions must present evidence of United States citizenship, or of status as a legally registered alien who has a right to work, prior to employment.

B. **Age:**

1. The only minimum age requirement for employment in the City of Mesa is that imposed by state law on the employment of minors.

2. The minimum age for the initial employment of recruit police patrol officers and recruit firefighters shall be as designated in administrative regulations.

C. **Residency:** The City Manager will designate those employees required to live in the incorporated City limits. Any change in a City employee's residency status shall be reported to the Personnel Office within fourteen (14) working days.

D. **Physical and Mental Disabilities:** Physical and mental conditions of an applicant for City of Mesa employment shall be disqualifying only if they are of a nature which will preclude the full performance, with reasonable accommodation, of the essential functions of the position. Evaluation of physical and mental condition shall be conducted by a physician or other health care practitioner designated by the City.

E. **Pre-Employment Requirements:** All individuals recommended for employment with the City of Mesa are required to pass a criminal background and driving record check and may be tested for drugs and/or controlled substance use, if applicable. (See Section 550 and Management Policy 316 - Alcohol and Drug Free Workplace)

1. **Fingerprinting:** The City of Mesa shall obtain a full set of fingerprints from the persons identified in this Section. Exceptions to this Section may be made by the Human Resources Director based on operational needs.

a. For persons in groups 1) – 4) below, the City of Mesa shall forward those fingerprints for the purpose of obtaining a state and federal criminal history records check. These criminal record checks shall be done in accordance with Arizona Revised Statutes (ARS) Section §41-1750 and Public Law 92-544.

At the discretion of the Department Director and with approval of the Human Resources Director, employment may begin prior to the City receiving Department of Public Safety (DPS) and Federal Bureau of Investigation (FBI) criminal records results; however, individuals who start employment before DPS and FBI criminal records results are received must be closely supervised if the individual is anticipated to be in contact with minors, disabled or homebound individuals.

1) All prospective City employees eighteen (18) years of age and over (including prior City employees being rehired or reinstated), and

2) All current City employees who turn eighteen (18) years of age and have not previously submitted fingerprints (except seasonal employees who turn eighteen [18] years of age during the season, shall only be required to submit a full set of fingerprints to the City as a returning staff member in the subsequent season, if applicable), and

3) All seasonal employees eighteen (18) years of age and over who have not provided services to the City of Mesa for a period of twelve (12) months or more, and

4) All non-City workers (examples: temporary agency workers, contract workers, volunteers, etc.) eighteen (18) years of age and over who are anticipated to be in contact with minors, disabled or homebound persons, or work in security sensitive areas, unless previously fingerprinted for the City within the last twelve (12) months.

b. For all prospective employees, temporary workers, independent contract workers, or volunteers in groups 1) – 4) below, the City's Police Department shall use those fingerprints to conduct an Arizona Criminal Justice Information System (ACJIS) criminal history record search and provide clearance:

1) Police Department criminal justice positions;

2) Justice Administration positions within the City Court or Prosecutor's Office;

3) Facilities maintenance positions servicing the Police Department; and

4) Information Technology Department and Communications positions performing maintenance or support services on Criminal Justice Systems as authorized by ACJIS regulations.

2. Pre-employment/pre-placement drug and/or controlled substance testing: Individuals recommended for employment/placement into "safety sensitive" positions shall successfully pass a ~~pre-employment~~ drug and/or controlled substance test prior to the hire/placement date, if applicable. (See Section 550 – Alcohol, Drug, and Controlled Substance Testing)

3. Driving Record: The City of Mesa shall obtain driving records for all persons recommended for employment.

F. **Academic Achievement:** All postsecondary academic achievements required to meet the minimum qualifications of a position must be attained in an academic institution recognized by an accrediting association, as determined by the Human Resources Director.

G. **Loyalty Oath:** Every officer and employee of the City of Mesa shall take and subscribe to the Loyalty Oath prescribed by state law.

H. **Outside Employment:** A regular full-time employee may engage in outside employment, if the employment does not adversely impact the employee's City work and does not create a conflict of interest or the appearance of a conflict of interest with the employee's City job. An employee who wishes to engage in outside employment shall inform his/her Department Director. The employee may be asked to choose between his/her City of Mesa employment and his/her

outside employment if it is found that the outside employment interferes with the employee's duties with the City.

I. By accepting employment with the City, employees assign to the City all rights to patent or otherwise protect inventions or intellectual property of any kind the employee may develop on City time, or with City property, or arising out of his/her City duties and responsibilities.

SECTION 220. EMPLOYMENT LISTS

A. **General:** A classified position vacancy in the City of Mesa may be filled first by any employee who, by direction of the City Manager or designee, is being transferred or demoted into the class of that position. An at-will position vacancy may be filled by appointment on the basis of merit and fitness demonstrated by examination or other evidence of competence. Persons appointed to at-will positions must meet minimum qualifications as determined by the hiring authority and Human Resources.

B. **Employment Lists:** If there are no employees to be transferred or demoted to a class, the Human Resources Director shall forward names from lists established for that class in the following order:

1. Reduction In Workforce (RIWF) Lists
2. Promotion Lists
3. Reinstatement Lists
4. Recruitment Summary Lists (Open Competitive Recruitments**)**

C. **Order Of Employment Lists:** Consideration for hire must first be given to qualified candidates who are on a reduction in workforce (RIWF) list. Consideration may then be given to candidates on a promotion list, reinstatement list, or recruitment summary list.

D. **Duration on Lists:** Candidates remain on lists as follows:

1. **Reduction in Workforce (RIWF) List:** (See Management Policy 353 – Reduction in Workforce [RIWF])

2. **Promotion Lists:** Six (6) months or until the employee is promoted or separates from City of Mesa employment, whichever occurs first, or until fewer than three (3) candidates remain on the list. A promotion list may be extended one (1) time, not to exceed six (6) months, upon the request of the Department Director with approval of the Human Resources Director. Requests for extension must be made prior to the expiration date of the original list.

3. **Sworn Promotional Lists:** The duration of the promotion lists for Police Sergeant, Police Lieutenant, Fire Engineer, Fire Captain, and Battalion Chief shall be a minimum of six (6) months, not to exceed a maximum of two (2) years, upon request of the Police Chief or Fire Chief with the approval of the Human Resources Director. The duration of the list will be stated on the promotional job announcement. A sworn promotional list may be considered expired if fewer than three (3) candidates remain on the list.

4. **Reinstatement Lists:** One (1) year from effective date of request for reinstatement. (See Section 250 E)

5. **Recruitment Summary Lists:** The duration of this employment list ~~will be dependent on the number of qualified applicants on the list~~ is generally six (6) months or until fewer than three (3) candidates remain on the list. A recruitment summary list may be extended one (1) time, not to exceed the duration of the original list, upon the request of the Department Director with approval of the Human Resources Director. Requests for extension must be made prior to the expiration date of the original list.

E. **Insufficient Candidates:** If the Human Resources Director determines that there is an insufficient number of appropriately qualified candidates with the necessary preferred skill sets on existing lists, the Human Resources Director may expire the list and/or initiate a recruitment to fill a vacancy. Recruitment of qualified employees from within the City of Mesa will have first priority. If the Human Resources Director determines that there is an insufficient number of qualified employees for the class of the vacancy, an open competitive recruitment may be initiated.

SECTION 230. RECRUITMENT

A. **Notice of Vacancies:** Public notice of position vacancies in the City of Mesa shall be accomplished by posting announcements of the vacancies by such means as the Human Resources Director shall direct.

B. **Applications:** All applications for City of Mesa classified employment shall be submitted on the forms designated by the Human Resources Director. The applications must be submitted during the time period specified in the announcement. All applications and any accompanying documentation become the property of the City of Mesa and shall not be returned.

C. **Disqualifications:** Applicants for classified positions may be denied further examination processing for any of the following reasons:

1. Failure to meet the minimum qualifications specified in the announcement.

2. Failure to submit a complete and accurate application.

3. Misstatement of any pertinent fact on the application.

4. Previous dismissal from City of Mesa classified employment for cause.

5. Lack of a satisfactory performance rating at the time of a previous resignation.

6. Lack of physical or mental ability with reasonable accommodation to perform the essential functions of the position.

7. Fraud or deception in the application process.

D. **Confidentiality:** All applications are confidential and may be reviewed only by the applicant, an individual who has written notarized authorization from the applicant, City officials in the normal line of duty, or officials acting in response to court orders or subpoenas.

SECTION 240. EXAMINATIONS

A. **General:** To ensure compliance with equal employment opportunity standards and test construction validity, the Human Resources Director has authority for reviewing and approving

employment examination and related selection processes. All examinations for City of Mesa classified employment shall be designed to reveal the ability to perform the type of work for which the applicant has applied. All examinations shall be job-related. Employees or other individuals who participate on oral boards or other applicant examination processes shall not have relationships with applicants that could represent a conflict of interest or compromise the validity of the testing and selection process.

B. **Types of Examinations:** Examinations shall include, but not be limited to, all or part of the following: written tests, interviews, performance tests, physical agility tests, evaluation of work performance, examination of work samples, medical tests, evaluation of training and experience, or any combination of these tests.

C. **Preference Points:** Preference points authorized by ARS §38-492 will be added to any applicant's score after the final rating is determined, provided that a passing grade has been earned without the addition of preference points.

D. **Notice of Examination Results:** Examination results shall be communicated to each applicant after the rating has been completed.

E. **Review of Examination:** An applicant may review his/her examination results by submitting a written request to the Human Resources Director within fifteen (15) days from the date the examination results were received by the applicant.

F. **Adjustment of Errors:** The Human Resources Director shall correct any error in the rating of an examination; provided, however, that any such correction shall not invalidate any appointment of any other applicant previously made.

G. **Preparation of Recruitment Summary Lists:** After each recruitment the Human Resources Director shall prepare a Recruitment Summary list, or merge the names of new candidates with those on an existing Recruitment Summary list.

SECTION 250. CERTIFICATION, SELECTION, AND APPOINTMENT

A. **Certification of Candidates:** Upon receipt of a request from a department to fill a vacancy, the Human Resources Director shall send a list containing the names of all persons on the appropriate employment list to the Department Director or City Manager designee. The Department Director or City Manager designee may interview and select any person on the list regardless of placement on the list with the exception of the Reduction in Workforce List. (See Section 220.C)

B. **Notification of Candidates:** The Human Resources Director or designee shall notify all candidates selected for interview of the date, time, and place of the interview. City employees who fail to report for a scheduled interview shall forfeit eligibility on that list for a period of ninety (90) days. Non-City employees who fail to report for an interview shall be removed from that list. Any candidate who fails to report for an interview may be reinstated on the list provided the candidate presents to the Human Resources Director adequate justification for failure to attend the interview.

C. **Appointing Authority:** The City Manager or designee shall appoint successful candidates to vacant positions. The Human Resources Department or Department representative shall notify the successful candidate of the date, time, and place at which the candidate must report to

commence work. The Human Resources Director shall make arrangements for orientation of new personnel.

D. **Temporary Project Appointment:** A Department Director or City Manager designee, Deputy City Manager, or City Manager may select a qualified applicant (following examination or other evidence of competence) for a temporary appointment in order to meet project-related business needs. Project-related temporary appointments are generally less than one hundred eighty (180) days, but may not be longer than twelve (12) months without approval by the human resources director. Appointees working twenty (20) or more hours per week for twenty (20) weeks or more must enroll in and contribute to the Arizona State Retirement System. Time served as a temporary project-based employee is not applied toward benefits or probationary status.

E. **Reinstatement:** An employee who has resigned or been separated in good standing is entitled, upon written application to the Human Resources Director within one (1) year of resignation, to be placed on a reinstatement list for classes for which the former employee is qualified in the same or a lower range as that held at the time of separation. Former full-time employees who are hired into a full-time position from the reinstatement list or within one (1) year of the date of their separation shall serve a new probation period and begin accruing paid time off at the same rate as they were at the time of separation. In addition, fifty percent (50%) of the returning full-time employee's forfeited sick time (rounded to the next fifteen (15) minute increment) shall be restored upon hire (excludes City of Mesa retirees [50% of sick time paid out at retirement]. See Sections 423.B.5. and 423.E. Stability pay shall not be restored. A returning sworn employee's seniority shall also be restored to the level it was prior to the separation (for internal promotions and shift bids).

SECTION 260. EMPLOYMENT OF RELATIVES

Employment of relatives of current City employees shall be governed by the provisions of ARS §38-481 and the following paragraphs.

A. **Definition of Relative:** Relative means employee's spouse, child, parent, sister, brother, grandchild, grandparent and his/her spouses; and the parent, sister, brother, or child of a spouse. Step relationships and employee court-appointed legal guardians are included in this definition.

B. Managers and officers in the positions listed below will not be allowed to have a relative employed in any City department as a full-time, or benefited part-time employee. This Section shall not be construed to require the dismissal of an employee hired before a relative is hired or promoted into one of the positions listed below.

Assistant City Manager
City Attorney
City Manager
Deputy City Manager
Human Resources Director

C. **Mayor, City Council, Boards, and Committees:** Mayor and City Councilmembers will not be allowed to have a relative employed in any City department as a full-time, or benefited part-time employee. This Section shall not be construed to require the dismissal of an employee hired before a relative is elected.

All Council-appointed board and committee members will not be allowed to have a relative employed as a full-time, part-time, seasonal, or temporary project employee, or a worker employed through a temporary employment agency in a department/division about which the board/committee member advises the City Council.

D. **Employing Relatives:** A relative of a current City employee may be employed as a full-time, part-time, seasonal, or temporary project employee, or a worker employed through a temporary employment agency, in the same department as the currently employed relative. However, no employee may directly supervise a relative. No employee who has authority to recommend appointments, or has appointing authority, may appoint or recommend appointment of a relative to a full-time or benefited part-time position within the same chain of command. Under no circumstances should an employee approve promotions, disciplinary actions, or other employment-related decisions for a relative employed in the same department.

E. **Post-Employment Relationships:** In the event two (2) current employees marry, there must be compliance with Section D above or one (1) party will submit a request through his/her Department Director or City Manager designee to the Human Resources Director for transfer. If a transfer compatible with this policy cannot be made within ninety (90) days, one (1) employee may be transferred at the discretion of the Department Director or City Manager designee.

SECTION 270. PUBLIC SERVICE EMPLOYMENT PROGRAMS

A. **Regular Positions:** An employee in a public service employment program is eligible to compete for regular employment with the City of Mesa while continuing in his/her public service employment program.

B. **Eligibility for Benefits:** Employees who are employed on a full-time basis under the provisions of a public service employment program may, with the approval of the City Manager or designee, receive all benefits of regular employees except for stability pay.

C. **Probation:** An employee in a public service employment program who obtains a regular position with the City of Mesa shall be required to serve a probationary period in that position.

CHAPTER 3: CLASSIFICATION AND COMPENSATION

SECTION 310. CLASSIFICATION

A. **General:** Subject to the approval of the City Manager or designee, the Human Resources Director shall place every position in City of Mesa classified employment in a class based on its essential functions, and shall establish and maintain a system of job descriptions for each class in the City.

B. **Job Descriptions:** Each job description shall contain the title of the class, a statement of the essential functions of the class, knowledge, skills, and abilities within the class, and the minimum qualifications for entry into the class. Minimum qualifications shall include educational and experience requirements, and any special requirements that pertain, or may pertain, to all or some of the positions within that class.

C. **Changes in Job Descriptions:** The Human Resources Director may establish new classes, and divide, combine, alter, or abolish existing classes, after consultation with Deputy City Managers and City Manager designees.

D. **Changes in Job Duties:** If a material and permanent change has taken place in the duties and responsibilities of a position, the Department Director or City Manager designee may request a reclassification study of the position. (See Management Policy 329 - Classification and Compensation) An employee who is in the position at the time of reclassification is entitled to continue to serve in that position in the new classification.

SECTION 320. SALARY PLAN

A. **General:** The Human Resources Director, with the approval of the City Manager, or designee, will assign each class in the City of Mesa to a specific salary range.

B. **Salaries:** Except as otherwise provided, all City classified employees shall be paid a salary within the range to which their class is assigned.

C. **Entrance Rates:**

1. Except as specified below, all new employees shall be paid at the first step of the range to which their class is assigned.

2. If the City Manager, or designee, determines that qualified applicants are not available at the first step of the range for the class, the City Manager or designee may establish a higher step as a special recruitment rate.

3. If the Deputy City Manager (or designee) or City Manager designee determines that a particular applicant has special qualifications that justify a salary higher than the first step of the range, the Deputy City Manager (or designee) or City Manager designee may authorize a special entrance rate at a higher step within the salary range for that individual.

D. **Specialty Pay Scale:** Under limited circumstances, the City Manager may establish position classifications according to a specialty pay scale as approved by the City Council.

E. **Promotion:**

1. Except as specified in Paragraph 2 below, an employee who is promoted shall receive a salary that is ***at least*** the same or higher than the salary received at the former range. Increases greater than five percent (5%) shall be in accordance with approval processes established by the City Manager.

2. Employees who are criteria-based promoted from a Recruit classification to the Firefighter classification or the Police Officer classification will start at the first step of the range for these classes.

F. **Transfer:** An employee transferred in the same range while remaining in the same classification shall receive the same salary as before the transfer. If the transfer involves a lateral change, (a change in job classification that is in the same pay range) the employee's salary may be adjusted.

G. **Reclassification:**

1. An employee whose position is reclassified to a class in the same pay range shall receive the same salary as before the reclassification.

2. An employee whose position is reclassified to a class in a higher pay range shall receive the same salary as before the reclassification, unless this salary is less than the first step of the new pay range, in which case the employee shall receive the salary of the first step of the new pay range.

3. a. If an employee's position is reclassified to a lower salary range, the employee will be placed at the lowest salary step in the new pay range that does not cause a decrease in salary.

   b. If an employee is reclassified to a lower range, and the employee's current salary is higher than the maximum step of the lower range, the employee shall be retained at the current salary level until the salary range of the new pay range reaches the level of the employee's salary.

4. An employee whose salary range is adjusted from his/her current salary range to a higher salary range based on a salary survey shall be entitled to a salary increase as indicated in Paragraph 2 above.

5. The City Manager may approve exceptions to this Section based on financial considerations.

H. **Demotion**:

1. An employee who is demoted for disciplinary reasons shall be paid at the highest step in the lower pay range that is at least five percent (5%) lower than the employee's salary prior to the demotion. The demoted employee will be placed on disciplinary probation for one (1) year (See Section 540.D.5. regarding disciplinary probation and pre-deprivation hearings with a disciplinary reduction in pay). A Department Director can remove the employee from disciplinary probation early, if warranted.

2. An employee who is demoted for disciplinary reasons whose new salary as computed under Subsection G above exceeds the maximum salary of the lower range shall receive the maximum salary of the lower range.

3. An employee who requests demotion shall be paid at a rate within the new salary range recommended by the Department Director or City Manager designee and approved by the Deputy City Manager or Assistant City Manager. (See Section 830) A voluntary demotion may only occur if the intended position is currently existing and vacant.

4. An employee who is demoted for failing to meet the requirements of the position shall be demoted to the formerly held position if existing and vacant. The employee's salary will be computed as in Subsection G 1 above. If the employee's former position is not currently existing and vacant at the time the employee is demoted, the employee shall be terminated and placed on an employment list for a classification for which the employee is eligible.

5. An employee demoted for the City's convenience will continue to receive the same salary as before the demotion. If this salary is higher than the maximum of the new pay range, the employee will remain at this rate until the salary range for the class reaches the employee's salary, at which point the employee will again be eligible for salary increases.

I. **Shift Differential:**

1. Shift differential is a premium paid to nonexempt employees working an eligible shift. An eligible shift is a shift of eight (8) or more hours**,** which starts on or after 2:00 p.m. and before midnight. Eligible employees who start work on or after 2:00 p.m. will receive shift differential premium for all work performed from 3:30 p.m. to 8:00 a.m. Part-time employees (benefited or non-benefited) will receive shift differential premium if working an eight (8) hour shift that starts on or after 2:00 p.m. for all work performed from 3:30 p.m. to 8:00 a.m. Sworn Fire personnel and seasonal employees are not eligible for shift differential premium.

2. Shift differential premium shall be paid to employees for hours worked over the regularly assigned eligible shift when such work is a continuation of the regular shift and falls within the designated hours of 3:30 p.m. to 8:00 a.m. Shift differential shall also be paid for all regularly assigned eligible shifts (as defined in paragraph 1) when an employee works overtime during an eligible shift and has received supervisory approval to flex the time in their regularly scheduled workweek in order to avoid the payment of overtime compensation. The flex hours must fall within the designated hours of 3:30 p.m. to 8:00 a.m. and may be less than an eight (8) hour shift.

3. Shift differential shall not be paid for any employee on paid time off, as outlined in Chapter 4 of the Personnel Rules. An employee normally assigned to an eligible shift is not eligible for the shift differential premium when working a day shift or attending training during the day.

4. An employee who is called back to work outside his/her regularly assigned shift shall not receive shift differential premium, but shall be compensated in accordance with call-out policies, unless the shift meets the eligibility requirements.

5. ~~Until the Advantage Human Resources Information System is implemented, s~~Shift differential premium shall be ~~five percent (5%) of an employee's current pay range and step not to exceed five percent (5%) of the maximum hourly rate for Police Officer. After~~

~~the Advantage Human Resources Information System is implemented, eligible employees will be~~ paid according to the chart identified in Management Policy 400 – Timekeeping and Leave Administration.

SECTION 330. PERFORMANCE INCREASES AND DECREASES

(See Section 530 Performance Evaluations, Section 320 H Demotion, Section 830 Demotion)

A. **Eligibility - New Employees:** After initial employment in a City of Mesa classified position, an employee becomes eligible for advancement in the employee's pay range (step pay) upon successful completion of initial regular probation.

B. **Eligibility - Full-Time and Benefited Part-Time Employees:** Full-time and benefited part-time employees are eligible for a step pay increase upon successful completion of initial regular probation and then annually on the common review date until the benefited employee's salary reaches the maximum of the pay range.

C. **Qualifying Requirement:** An employee must attain the performance rating indicated by City Management in order to qualify for a step pay increase.

D. **Pay Decreases Due To Performance:** If an employee's overall performance rating is "Performance Improvement Required", the employee may receive one (1) pay reduction not to exceed five percent (5%) per regularly scheduled evaluation. A classified employee must be given an opportunity to attend a pre-deprivation hearing after receiving the evaluation notifying him/her of the intended action, but prior to the salary being reduced.

E. **Pre-Deprivation Hearing:** Upon recommendation of a reduction in pay, the employee will be notified that a pre-deprivation hearing will be held by the Department Director or designated acting Department Director, or City Manager designee. The employee will be given not less than one (1) working day's notice of the pre-deprivation hearing and is allowed to bring a personal representative. If the employee's representative is a City of Mesa employee, the representative must secure the approval of the employee's supervisor to attend the hearing. The personal representative may speak and participate in the process with the concurrence of the Department Director conducting the hearing. (See Management Policy 339 - Implementing Corrective Action and Discipline for Pre-Deprivation Hearing Guidelines)

F. **Exceptional Performance Recognition Award:** Upon approval of the Deputy City Manager or City Manager designee, an exceptional performance recognition award may be given to full-time and benefited part-time employees to recognize exceptional performance in the employee's class. An employee may receive no more than one (1) individual and one (1) team award during a twelve (12) month period. This award will be for a specified amount and paid in a lump sum separate and apart from biweekly wages. After the City deducts the appropriate amount of taxes, the amount of the exceptional performance recognition award net of taxes, shall not exceed two and one-half percent (2½%) net of the employee's current pay range and step annual salary. (See Management Policy 322 - Special Performance Rewards)

Eligible employees must have been employed for one (1) year, and received an overall "Successful Performance" rating on their most recent performance appraisal. Additionally, written justification shall be provided to support the recommendation for an Exceptional Performance Award. Team members considered for Exceptional Performance Recognition must have received a rating of "Successful Performance" on their most recent performance appraisal. (See Management Policy 322 - Special Performance Rewards)

G. **Unscheduled Pay Increases:** Upon approval of the Deputy City Manager or City Manager designee and review by the Human Resources Director, an Unscheduled pay increase may be processed as a salary adjustment and awarded to an employee to recognize exceptional performance in the employee's class. This award is a permanent increase and may be given only to employees below the maximum of the salary range to which they are assigned. (See Management Policy 322 - Special Performance Rewards)

SECTION 340. STABILITY PAY

~~Until the Advantage Human Resources Information System is implemented:~~

~~A. **Definition:** Stability pay is a lump sum payment to eligible full-time employees which is designed to encourage and recognize continued City of Mesa employment.~~

~~B. **Eligibility:**~~

~~1. Employees hired prior to July 1, 1988, who have worked for the City of Mesa for five (5) continuous years receive two and one-half percent (2½%) of their annual pay range and step. The credit begins to accumulate at the beginning of the sixth (6th) year. The amount increases by one-half of one percent (½ of 1%) for each year of City of Mesa employment thereafter, up to a maximum of ten percent (10%).~~

~~2. Employees hired on and after July 1, 1988, who have worked for the City of Mesa for five (5) continuous years will receive two and one-half percent (2½%) of their annual pay range and step. The credit begins to accumulate at the beginning of the sixth (6th) year. The amount increases by one-half of one percent (½ of 1%) for every other year of City of Mesa employment, up to a maximum of five percent (5%).~~

3. ~~Employees hired on or after July 1, 1992, will not be eligible for stability pay.~~

4. ~~Part-time employees are not eligible for stability pay. Employees who were previously eligible for, or received stability pay as a regular full-time employee will not receive stability pay as a benefited part-time employee. If an eligible benefited part-time employee regains regular full-time status, without a separation from City of Mesa employment, the employee's stability pay will be reinstated at the employee's previous rate. Eligibility for stability pay is determined by the employee's status at the end of the accrual year and will not be prorated.~~

~~C. **Stability Pay Periods:**~~

~~1. Eligible full-time classified or at-will employees who are not members of the Public Safety Arizona State Retirement System System shall be paid stability pay once a year. The stability pay period is from December 1 through November 30 of the following year.~~

~~2. Eligible full-time classified or at-will employees who are members of the Public Safety Retirement System shall be paid stability pay twice a year. The first stability pay period is from December 1 through May 31 of the following year. The second stability pay period is from June 1 through November 30 of the same year.~~

~~D. **Credited Service:** For the purpose of determining credited service for stability pay purposes, total continuous City of Mesa employment is counted, regardless of the class, position, or department of the employee. This credit will include breaks in service caused by a compensable~~

~~industrial injury, by required service in the Armed Forces of the United States, or by authorized paid leaves of absence. If a special leave exceeds thirty (30) calendar days, the excess days over thirty (30) shall not be counted as credited service.~~

~~After the Advantage Human Resources Information System is implemented, eligible employees will be paid stability in accordance with the following:~~

A. **Definition:** Stability pay is a payment made to eligible full-time employees that is designed to encourage and recognize continued City of Mesa employment.

B. **Eligibility:**

1. Employees hired prior to July 1, 1988, who have worked for the City of Mesa for five (5) continuous years and are currently in a full-time position, will receive ten percent (10%) of their pay, as set forth in Section 340.C below. The stability payment begins on the first pay period after five (5) years of full-time employment.

2. Employees hired on and after July 1, 1988, but before June 30, 1992, who have worked for the City of Mesa for five (5) continuous years and are currently in a full-time position, will receive five percent (5%) of their pay, as set forth in section forth in Section 340.C below. The stability payment begins on the first pay period after five (5) years of full-time employment.

3. Employees hired on or after July 1, 1992, will not be eligible for stability pay.

4. Part-time employees are not eligible for stability pay, regardless of benefited status. Employees who were previously eligible for, or received stability pay as a regular full-time employee, will not receive stability pay as a part-time employee. If an eligible part-time employee regains regular full-time status without a separation from City of Mesa employment, the employee's stability pay will be reinstated. Eligibility for stability pay is determined by the employee's status at the end of the biweekly pay period and will not be prorated.

C. **Stability Payments:**

The City shall pay eligible full-time employees stability pay on a biweekly basis and the payment will be included in the employee's pay check. The amount of stability pay is determined by the employee's biweekly pay, regardless of the number of hours worked. Deductions will not be made for paid or unpaid time off in a pay period or use of donated time.

SECTION 350. OVERTIME

A. **Eligibility:**

1. All employees, except those identified in Paragraph 2 below, are eligible to receive overtime pay when earned.

2. Executive, administrative, professional, certain computer-related occupations, or certain recreational employees who meet the criteria established in the federal Fair Labor Standards Act (FLSA) as amended, are exempt from overtime pay.

a. Notwithstanding any other provision of these Personnel Rules or any other policy of the City, for purposes of public accountability, all City of Mesa FLSA exempt employees must use accrued leave for absences of more than four (4) consecutive hours unless approval is given by the Department Director or designated acting Department Director or City Manager designee. Otherwise, FLSA exempt employees who do not have accrued leave available will have their pay docked or be placed on special leave.

b. All employees, including FLSA exempt employees, must seek and obtain a supervisor's permission to be absent during the work day. FLSA exempt employees generally need not use accrued leave for absences of four (4) consecutive hours or less in a work day. Department Director or designated acting Department Director or City Manager designee approval is required for absences greater than four (4) hours if accrued leave is not used.

B. **Overtime Schedules:** All personnel except those identified above shall be eligible to receive overtime compensation for hours worked in excess of forty (40) hours during any work week. Effective July 1, 2012, for purposes of calculating overtime for employees working a forty (40) hour work week, the following paid time off categories will ~~be considered time worked: observance of a holiday (except for Critical City Services and Essential Personnel), vacation, discretionary time (i.e., personal time), voting, jury duty/witness, bereavement, military leave, administrative leave, and donated leave. The following paid time off categories will~~ not be considered time worked: sick, ~~and~~ compensatory time and observance of a holiday for critical City services and essential personnel.

Fire personnel working a twenty-four (24)-hour shift are eligible to receive overtime compensation for hours worked in excess of two hundred four (204) hours during the twenty-seven (27) day work period. Effective July 1, 2012, for purposes of calculating overtime for fire personnel working a twenty-four (24)-hour shift, the following paid time off categories ~~will be considered time worked: vacation, sick, discretionary time (i.e., personal time), voting, jury duty/witness, bereavement, military leave, administrative leave, and donated leave. The following paid time off category~~ will not be considered time worked: compensatory time and observance of a holiday.

C. **Overtime Authorization:** FLSA nonexempt employees must seek and obtain approval prior to working any overtime or outside of their normal scheduled shift/hours. The employee shall accurately report and record all hours worked. The supervisor shall monitor hours worked, record/review time cards, and approve all overtime worked by employees.

D. **Identification:** The Human Resources Director will publish a list of all positions in the City, identifying those positions eligible for overtime, and identifying the category of overtime for each position.

E. **Payment:** Eligible employees, when authorized to work overtime, shall be compensated at one and one-half (1½) times the employee's regular rate of pay. Once an employee has been paid overtime, that time cannot be converted into compensatory time.

F. **Compensatory Time:** At their request and with the approval of their supervisor, eligible employees (full-time and benefited part-time) may receive compensatory time in lieu of overtime payment. Compensatory time shall accrue at one and one-half (1½) hours for each hour of overtime worked. Once an employee has accrued compensatory time, that time cannot be converted into overtime. (See Management Policy 311 - Compensatory Time)

G. **Working on a Holiday:** (See Section 421 D, 1 and 2)

SECTION 360. STAND-BY AND CALL-OUT PAY

Eligibility: Employees who are eligible for overtime pay, as specified in Section 350 A are eligible for stand-by or call-out pay. For Information on Citywide Stand-By, On-Call, and Call-Out, (See Management Policy 357 - Citywide Stand-By, On-Call, and Call-Out)

SECTION 370. EXECUTIVE/ADDITIONAL BENEFITS

A. The City Manager, Assistant City Manager, Deputy City Managers, and those City officers specifically established in the City Charter and management employees designated by the City Manager shall participate in an executive benefits plan created and approved by the City Manager. The City Council shall consider the executive benefits plan during annual budget hearings.

B. The City Manager may provide additional benefits, (e.g., authorize the provision of an established bank of vacation and/or sick time or other benefits deemed appropriate), for any position as determined by the City Manager. Accrual schedules outlined in Sections 422 and 423 will not be affected by an established bank of time.

CHAPTER 4: BENEFITS

SECTION 410. ABSENCE FROM WORK

A. **Absence From Work:** Absence from work is subject to supervisory approval. All requests for absence from scheduled work should be submitted to the employee's supervisor at least forty-eight (48) hours prior to the beginning of the absence (or according to Fire staffing policy for Fire employees), except for emergencies or unanticipated sick time, in which case the request shall be submitted as soon as possible. The request must be submitted and must be approved by the employee's supervisor. This requirement applies to both paid and unpaid time off.

B. **Unexcused Absences:** An employee who is absent without supervisory approval (unpaid time off) has an unexcused absence and is subject to the ~~following~~ disciplinary action~~:~~ listed below. Unexcused absences may be for full or partial days~~:~~.

1. For the first (1st) instance of unexcused absence, the employee shall receive at a minimum, a non-disciplinary corrective action (i.e., oral counseling, written counseling, Memorandum of Understanding, Corrective Action Plan) ~~a written reprimand~~.

2. For the second (2nd) instance of unexcused absence within ~~six (6)~~ twelve (12) months of the first (1st) unexcused absence, the employee shall receive, at a minimum, a written reprimand ~~may receive up to a three (3) day suspension~~ . ~~(See Section 820 B - for suspension of exempt employees)~~

3. For the third (3rd) instance of unexcused absence within ~~six (6)~~ twelve (12) months of the second (2nd) ~~first~~ unexcused absence, the employee shall receive, at a minimum, a suspension of one (1) day, or discipline up to and including termination with the approval of the Human Resources Director. (See Section 820.B. for suspension of exempt employees) ~~may be dismissed from City of Mesa employment.~~

4. For the fourth (4th) instance of unexcused absence within twelve (12) months of the third (3rd) unexcused absence, the employee shall be dismissed from City of Mesa employment, unless the City Manager or designee, in consultation with the Human Resources Director, find that extraordinary circumstances do not justify the termination.

~~4~~ 5. An unexcused absence of three (3) ~~five (5)~~ consecutive work days~~, or forty (40) consecutive work hours~~, or two (2) consecutive twenty-four (24)-hour work shifts ~~or forty-eight (48) hours for firefighters~~ or more is considered to be abandonment of City of Mesa employment. Per Section 930.B., the Deputy City Manager or City Manager designee must attempt to notify the employee to schedule a pre-deprivation hearing by certified mail to the employee's last known address.

SECTION 420. PAID TIME OFF

Paid time off is the time an employee is absent from work but receiving pay. The following absences are paid time off: observance of a holiday, vacation, sick, compensatory time, discretionary time, voting, jury duty/witness, bereavement, administrative leave, and donated time.

All paid time off can be taken in quarter (¼)-hour increments. An employee receiving pay in any of the paid time off categories will be paid at the employee's effective rate of pay, (not including shift differential pay), unless otherwise noted.

SECTION 421. HOLIDAYS

A. **City Holidays are as Follows:** New Year's Day, Martin Luther King, Jr./Civil Rights Day, President's Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, Day after Thanksgiving, and Christmas Day.

B. **Observation of Holidays:** When a holiday falls on a Sunday, it will be observed on the following Monday. When a holiday falls on a Saturday, it will be observed on the preceding Friday. If the holiday falls on an employee's regularly scheduled day off, the employee will observe the holiday on a regularly scheduled workday within two (2) weeks before or after the holiday, unless otherwise approved by the Department Director or City Manager designee.

Effective July 1, 2012, departments will determine whether employees in the department will follow an actual or observed holiday calendar. (See Management Policy 400 – Timekeeping And Leave Administration)

C. **Eligibility:** Unless required to maintain City services as indicated in Section 421.D., employees are relieved from duty for their full shift if the holiday falls on a day they are normally scheduled to work; benefited employees shall be paid during their absence from work.

D. **Employees Required to Work to Maintain City Services:**

1. All nonexempt employees ~~(except critical City services and essential personnel)~~ who are required to work on a holiday (actual or observed as set by the department) shall be paid a holiday premium at the rate of one and one-half (1½) times the employee's effective hourly rate.

2. Critical City services (critical City services), and essential personnel: ~~Sworn Police and Fire personnel (essential personnel) and other non-sworn/civilian personnel required to maintain City services~~ Employees required to work to maintain City services as designated by the City Manager or designee, are paid for the holiday separately in the pay period the holiday occurs. Critical City services and essential personnel receive holiday premium at their effective hourly rate based on their current schedule, except that Fire personnel working a twenty-four (24)-hour shift are paid eleven point two (11.2) hours at their effective hourly rate. Critical City services and essential personnel except fire personnel working a twenty-four (24)-hour shift, shall be paid a holiday premium of one and one-half (1½) times the employee's effective hourly rate of pay for time worked on a holiday.

   Critical City services and essential personnel required to work on a holiday may not flex the holiday time to another day. All personnel (including essential personnel in an administrative assignment) are required to obtain supervisory approval to work on a holiday.

E. **Holidays During Paid Time Off:** All benefited employees (except those designated in Section 421 D 2) on paid time off when a holiday occurs will receive no additional pay and will not be charged any paid time off categories.

F. **Holidays During Unpaid Time Off:** An employee who is on unpaid time off status shall not be paid for a holiday unless the employee works a shift or submits paid time off on the employee's scheduled work day either the day before or the day after the holiday.

G. **Starting Employment:** If a holiday falls on the first scheduled work day, an employee who

starts to work for the City on the following day and works for the remainder of the pay period shall receive full pay for the holiday.

H. **Terminating Employment:** If an employee is terminated for any reason on the day before a holiday, the employee will not receive pay for the holiday.

SECTION 422. VACATION TIME

A. **Definition:** Vacation time includes all periods of approved absence with pay which are not chargeable to another paid time off category.

B. **Accrual:**

1. Effective January 1, 2013, eligible employees will accrue vacation time in accordance with the following:

a. **Full-Time:**

Years Zero (0) Through Two (2):

- Three point five (3.5) hours per pay period ~~* twenty-six (26) pay periods = ninety-one (91) hours~~.
- An additional five (5) hours will be granted on January 1 of each year ~~for a total of ninety-six (96) hours per calendar year~~.

Years Two (2+):

- Five point five (5.5) hours per pay period ~~* twenty-six (26) pay periods = one hundred forty-three (143) hours~~.
- An additional one (1) hour will be granted on January 1 of each year ~~for a total of one hundred forty-four (144) hours per calendar year~~.

b. **Fire Personnel Working A Twenty-Four (24)-Hour Shift:**

Years Zero (0) Through Two (2):

- ~~Five (5)~~ Four point nine (4.9) hours per pay period ~~* twenty-six (26) pay periods = one hundred thirty (130) hours~~.
- An additional ~~four point four (4.4)~~ seven (7) hours will be granted on January 1 of each year ~~for a total of one hundred thirty-four point four (134.4) hours per calendar year~~.

Years Two (2+):

- Seven point ~~five~~ seven (7.7~~5~~) hours per pay period ~~* twenty-six (26) pay periods = one hundred ninety-five (195) hours~~.
- An additional ~~six~~ one point four (1.4) ~~six (6.6)~~ hours will be granted on January 1 of each year ~~for a total of two hundred one point six (201.6) hours per calendar year~~.

c. **Benefited Part-Time:**

Years Zero (0) Through Two (2):

- One point seven-five (1.75) hours per pay period ~~* twenty-six (26) pay periods = forty-five point five (45.5) hours~~.
- An additional two point five (2.5) hours will be granted on January 1 of each year ~~for a total of forty-eight (48) hours per calendar year~~.

Years Two (2+):

- Two point seven five (2.75) hours per pay period ~~* twenty-six (26) pay periods = seventy-one point five (71.5) hours~~.
- An additional point five hour (.5) will be granted on January 1 of each year ~~for a total of seventy-two (72) hours per calendar year~~.

2. Effective January 1, 2013, employees accrue vacation time once they have met a minimum number of hours in a biweekly pay period. This hourly requirement may be satisfied through any combination of hours worked and paid time off. At the beginning of employment, if an employee works less than the minimum number of hours in his/her first pay period, he/she will not accrue vacation time for that pay period and will begin accruing on the next pay period provided the minimum number of hours is reached. The minimum number of hours is as follows:

   a. Full-time employees must meet a minimum of sixty-five (65) hours in a biweekly pay period;

   b. Fire personnel working a twenty-four (24)-hour shift must meet a minimum of fifty-four (54) hours in a biweekly pay period;

   c. Benefited part-time employees must meet a minimum of thirty-two point five (32.5) hours in a biweekly pay period.

3. Effective January 1, 2013, the effective date for change in the accrual rate is the first (1st) biweekly pay period immediately following two (2) years of continuous employment.

4. Eligibility to use accrued vacation time shall begin on the date of accrual for full-time and benefited part-time employees.

5. Former full-time employees who are hired into a full-time position from the reinstatement list or within one (1) year of the date of their separation shall begin accruing vacation time at the same rate as they were at the time of separation.

C. **Accumulation:** The maximum accumulation of vacation time is two hundred forty (240) hours for regular full-time employees, three hundred thirty-six (336) hours for fire personnel working a twenty-four (24)-hour shift, and one hundred twenty (120) hours for benefited part-time employees. Employees who have in excess of the above amounts on December 31st of each year will be paid for the excess amount of time after December 31st , provided the regular full-time employee has taken eighty (80) hours vacation time, one hundred twelve (112) hours for Fire personnel working a twenty-four (24)-hour shift, and forty (40) hours for benefited part-time employees during that calendar year. If the employee has not taken the required amount of time during the year, all excess time shall be forfeited and placed in the Citywide donated leave bank. Donated time counts as used vacation time.

D. **Use of Vacation Time:** Vacation time may be taken at any time if approved by the supervisor; the minimum unit allowed is one-quarter (¼) hour. Vacation time shall not be advanced to an employee nor may vacation time be transferred between employees unless authorized by the

Department Director or City Manager designee in accordance with the Donated Time Program. (See Management Policy 317 - Donated Time Program)

E. **Separation:** A full-time or benefited part-time employee who separates from City of Mesa employment shall be paid for all unused vacation time.

F. **Change in Benefits:** An employee who transfers from a benefited position to a non-benefited part-time position shall be paid for all unused vacation time.

SECTION 423. SICK TIME

A. **Definition:** Sick time includes all periods of approved absence with pay granted an employee due to:

1. Illness or injury, which renders the employee unable to perform the duties of the position. Minor, non-disabling injuries and illnesses do not qualify an employee for sick time.

2. Disability caused by pregnancy, childbirth, miscarriage.

3. Examination or treatment by a licensed health care practitioner.

4. Illness, injury, examination or treatment by a licensed health care practitioner of a member of the employee's immediate family. For the purpose of this Section the term immediate family means the employee's spouse, child, stepchild, parent, stepparent, grandparent, mother-in-law, father-in-law, sister, sister-in-law, brother, brother-in-law, son-in-law, daughter-in-law, stepparent-in-law, grandchild and minor child or an adult for whom the employee is a legal guardian.

5. Bereavement time shall be allowed in accordance with Section 424.

B. **Accrual:**

1. Effective January 1, 2013, eligible employees will accrue sick time in accordance with the following:

a. **Full-Time:**
- Three point five (3.5) hours per pay period ~~* twenty-six (26) pay periods = ninety-one (91) hours~~.
- An additional five (5) hours will be granted on January 1 of each year ~~for a total of ninety-six (96) hours per calendar year~~.

b. **Fire Personnel Working A Twenty-Four (24)-Hour Shift:**
- ~~Five (5)~~ Four point nine (4.9) hours per pay period ~~* twenty-six (26) pay periods = one hundred thirty (130) hours~~.
- An additional ~~four point four (4.4)~~ seven (7) hours will be granted on January 1 of each year ~~for a total of one hundred thirty-four point four (134.4) hours per calendar year~~.

c. **Benefited Part-Time:**
- One point seven-five (1.75) hours per pay period ~~* twenty-six (26) pay periods = forty-five point five (45.5) hours~~.

- An additional two point five (2.5) hours will be granted on January 1 each year ~~for a total of forty-eight (48) hours per calendar year~~.

2. Effective January 1, 2013, employees accrue sick time once they have met a minimum number of hours in a biweekly pay period. This hourly requirement may be satisfied through any combination of hours worked and paid time off. At the beginning of employment, if an employee works less than the minimum number of hours in his/her first pay period, he/she will not accrue sick time for that pay period and will begin accruing on the next pay period provided the minimum number of hours is reached. The minimum number of hours is as follows:

   a. Full-time employees must meet a minimum of sixty-five (65) hours in a biweekly pay period;

   b. Fire personnel working a twenty-four (24)-hour shift must meet a minimum of fifty-four (54) hours in a biweekly pay period;

   c. Benefited part-time employees must meet a minimum of thirty-two point five (32.5) hours in a biweekly pay period.

3. Eligibility to use accrued sick time shall begin on the date of accrual for full-time and benefited part-time employees.

4. An employee who transfers from a benefited position to a non-benefited part-time position shall have their unused sick time hours frozen. The employee will not be able to accrue additional sick time or use the frozen sick time until the employee transfers to a benefited position.

5. Former full-time employees who are hired into a full-time position from the reinstatement list or within one (1) year of the date of their separation shall be granted fifty percent (50%) of their forfeited sick time balance upon hire (rounded to the next fifteen [15] minute increment). Excludes City of Mesa retirees (50% of sick time paid out at retirement) See Sections 250.E. and 423.E.

C. **Accumulation:** The maximum accumulation of sick time for full-time employees is one thousand forty (1,040) hours, for benefited part-time employees is five hundred twenty (520) hours, and one thousand four hundred fifty-six (1,456) hours for Fire personnel working a twenty-four (24)-hour shift.

D. **Automatic Conversion:** Any sick time accrued in excess of the maximum accumulation stated in Subsection C above, shall be automatically converted to vacation time on the basis of one (1) hour of vacation time for every one (1) hour of excess sick time accrued.

E. **Payment at Retirement/Death:** A regular full-time or benefited part-time employee who retires from City of Mesa employment or dies shall be compensated for all accumulated sick time at the rate of fifty percent (50%) (rounded to the next fifteen (15) minute increment) of the accumulated sick time hours at the employee's effective hourly rate.

F. **Payment at Termination:** An employee who terminates City of Mesa employment for any reason other than retirement or death shall forfeit all accumulated sick time.

G. **Use of Sick Time:**

1. Sick time may be taken at any time if approved by the supervisor; the minimum unit allowed is one-quarter (¼) hour. The employee must notify the immediate supervisor within one-half (½) hour prior to the beginning of the work shift, unless the employee is unable to do so due to circumstances beyond the employee's control. Failure to report within the specified time period may result in the employee being docked a day's pay and subjected to disciplinary action. When the employee has returned to duty, reasons for the absence must be submitted to the employee's supervisor. A licensed health care practitioner's release to return to work may be required for any non-FMLA absence per supervisory discretion.

2. A Department Director (or designee) or City Manager designee may require submission of evidence from a licensed health care practitioner substantiating the need for sick time. If the Department Director (or designee) or City Manager designee determines the evidence is inadequate, the absence shall be charged to another paid time off category or considered an unauthorized absence.

3. A Department Director (or designee) or City Manager designee may require an employee to be examined by a licensed health care practitioner designated by the City Manager or designee. If the licensed health care practitioner determines that the employee should not work due to illness or injury, the Department Director (or designee) or City Manager designee may place the employee on sick time, or if the employee's sick time is exhausted, on special leave without pay. If the licensed health care practitioner determines that the employee cannot perform the essential functions of his/her regular class, the employee may be transferred to a class for which the employee is suited or a reasonable accommodation may be made for the employee. The Department Director (or designee) or City Manager designee may require the employee to obtain approval from the licensed health care practitioner prior to the employee's returning to work or returning to his/her former class. The City shall pay for all examinations required pursuant to this paragraph. The employee shall not be charged any paid or unpaid time categories while participating in or traveling to or from any examination required pursuant to this paragraph.

4. For all non-FMLA illness related absences, sick time will be used first, following if needed and with supervisor approval, by other forms of paid time off or dock status. For FMLA - related absences, See Management Policy 345 - Family Medical Leave Act (FMLA) for use of time.

5. Sick time shall not be advanced to an employee nor may sick time be transferred between employees.

SECTION 424. BEREAVEMENT TIME

A. **Authority:** Regular or probationary full-time employees and benefited part-time employees may be granted paid bereavement time due to a death in the employee's immediate family.

B. **Definition:** For the purpose of this Section the term immediate family means the employee's spouse, child, stepchild, mother, father, sister, brother, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, step-parent, step-parent-in-law, grandparent, grandchild, aunt, uncle, and former legal guardian, or a minor child or an adult for whom the employee is a legal guardian.

C. **Amount of Time:** For full-time employees, an absence up to fifty (50) work hours will be allowed for bereavement time for funerals/memorial services. Forty (40) work hours will be paid

as bereavement time; however, the additional ten (10) hours, if taken, will be charged to any paid or unpaid time off category at the employee's discretion. For Fire personnel working a twenty-four (24) hour shift, an absence of up to forty-eight (48) work hours (two [2] consecutive work shifts) will be allowed and paid as bereavement time for funerals/memorial services.

For benefited part-time employees, up to twenty-five (25) work hours will be allowed for bereavement time for funerals/memorial services. Up to twenty (20) work hours will be paid as bereavement time; however, the additional five (5) hours, if taken, will be charged to any paid or unpaid time off category at the employee's discretion.

SECTION 425. INDUSTRIAL INJURY PROGRAM - WORKERS' COMPENSATION LEAVE

(See Management Policy 346 - Industrial Insurance Program [IIP])

A. **General:** An employee who sustains a job-related disability that is compensable under the Workers' Compensation Law may be placed on the Industrial Insurance Program. This program is an additional benefit offered by the City of Mesa and will supplement the Workers' Compensation wages as established by state statute for a period of time established by the City of Mesa and state statute. During the period of job-induced disability, the employee's vacation and sick time accrual shall be frozen (See Sections 422 and 423 regarding minimum number of hours worked for accruals) and step pay increases shall not be granted. If the employee returns to work and must go back on Workers' Compensation at a later date due to the same injury, the employee's benefits will be based on the pay range and step at the time of the original injury.

B. **Absence From Work:** An employee who is absent from work due to an industrial injury will have this time designated as Family Medical Leave (See Management Policy 345 - Family Medical Leave Act [FMLA])

C. Holiday pay will be paid to employees who are receiving industrial dock pay~~.~~, however, employees will not receive the holiday premium (time and one-half [1-½]).

SECTION 426. JURY DUTY OR WITNESS TIME

A full-time or benefited part-time employee who is subpoenaed as a witness or summoned for jury duty (other than sworn police employees summoned in connection with performance of official duties) must notify his/her supervisor of the subpoena or summons in advance of the performance of this duty. For all time that the employee is absent from work, the City will pay the employee at his/her effective hourly rate. Documentation is required with the time off request. All eligible employees (including benefited part-time employees and employees working an alternative work schedule) only receive jury duty or witness time if summoned on a scheduled work day/hours. The employee may retain any travel pay received.

SECTION 427. MILITARY LEAVE

The City of Mesa complies with the requirements of the Uniformed Services Employment And Reemployment Rights Act (USERRA). The City Manager may amend the benefits extended by this policy that go beyond those required by USERRA. (See Management Policy 338 - Military Leave)

SECTION 430. UNPAID TIME OFF

A. **Paid Time Off Accrual:** Effective January 1, 2013, employees accrue vacation and sick time

once they have met a minimum number of hours in a biweekly pay period. This hourly requirement may be satisfied through any combination of hours worked and paid time off. At the beginning of employment, if an employee works less than the minimum number of hours in his/her first pay period, he/she will not accrue vacation and sick time for that pay period and will begin accruing on the next pay period provided the minimum number of hours is reached. The minimum number of hours is as follows:

1. Full-time employees must meet a minimum of sixty-five (65) hours in a biweekly pay period;

2. Fire personnel working a twenty-four (24)-hour shift must meet a minimum of fifty-four (54) hours in a biweekly pay period;

3. Benefited part-time employees must meet a minimum of thirty-two point five (32.5) hours in a biweekly pay period.

B. **Stability Pay:** An employee on unpaid time off for more than thirty (30) consecutive calendar days does not accrue credited time toward the award of stability pay while on the unpaid time off.

C. **Step Pay Review Date:** When an employee returns to work after an unpaid time off of more than thirty (30) consecutive calendar days, the employee's step pay Review Date will be deferred to reflect the time absent from work while on the unpaid time off.

D. **Insurance Participation:** After thirty (30) consecutive calendar days not covered by FMLA, Crime Victims' Rights Act or military leave, employees on unpaid time off for a full pay period are responsible for the payment of the City and employee portion of the insurance premium for the coverage they desire. Employees must make the payment directly to the Payroll Office**.**

SECTION 440. SPECIAL LEAVES

A. A special leave is any absence from work in excess of thirty (30) consecutive calendar days that is not covered by the Family Medical Leave Act (FMLA), Crime Victims' Rights Act or Military Leave. In addition, a special leave is ***any*** additional time-off required after exhaustion of FMLA. Special leave includes, but is not limited to: extended use of paid and unpaid time off; leave for a non-FMLA eligible employee; or leave for a non- FMLA eligible circumstance. Special leaves may be for a medical or non-medical reason.

B. **Approval:** Special leaves must be approved in advance and in writing by the City Manager or the Deputy City Manager or their Designees who are not the Department ~~Head~~ Director.

C. **Use of Time:** An employee may be required to exhaust any available paid time off categories prior to using unpaid time.

D. **Return to Work:** Where a special leave is granted for a non-ADA Qualifying Condition, ~~A~~an employee who is able to return to work after a period of special leave is entitled to a position in the class held at the start of the special leave, if such a position is available and funded. If such a position is not available and funded, the employee may be terminated. Positions will be held open when a special leave is approved for an ADA qualifying condition. (See Management Policy 318 – Reasonable Accommodations for Disabled Workers)

E. **Insurance Participation:** After thirty (30) consecutive calendar days not covered by FMLA, Crime Victims' Rights Act or military leave, employees on unpaid special leaves for a full pay period are responsible for the payment of the City and employee portion of the insurance

premium for the coverage they desire. Employees must make the payment directly to the Payroll Office.

SECTION 450. FAMILY AND MEDICAL LEAVE

The City of Mesa supports and complies with the Federal Family And Medical Leave Act of 1993 (FMLA), as amended. The City Manager may amend the benefits extended by this policy that go beyond those required by FMLA. (See Management Policy 345 - Family Medical Leave Act [FMLA])

SECTION 460. CRIME VICTIM RIGHTS ACT

Eligibility: Pursuant to ARS §8-420 and ARS §13-4439 all City employees who have been ~~a~~ the victim of a crime or a juvenile offense will be granted leave ~~have an immediate family member who has been killed or incapacitated due to a crime may take time~~ to attend certain court proceedings. ~~or to obtain or attempt to obtain an order of protection, an injunction against harassment or any other injunctive relief to help ensure the health, safety or welfare of themselves or their child (as outlined in the statutes). In addition, the City allows any employee who has custody of a minor child who has been a victim of a crime (as defined in state law) to use victim time consistent with this rule.~~ (See ~~Management Policy 400 – Timekeeping And Leave Administration~~ ~~and~~ Management Policy 344 – Victim Leave)

SECTION 470. SHORT-TERM DISABILITY BENEFIT

A. **General:** The short-term disability benefit may be used when a full-time employee is off work due to an employee illness or injury for more than the policy elimination period. The employee may use **sick** time first, followed by **vacation** time if needed during the elimination period prior to becoming eligible for the short-term disability benefit. If the elimination period is in conjunction with FMLA Leave (See Section 450) if not concurrent with FMLA leave, special leave will apply (See Section 440 Special Leave) At the start of the short-term disability payments the employee's remaining accrued sick and vacation time will be frozen. An employee may not use the short-term disability benefit to care for a family member.

B. **Eligibility:** A full-time employee must be enrolled in and accepted by the short-term disability carrier prior to his/her disability effective date to be eligible to use this benefit. Program eligibility is determined by the contracted provider and not the City of Mesa.

C. The short-term disability benefit is for a period not to exceed six (6) months after the elimination period.

D. **Insurance Participation:** After thirty (30) consecutive calendar days that is not covered by FMLA, Crime Victims' Rights Act or military leave, employees on short-term disability for a full pay period are responsible for the City and employee portions of the insurance premium for the coverage he/she desires. employees must make the payment directly to the Payroll Office.

E. **Family Medical Leave Act:** An employee may use the short-term disability benefit in conjunction with Family and Medical Leave. (See Section 450) if not concurrent with FMLA Leave, Special Leave will apply. (See Section 440 Special Leaves)

SECTION 480. INSURANCE PROGRAMS

Eligibility: All regular full-time employees are eligible to participate in core and non-core health and

welfare insurance and self-insurance programs offered by the City. (See Plan Document on the Internet – Benefits link)

All benefited part-time employees are eligible to participate in core self-insurance and insurance health programs, and some of the non-core welfare insurance programs ~~after six (6) months of continuous employment~~. (See Plan Document on the Internet – Benefits link for eligibility and other coverage provisions and Management Policy 320 – Benefited and Non-Benefited Part-Time Employee Benefits).

SECTION 490. TRAINING PROGRAMS

A. **Responsibility:** Department Directors, City Manager designees and the Human Resources Director have joint responsibility to ensure that all eligible employees receive necessary training. Supervisors**,** Department Directors and City Manager designees have the responsibility to utilize the Employee Development Guide (provided by the Human Resources Employee Development Office) to ensure employees complete required training courses within stipulated time frames. Supervisors should encourage and provide employees sufficient opportunity to attend courses as recommended by the Guide, which will further enhance competencies, knowledge, skills and abilities.

B. **Required Training:** The City shall pay all approved costs associated with the attendance by an employee at any course, seminar, workshop, etc., required of the employee. The employee shall not be charged any paid or unpaid time off categories while in attendance at such a course, but shall be considered to be on duty while at the course or proceeding to or from the course.

C. Temporary agency workers (with the exception of Interns) and contract workers are generally not eligible to take City training classes. Seasonal City employees are generally not eligible to take City training classes unless required by the City or requested by the supervisor. Volunteers may take City training classes on a space available basis.

SECTION 495. TUITION REIMBURSEMENT

Eligibility: To qualify for tuition reimbursement, employees must be on regular full-time or benefited part-time status prior to the first day of the course. Full-time civilian employees must have successfully completed initial regular employment probation, full-time sworn police/fire employees and benefited at-will employees must have successfully completed one (1) year of continuous service prior to the first day of the course. (See Management Policy 335 - Tuition Reimbursement)

CHAPTER 5: CONDITIONS OF EMPLOYMENT

SECTION 510. STANDARDS OF CONDUCT

A. **General:** In addition to the conduct prohibited to all Arizona public employees by ARS §38-501 through ARS §38-505, ARS §38-531, and ARS §38-532, a violation of the Standards of Conduct listed in Subsection B below, or Article IX, Section 902, of the Mesa City Charter, is cause for discipline or dismissal of a City employee. (See also Section 930 Dismissal)

B. **Causes for Discipline or Dismissal:**

1. Incompetence or inefficiency in the performance of duties.

2. Abusiveness in attitude, language, or conduct to the public, wards of the City, or fellow employees.

3. Violation of any policy or procedure, lawful or official regulation or order or failure to obey any lawful and reasonable direction given by the employee's superior officer or supervisor.

4. a. The use or possession of drugs, unless:

   1) such use or possession is pursuant to orders from a duly licensed physician as part of a lawful course of treatment, or unless

   2) in the case of a vapor releasing substance containing a toxic substance, such use or possession is consistent with manufacturer's instructions and is authorized by the City for the performance of certain job-related functions.

   b. The use or possession of alcohol while on duty or during a break therefrom (including meal breaks), or reporting for duty under the influence of alcohol or with a detectable odor of alcohol on one's breath or about one's person.

5. Accepting a bribe in the course of work or in connection with it.

6. Using, threatening to use, or attempting to use undue influence, extortion or blackmail in securing employment benefits or advantages for the employee or any other person.

7. Conduct of a type that will bring discredit or embarrassment to the City.

8. A felony c~~C~~onviction; ~~of, or~~ failure to report any conviction ~~of, any~~ (felony or ~~conviction of a~~ misdemeanor); or failure to report any arrest. ~~involving moral turpitude~~.

9. Knowingly or intentionally falsifying City documents or records, making false, incomplete, or misleading statements to any individual, or using fraud to secure an appointment with the City.

10. Causing bodily injury to person(s), theft of or damage to public property or wasting public supplies due to negligence or willful misconduct.

11. Being absent from duty without authority.

12. Engaging in outside business activities on City time or using City property for personal use unless authorized by written City or departmental administrative policy.

13. Engaging in unlawful harassment or discriminatory conduct against another employee or applicant for employment on the basis of race, gender, religion, color, national origin, age, marital status, or disability or engaging in retaliation against another for filing a complaint or participating in any investigation**.** (See Management Policy 308 – Workplace Harassment and Discrimination Policy)

14. Failure to maintain minimum standards, licenses, or qualifications required for any position.

15. Failure of an employee to operate a City vehicle in a safe and lawful manner. Disciplinary action for moving violations received will be based upon the severity of the moving violation and the number of violations in a one (1)year period.

16. Knowingly destroying, deleting or altering documents (including e-mail or computer files) that are related to an investigation.

SECTION 520. WORK RULES

A. **Work Week:** The work week for all employees is the period of seven (7) consecutive days starting Monday at 12:01 a.m. and ending Sunday at 12:00 p.m. midnight. The standard work week for full-time employees, shall be forty (40) hours per week (see work period for Fire personnel working a twenty-four [24]-hour shift.

B. **Work Period:** The work period for all Fire personnel working a twenty-four (24)-hour shift is a period of twenty-seven (27) days, starting at 12:01 a.m. on day one (1) and ending at 12:00 p.m. midnight on day twenty-seven (27).

C. **Pay Period:** A pay period is defined as two (2) work weeks. Pay checks are issued ~~every other Thursday~~ for the two (2) weeks that ended at midnight the previous Sunday in accordance with Arizona Revised Statutes, Title §23-351.

D. **Rest Periods:** Each employee may have one (1) separate rest period of fifteen (15) minutes, each four (4) hour period during the work day, which shall be counted as time worked. Rest periods shall not be combined so as to provide an extended rest period or meal break or to shorten the work day unless approved by the Deputy City Manager or City Manager designee due to operational needs. If an employee is required to work during either or both of the normal rest periods, the time worked shall not be considered as qualifying for overtime or compensatory time. Supervisors will determine the rest period schedule. Reasonable break times will be afforded to nursing mothers in accordance with the mandates of the Patient Protection and Affordable Care Act.

E. **Meal Breaks:** Unless otherwise stated by department regulations, each full-time employee shall receive a meal break which shall normally be thirty (30) minutes to one (1) hour each day. The employee shall not be paid for the meal break and is not subject to recall for duty during this period. If it is determined to be in the best interest of the City government, the City Manager or designee may authorize some employees to eat a meal during the hours of work. In such

instances the employee is subject to recall at any time, and must not leave the work premises unless authorized. Supervisors will determine the meal break length and schedule.

F. The City reserves the right to establish an employee's work schedule in accordance with operational needs.

SECTION 530. PERFORMANCE EVALUATIONS

A. **General:** Each City employee shall receive a performance appraisal as scheduled in Subsection B below. The performance appraisal will be accomplished on forms approved by the Human Resources Director. (See Management Policy 300 - Performance Appraisal Program ~~And~~ and Procedures Manual)

B. **Frequency:** Performance appraisal reports shall be completed two (2) weeks prior to the completion of any probation, and two (2) weeks prior to any scheduled step pay increase. All appraisals shall be forwarded to the Human Resources Department for inclusion in the employee's personnel file. All employees shall be evaluated at least once per year.

C. **Rating Authority:** An employee's supervisor shall be that employee's rating authority.

D. **Reviewing Authority:** The head of each department is designated as the official reviewing authority.

E. **Review:** Each employee shall be allowed to review the completed appraisal form. The employee shall sign the appraisal to acknowledge receipt and shall receive a copy of the completed appraisal. The original copy of all appraisal forms shall be submitted to the Human Resources Director for filing in the employee's personnel file. (See Management Policy 300 - Performance Appraisal Program And Procedures Manual)

The employee shall be given three (3) working days after signing the appraisal to make comments on the form. In cases of employee illness or other extenuating circumstances, the supervisor may allow more time for comments.

F. **Special Rating Periods:** A supervisor may initiate a special performance appraisal when there is a change in an employee's work performance or employment status.

G. **Grievance:** If an employee receives a performance appraisal that results in the denial of a step pay increase, the employee may submit a grievance as provided for in Section 710. E., F., and G.

SECTION 540. PROBATION

A. **Types of Probation:** The types of probation allowed in City of Mesa employment are initial regular employment probation and disciplinary probation.

~~B. **Credit for Provisional City of Mesa Employment:** Time accrued as a provisional appointee immediately prior to appointment in an initial regular employment status shall be credited to the initial regular probationary time requirement.~~

B~~C~~. **Part-Time to Full-Time Employment:** Part-time employees reclassified to a full-time classification shall serve an initial regular employment probation as specified in Subsection D below.

C~~D~~. **Initial Regular Employment Probation:**

1. **Duration:** The duration of initial regular employment probation shall be:

   a. Eighteen (18) months for Police Officer-Recruits required to attend a Police Training Academy.

   b. Fifteen (15) months for Police Officers who are lateral entry candidates at the time of their entrance and who are not required to attend a Police Training Academy.

   c. Twelve (12) months from the date of reclassification from Firefighter Recruit to Firefighter upon completion of the Fire Training Academy and receipt of required certifications.

   d. Twelve (12) months for all other full-time employees not referenced in Section 540. ~~D~~C. 1. a, b, and c above.

2. **Extensions:** Probation may be extended one (1) time in writing with the approval of the Department Director or City Manager designee. The extension shall not exceed the original probation period.

   The probationary period shall be extended for the corresponding period for which the probationary employee is absent from work for any reason for thirty (30) or more consecutive working days. Absences for less than thirty (30) working days shall not extend the initial regular employment probation period.

3. **Completion of Probation:** A performance rating that satisfies the requirements of the department on the final evaluation shall confirm the probationer to regular City of Mesa employment status after the completion of the required probationary period. An employee placed on initial regular employment probation shall receive a written performance evaluation prior to the end of the probation period. If the completed probationary evaluation is not reviewed by the probationer by the last day of the probation period, the probationer will be considered to have successfully completed probation.

4. If the Department Director or City Manager designee determines at any time during an initial regular employment probationary period that the services of the probationary employee are no longer required for any reason, or for no reason, the employee may be dismissed without the right of appeal. The employee shall be provided a copy of the Notice of Dismissal.

D~~E~~. **Disciplinary Probation:**

1. The Department Director or City Manager designee (or authorized representative), may place an employee on probation for a disciplinary purpose. Disciplinary probation will be twelve (12) months and cannot be extended beyond its original length. A Department Director can remove the employee from disciplinary probation early, if warranted.

2. Disciplinary probation will be based on infractions as outlined in Section 510. Disciplinary probation is intended to notify the employee that any act(s) by the employee,

which could result in further disciplinary action, occurring while the employee is on disciplinary probation, may be grounds for demotion or dismissal.

3. While on disciplinary probation, an employee will not be allowed to compete in any promotional testing and will have the salary set by the department at a rate no more than the current salary and no more than five percent (5%) below that salary. The employee's salary will be frozen for the duration of the probation period.

4. If an employee's step pay review falls during the disciplinary probation period the review may take place, but no step pay increase will be granted. The step pay performance appraisal may be deferred until such time as the employee is removed from disciplinary probation status. The rater may complete the evaluation and indicate step pay denied (at which time the employee will not be eligible for the step pay increase until the next common review date in which step pay increases are approved). A deferred step pay shall be effective following the completion of the disciplinary probation.

5. Upon recommendation of a disciplinary probation with a reduction in pay, the employee will be notified that a pre-deprivation hearing will be held by the Department Director or, designated acting Department Director, City Manager designee, or acting City Manager designee. The employee will be given not less than one (1) working day's notice of the pre-deprivation hearing and is allowed to bring a personal representative. If the employee's representative is a City of Mesa employee, the representative must secure the approval of the employee's supervisor to attend the hearing. The personal representative may speak and participate in the process with the concurrence of the Department Director conducting the hearing. (See Management Policy 339 - Implementing Corrective Action and Discipline for Pre-Deprivation Hearing Guidelines)

6. An employee on disciplinary probation may apply for positions that would be a demotion, or may apply for a transfer to a position at the same pay range.

7. The disciplinary probation form is signed by the employee or a witness (if the employee refuses to sign) and shall be forwarded to the Human Resources Department for inclusion in the employee's official personnel file.

SECTION 550. ALCOHOL, DRUG, AND/OR CONTROLLED SUBSTANCE TESTING

The City will conduct alcohol, drug, and/or controlled substances testing under all circumstances required by federal or state law. In addition, the City may conduct substance abuse testing when permitted by law. This may include, but not be limited to: pre-employment or pre-placement testing, reasonable suspicion testing, random testing, post-accident testing, and follow-up testing. For further information (See Management Policy 316 – Alcohol and Drug Free Workplace Program)

SECTION 560: ADMINISTRATIVE LEAVE

A. **Authority:** A Department Director or designee or City Manager designee may place an employee on administrative leave.

B. **Duration:** Administrative leave shall not extend beyond ninety (90) days without notification to the City Manager (or designee), or Deputy City Manager. For the length of administrative leave the City will pay the employee at his/her effective hourly rate.

C. **Chargeability:** The time will be charged to administrative leave.

CHAPTER 6: CHANGES IN ASSIGNMENT

SECTION 610. PROMOTION

A. **Eligibility:**

1. Promotional examinations are open to all City of Mesa employees who meet the minimum qualifications, except that an employee who ~~has been demoted at his/her own request or for cause~~ is on disciplinary probation may not compete in a promotional examination during the probationary period ~~for ninety (90) days after the effective date of the demotion~~. This limitation may be waived by the Deputy City Manager or City Manager designee with approval of the Human Resources Director and the City Manager.

2. If two (2) or more qualified employees apply for a promotional opening, the Human Resources Director may require a competitive examination to determine the best qualified candidate.

B. **Step Pay Review Date:** Upon promotion an employee shall remain on the common review cycle.

SECTION 620. TRANSFER

A. **Intra-Department Transfer:** A Department Director or City Manager designee after review by the Human Resources Director, may transfer an employee to a different position within the department at the same pay range.

B. **Inter-Department Transfer:** An employee may be transferred to a different position in the same pay range in another department with the approval of both Deputy City Managers and/or City Manager designees and review by the Human Resources Director.

C. **Reason for Transfer:** An employee may be transferred at the employee's request, for the convenience of the City, or because the employee is no longer capable of performing the functions of the position.

D. **Qualifications:** A transferred employee must meet the minimum qualifications for the class to which the employee may be transferred.

E. **Multiple Requests:** If two (2) or more employees request transfer to the same vacant position not in their department, the Human Resources Director may require examination in the same manner as for promotional vacancies. If an employee requests a transfer for which the employee is qualified and such a position is not open, the employee's name may be placed on an employment list for that classification.

SECTION 630. SPECIAL ASSIGNMENT

A. **Authority:** A Department Director or City Manager designee may place an employee on-special assignment for assuming higher level job responsibilities than normally covered by the employee's job classification.

B. **Duration:** Special assignments shall not extend beyond a period of twelve (12) months. Requests for an extension of up to an additional twelve (12) months shall be reviewed and approved by the City Manager or designee, ~~Assistant City Manager,~~ or Deputy City Manager. Special assignments may be revoked at any time at the discretion of the City Manager, City Manager Designee, or Deputy City Manager. Revocation is not disciplinary and not subject to due process.

C. **Sworn employees:** Sworn employees serving in a rotational capacity can be placed on special assignment for up to two (2) years. After two (2) years, special assignments will be subject to a yearly renewal and approval at the discretion of the City Manager or designee.

D. **Compensation:** An employee placed on special assignment shall receive a five percent (5%) salary increase to compensate the employee for the higher level work performed. The City Manager or designee, Assistant City Manager, or Deputy City Manager may authorize a salary increase of up to ten percent (10%) as appropriate.

An employee assigned on special assignment for ~~less than~~ one (1) pay period or less shall receive the same salary as before the assignment. An employee on special assignment for more than one (1) pay period may receive a salary at the higher pay range if recommended by the Department Director or City Manager designee.

E. **Step Pay Increases:** During the period of a special assignment, the employee will continue to receive step pay increases based on the common review date cycle, if eligible**.**

CHAPTER 7: GRIEVANCE PROCEDURE

SECTION 710. GRIEVANCES

The City of Mesa recognizes the meaningful value and importance of full discussion in resolving misunderstandings and preserving good relations between management and employees. Should a condition exist which an employee feels is unsatisfactory, it is important that the employee attempt to resolve it with department management. If attempts at informal resolution fail, then the employee should consult the grievance procedure if applicable.

A. **Grievable Issues:** A classified employee may submit a grievance only when:

1. The City of Mesa Personnel Rules or the written rules and procedures of any City department have allegedly been misinterpreted or misapplied as to that employee.

~~2. The employee alleges that he/she has been unlawfully harassed or discriminated against because of race, color, religion, gender, age, national origin, disability, genetic information, Crime Victims' Rights status or any other protected status as provided under any applicable state or federal laws. Any employee (classified or at-will) may alternatively submit a complaint under Management Policy 308 as applicable.~~

2~~3~~. The employee has been denied a regularly scheduled step pay increase. (See Section 530.~~-~~G)

B. **Non-Applicable Matters:** ~~Unless the grievance is based on Section 710 A 2, g~~Grievances concerning the following matters shall not be processed:

1. Retirement systems;

2. Any insurance program in which the City participates;

3. Any examination, certification, or appointment;

4. Any classification action;

5. Any reduction in force action;

6. Any matter not subject to the control of the City government;

7. Complaints by at-will employees.

C. **Restrictions:** ~~Unless the grievance is based on Section 710 A 2, a~~ A classified employee may not submit a grievance challenging the following management rights:

1. The City's right to direct its employees;

2. The City's right to hire, promote, transfer, assign, and retain employees;

3. The City's right to maintain efficiency of governmental operations, and to determine the methods, means, and personnel by which these operations are to be conducted.

D. **Eligibility:** The grievance procedure is open to classified employees only.

E. **Submission of Grievance:** A grievance regarding non-disciplinary matters that complies with Section 710.-A must be submitted to the Department Director or City Manager designee. If the subject of the non-disciplinary grievance is the Department Director or the City Manager designee, the grievance may be submitted directly to a Deputy City Manager or, for employees of the Police Department, to the City Manager with a copy to the Human Resources Director. A grievance regarding formal disciplinary matters (written reprimand, suspension, disciplinary probation, demotion) must be submitted to a Deputy City Manager or, for employees in the Police Department, to the City Manager with a copy to the Human Resources Director. If the subject of the disciplinary grievance is the Deputy City Manager, the grievance may be submitted directly to the City Manager with a copy to the Human Resources Director. Grievances must be submitted within fifteen (15) days, starting from the day after the occurrence that caused the grievance (See Section 710.-G). Grievances submitted after this date shall not be accepted. For formal disciplinary matters, an occurrence is defined as the date the employee was presented with the completed and approved official Notice of Discipline document.

F. **Content:** A grievance must be submitted in writing and must contain at a minimum:

1. The employee's name, department, and classification;

2. The filing date of the grievance;

3. A complete statement of all facts and circumstances concerning the grievance, and the specific redress sought;

4. The specific rule alleged to have been violated for any grievance alleged noncompliance with the Personnel Rules or the rules and procedures of any department;

5. A summary of the efforts made to resolve the grievance informally;

6. Any additional information pertinent to the grievance;

7. Grievances not containing the above information shall not be accepted.

G. **Procedure:** The employee who has a grievance will submit it as stated in this Section. With the exception of the City Manager, the City shall respond in writing to the employee within fifteen (15) days of receipt of the employee's grievance. The City may extend this timeline with the concurrence of the employee. If the grievance is not resolved, the employee may submit the grievance within ten (10) days of the action to the City Manager, with copies to the supervisor, Department Director, Deputy City Manager or City Manager designee, and the Human Resources Director. The City Manager will review the grievance and shall issue a written decision to the employee within thirty (30) days of receipt by the City Manager. The thirty (30) day period may be extended should circumstances arise that preclude the City from completing the review in a timely manner. The decision of the City Manager is final on all grievances. If the grievance concerns a suspension or demotion, the City Manager may request a review by the Personnel Appeals Board. The Personnel Appeals Board will render a written advisory opinion to the City Manager within five (5) days of the hearing.

CHAPTER 8: DISCIPLINARY ACTIONS

SECTION 810. TYPES OF DISCIPLINARY ACTIONS

A. The City Manager has the authority to oversee and coordinate Citywide disciplinary action (discipline that impacts multiple departments) and processes to ensure consistent application of rules and policies.

B. Disciplinary corrective actions taken against City employees shall be limited to the following:

1. Written reprimand;

2. Disciplinary probation;

3. Suspension;

4. Demotion;

5. Dismissal.

Note: There is no requirement to use these disciplinary actions in the order in which they appear. There are no pre-deprivation hearing requirements for giving written reprimands, disciplinary probation unless it includes a reduction in pay, or suspensions of sixteen (16) hours or less.

C. For disciplinary and termination purposes, classified employees are entitled to the due process, grievance, and appeal procedures provided under these Personnel Rules and by law. At-will employees are entitled only to the processes afforded to at-will employees by law. At-will employees are protected by state and federal employment anti-discrimination laws and are not entitled to the due process grievance procedures provided under these personnel rules. Dismissal of at-will employees other than part-time, seasonal, temporary, and employees on initial City probation, shall require the approval of the City Manager or Assistant City Manager.

D. **Non-Disciplinary Corrective Actions:** Non-disciplinary corrective actions include, but are not limited to, written counseling and corrective action plans.

SECTION 820. SUSPENSION

A. **Authority:** A Department Director or designated acting Department Director, or City Manager designee or designated acting City Manager designee may suspend an employee from the employee's position at any time for a violation of the Standards of Conduct listed in Section 510 of these Rules.

B. **Duration:** No employee may be suspended for a period of longer than two hundred forty (240) work hours (equivalent to thirty [30] eight [8] hour work days), nor shall any employee be suspended for more than two hundred forty (240) working hours in any twelve (12) month period. Suspension hours shall be based on the employee's normal work schedule. Suspensions for exempt employees may be imposed in one (1) or more full-day increments for workplace conduct rule/policy infractions ~~serious workplace misconduct including, but not limited to, sexual or workplace harassment, workplace violence, drug or alcohol violations, safety rules of major~~

~~significance or violations of state or federal laws~~. Suspensions for infractions of safety rules/policies of major significance may be imposed in partial or full day increments ~~other forms of misconduct for exempt employees must be for a minimum of one (1) week, forty (40) consecutive hours in duration~~.

C. **Notification:** A suspended employee shall be notified of the suspension on a Notice of Suspension form printed from HRM Advantage stating the reasons for the suspension and its duration, which shall be provided to the employee prior to the start of the suspension. A copy of the Notice of Suspension form will be forwarded to the Human Resources Director or designee within twenty-four (24) hours of its presentation to the suspended employee.

D. **Pre-Deprivation Hearing:** Upon recommendation of a Notice of Suspension of more than sixteen (16) work hours (equivalent to two [2] eight [8] hour work days), the employee will be notified of the charges and that a pre-deprivation hearing will be held by the Department Director or, designated acting Department Director, or City Manager designee or designated acting City Manager designee. The employee will be given not less than one (1) working day's notice of the pre-deprivation hearing and is allowed to bring a personal representative. If the employee's representative is a City of Mesa employee, the representative must secure the approval of the employee's supervisor to attend the hearing. The personal representative may speak and participate in the process with the concurrence of the Department Director conducting the hearing. (See Management Policy 339 - Implementing Corrective Action and Discipline)

E. **Grievance:** Refer to Section 710.

F. **Insurance Premiums:** The City will not pay any portion of any employee insurance premium during the period of a thirty (30) day suspension. A suspended employee who wishes to continue any insurance coverage must pay the premium directly to the Payroll Office.

SECTION 830. DEMOTION

A. **Authority:** A Department Director or the designated acting Department Director, or City Manager designee or designated acting City Manager designee, may demote an employee for any of the following reasons:

1. Violation of the Standards of Conduct listed in Section 510;

2. Inability of the employee to meet the requirements of the employee's position;

3. At the request of the employee;

4. For the convenience of the City;

5. Failure of a promoted employee to meet the minimum job requirements to which promoted.

B. **Notification:** A demoted employee shall be notified of the demotion on a Notice of Demotion form printed from HRM Advantage, if the demotion is provided for under Section 830.~~-~~A.~~-~~1, or 2., or 5. An employee demoted under Section 830.~~-~~A.~~-~~3, or 4 will be treated as any other personnel change. A statement of the reasons for the demotion shall be included with all demotions. The notification must be given to the employee prior to the effective date of the demotion.

C. **Pre-Deprivation Hearing:** Upon recommendation of a demotion, under Section 830.~~-~~A.~~-~~1., or 2., or 5., the employee will be notified of the charges and that a pre-deprivation hearing will be

held by the Department Director or, designated acting Department Director, or City Manager designee or designated acting City Manager designee. The employee will be given not less than one (1) working day's notice of the pre-deprivation hearing and is allowed to bring a personal representative. If the employee's representative is a City of Mesa employee, the representative must secure the approval of the employee's supervisor to attend the hearing. The personal representative may speak and participate in the process with the concurrence of the Department Director conducting the hearing. (See Management Policy 339 - Implementing Corrective Action and Discipline) If a demotion will result in a termination due to no available position, the decision will be forwarded to the City Manager or Assistant City Manager for approval.

D. **Assignment:** A demoted employee will be placed in a position in a class for which qualified at the pay range at which demoted.

E. **Grievance:** Refer to Section 710 for demotions under Section 830.-A.-1., or 2., or 5.

F. **Position Availability:** An employee demoted as defined by Subsection A.-1., 2., 3., or 5 above may only be placed in a currently existing and vacant position in a classification for which the employee is qualified. If no position is currently existing and vacant at the time the employee is demoted, the employee shall be terminated and placed on an employment list for a classification for which the employee is eligible.

G. **Step Pay Review:** A demoted employee shall be eligible for a step pay review on the common review date cycle.

H. **Probation:** An employee demoted as defined by Subsection A.-1. shall be placed on disciplinary probation for one (1) year. A Department Director can remove the employee from disciplinary probation early, if warranted.

CHAPTER 9: SEPARATIONS

SECTION 910. RESIGNATION

A. **Requirements:** An employee who wishes to leave the City of Mesa employment in good standing shall file a written resignation with the Department Director or City Manager designee at least fourteen (14) days prior to the employee's final work day. The Department Director or City Manager designee may waive this requirement. The written resignation shall be forwarded to the Human Resources Director.

B. **Failure to Meet Requirements:** An employee who fails to comply with the requirement for resignation in good standing cited in Subsection A above may be denied authority to take any competitive examination for future employment.

C. **Withdrawal:** An employee who has submitted a resignation may withdraw this resignation with the consent of the Department Director or City Manager designee, provided the employee's position has not been filled by another employee.

D. **Medical Retirement:** An employee who is unable to work due to a medically certified disability may apply for medical retirement. This application shall be treated as the resignation from City employment upon decision from the provider. A medically retired employee will be eligible to continue insurance coverage as an employee for the duration of the medically certified disability.

E. **Constructive Discharge:** Per ARS §23-1502 employees who wish to claim constructive discharge must give the City advance notice of their intent to resign due to working conditions that are so difficult or unpleasant that a reasonable employee would feel compelled to resign. An employee must notify an appropriate representative of the City in writing. The City of Mesa will respond in writing to the employee's concerns within fifteen (15) days of the constructive discharge notice. Under the law, an employee may be required to wait for fifteen (15) calendar days after providing written notice before the employee may resign if the employee desires to preserve the right to bring a constructive discharge claim against the City. An employee may be entitled to paid or unpaid time off of up to fifteen (15) calendar days while waiting for the City to respond to the employee's written communication about the employee's working condition.

SECTION 920. REDUCTION IN WORKFORCE

A. **Authority:** The Human Resources Director and the Deputy City Manager or City Manager designee, with the approval of the City Manager, may institute a reduction in workforce of employees whenever necessary due to lack of funds or work. The Human Resources Director, the Deputy City Manager or City Manager designee, and the City Manager shall determine the number and classes of employees to be laid off.

B. The City shall adopt procedures for the reduction in workforce (RIWF) in accordance with Management Policy 353 – Reduction in Workforce (RIWF), as issued by the City Manager.

C. **Reduction in Workforce (RIWF) List:** An employee who is laid off or placed in another position as the result of a RIWF will be placed on a RIWF list to be considered for re-employment to his/her previously held position, unless the employee opts out. Employees may remain on a RIWF list for a period time identified in the RIWF Management Policy 353 – Reduction in Workforce (RIWF).

SECTION 930. DISMISSAL

A. **Authority:** The Department Director or the designated acting Department Director, or City Manager designee, or designated acting City Manager designee, may dismiss an employee from City of Mesa employment for a violation of the Standards of Conduct listed in Section 510 of these Rules, or for a physical or mental disability which renders the employee incapable of performing the normal requirements of the employee's position.

B. **Pre-Deprivation Hearing:** Once the recommendation has been made to terminate a classified City employee, Department Director or, designated acting Department Director, or City Manager designee or designated acting City Manager designee must notify the employee of the charges and schedule a pre-deprivation hearing. The employee will be notified not less than two (2) working days (two [2] calendar days for sworn Fire Department employees) in advance of the hearing. The employee will be allowed to bring a personal representative and any pertinent information to the hearing. If the employee's representative is a City of Mesa employee, the representative must secure the approval of the employee's supervisor to attend the hearing. The personal representative may speak and participate in the process with the concurrence of the Department Director conducting the hearing. (See Management Policy 339 - Implementing Corrective Action and Discipline for Pre-Deprivation Hearing Guidelines)

The hearing shall be recorded or documented by a memo to the City Manager discussing what took place at the hearing. The person conducting the hearing will carefully weigh the information provided. If the decision is made to dismiss the employee, ~~the person conducting the hearing will complete~~ a Notice of Dismissal form is printed from HRM Advantage and forwarded to the City Manager or designee for approval. Once a Notice of Dismissal has been signed by the City Manager or designee, it will be personally given to the employee or sent by certified mail to the employee.

C. **Notification:** The City Manager or designee shall sign a written form, which shall constitute the Notice of Dismissal. This notice shall clearly state the specific charges made against the employee, and shall be personally served on the employee or mailed by certified mail to the employee's most recently recorded address. If served personally, the employee shall be requested to sign ~~a copy of~~ the Notice of Dismissal for ~~the~~ City records. The service of notice shall be witnessed by a third party (if the employee refuses to sign the Notice of Dismissal, the witness will sign as “Witness” in lieu of the employee). If the Notice of Dismissal is accomplished by certified mail, a return receipt will be requested and the returned receipt shall be attached to the copy of the Notice of Dismissal filed with the Human Resources Director.

D. **Appeal:** Any regular classified employee may appeal his/her dismissal in writing within ten (10) days to the City Manager or designee. Within fifteen (15) days of the receipt of the appeal, the City Manager will either render a written decision to the employee or refer the appeal to the Personnel Appeals Board. If the employee is not satisfied with the decision of the City Manager or designee, the employee may request a Personnel Appeals Board hearing. Such a request must be forwarded to the City Manager or designee in writing by certified mail or hand delivered within five (5) days of the receipt by the employee of the City Manager's or designee’s decision. The Personnel Appeals Board will be contacted by the Personnel Office upon receipt of the hearing request. Every attempt will be made to schedule the hearing at the earliest possible mutually convenient time. The Personnel Appeals Board will render a written advisory opinion to the City Manager or designee within five (5) days of the hearing.

PROFESSIONAL CONDUCT (ETHICS)

The City of Mesa expects and promotes the highest standards of ethics from all of its employees, officials, volunteers and temporary workers, whether hired, elected, appointed or acting as a representative of the City. City employees and officials retain positions of public trust and must afford fair and equal opportunity to conduct business with the City. (See Management Policy 354 – Professional Conduct [(Ethics])

LOYALTY OATH

I, the undersigned, hereby execute this document in compliance with Arizona Revised Statutes, Section §38-231:

OFFICERS AND EMPLOYEES REQUIRED TO TAKE LOYALTY OATH; FORM; CLASSIFICATION; DEFINITION

A. In order to ensure the statewide application of this section on a uniform basis, each board, commission, agency and independent office of this state, and of any of its political subdivisions, and of any county, city, town, municipal corporation, school district and public educational institution, shall completely reproduce this section so that the form of written oath or affirmation required in this section contains all of the provisions of this section for use by all officers and employees of all boards, commissions, agencies and independent offices.

B. Any officer or employee who fails to take and subscribe to the oath or affirmation provided by this section within the time limits prescribed by this section is not entitled to any compensation until the officer or employee does so take and subscribe to the form of oath or affirmation prescribed by this section.

C. Any officer or employee having taken the form of oath or affirmation prescribed by this section, and knowingly at the time of subscribing to the oath or affirmation, or at any time thereafter during the officer's or employee's term of office or employment, does commit or aid in the commission of any act to overthrow by force, violence or terrorism as defined in section §13-2301 the government of this state or of any of its political subdivisions, or advocates the overthrow by force, violence or terrorism as defined in section 13-2301 of the government of this state or of any of its political subdivisions, is guilty of a class 4 felony and, on conviction under this section, the officer or employee is deemed discharged from the office or employment and is not entitled to any additional compensation or any other emoluments or benefits which may have been incident or appurtenant to the office or employment.

D. Any of the persons referred to in article XVIII, section 10, Constitution of Arizona, as amended, relating to the employment of aliens, are exempted from any compliance with this section.

E. In addition to any other form of oath or affirmation specifically provided by law for an officer or employee, before any officer or employee enters upon the duties of the office or employment, the officer or employee shall take and subscribe the following oath or affirmation:

As an employee of the City of Mesa, I do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution and laws of the state of Arizona; that I will bear true faith and allegiance to the same, and defend them against all enemies, foreign and domestic, and that I will faithfully and impartially discharge the duties of my position with the City of Mesa, Arizona, according to the best of my ability, so help me God (or so I do affirm).

F. For the purposes of this section, "officer or employee" means any person elected, appointed or employed, either on a part-time or full-time basis, by this state or any of its political subdivisions or any county, city, town, municipal corporation, school district, public educational institution or any board, commission or agency of any county, city, town, municipal corporation, school district or public educational institution.

INDEX

abandonment of employment, 25
absence, 6, 23, 25, 27, 29, 31, 32, 33, 40
absences, 4
absent from duty without authority, 38
academic achievement, 10
access, 8
accrual, 29, 30, 31, 32, 40
additional benefits, 24
administrative leave, 1, 4, 26, 42
administrative leave duration, 42
affirmative action, 8
age, 5, 9
alcohol, 1, 37
alcohol testing, 42
alternative work schedule, 33
anniversary date, 1
announcement, 1, 12
appeal, 41, 48
appeal - dismissal, 52
applicant, 1, 7, 8, 9, 13, 14, 17, 38
application, 12, 13
appointing authority, 14
appointment, 1, 14, 15, 38, 40, 45
assignment, 50
at-will, 1, 4, 6, 7, 11, 36, 45, 48
authority, 44
availability of funds, 7
background check, 9
behavior issue, 7
benefited full-time employee, 1
benefited part-time employee, 1, 15, 20, 28, 29, 30, 31, 32, 33, 36
benefits, 33
bereavement, 4, 26
bereavement leave, 32
bereavement time, 32
biweekly pay, 1
blackmail, 37
bodily injury, 38
break in service, 6
breaks, 39
bribe, 37
call-out, 20, 24
candidate, 2, 14, 43
certification, 14, 45
childbirth, 29
citizenship, 9
City Manager designee, 2
class title, 2
classification, 2, 5, 17, 18, 43, 45
classified employee, 2, 4, 7, 17, 45, 46, 48, 52
classified position, 2, 24
common review date, 2, 20, 41, 43, 44, 50
compensation, 5, 7, 8, 17, 23, 24, 31, 44
compensatory time, 4, 24, 26, 38
components of pay, 2
conduct, 37
confidentiality, 13
conflict of interest, 11
constructive discharge, 51
continuous employment, 6
contract worker, 2, 10
contract workers, 36
control, 8
controlled substance testing, 42
controlled substance use, 9
correction of errors, 7
corrective action plan, 2, 8, 48
Council-appointed, 15
crime victim, 35
Crime Victim's Rights Act, 6
criminal history, 10
criminal history records check, 9
criteria-based promotion, 2, 18
~~Critical City Services~~, 23
critical City Services Personnel, 3
damage to public property, 38
days, 3
death, 6, 7, 31, 32
delegation of authority, 7
demotion, 3, 5, 11, 18, 19, 20, 41, 42, 43, 48, 49, 50
demotion – convenience of the City, 49
Department, 3
Department Director, 3
disability, 29, 32, 38, 51, 52
disciplinary action, 5, 25, 31, 38, 41, 48
disciplinary forms, 8
disciplinary probation, 3, 18, 40, 41, 42, 48, 50
discipline, 18, 37, 48
discredit or embarrassment, 37
discretionary time, 4, 26
~~discrimination~~, 45
discriminatory conduct, 38
dismissal, 3, 5, 6, 7, 13, 15, 25, 37, 41, 48, 52
dismissal employee, 48
dismissal of at-will employees, 1
disqualification, 12
division, 3
dock, 31, 32
dock status, 3
donated time, 4, 23, 26
donated time program, 29
driving record, 9, 10
drugs, 3, 9, 37
due process, 48
duration of suspension, 48
duration on lists, 11, 12

effective date, 12, 43, 50
effective hourly rate, 3, 26
effective rate of pay, 3, 26
eligibility, 1, 14, 20, 22, 24, 26, 28, 30, 35
eligibility - grievance, 46
eligibility for benefits, 16
eligible, 1, 16, 20, 21, 22, 23, 24, 50, 51
elimination period, 3, 35
employee application, 8
employment examination, 13
employment list, 14, 19, 43
employment of minors, 9
equal employment, 8
equal employment opportunity, 13
errors, 13
essential functions, 9, 13, 17
essential personnel, 3, 26
~~Essential Personnel~~, 23
examination, 1, 3, 11, 12, 13, 14, 29, 32, 43, 45, 51
exceptional performance, 20, 21
exceptional performance recognition award, 20
executive benefits plan, 3, 24
exempt, 23
extension of lists, 12
extortion, 37
failure to meet minimum requirements, 49
failure to meet requirements, 19
failure to report, 14, 31
Fair Labor Standards Act, 4, 23
falsifying documents or records, 37
Family Medical Leave, 6, 33, 35
federal requirements, 7
felony, 37
fingerprints, 9
FLSA, 4, 23
FMLA, 34
follow-up testing, 42
formal discipline, 3, 6, 7
fraud, 13, 38
full performance level, 2
full-time to part-time, 6
good standing, 51
grant funded employees, 1
grievable issues, 45
grievance, 4, 39, 45, 46, 48, 49, 50
grievance content, 46
harassment, 38
hire date, 4
holiday, 4, 24, 25, 26, 27
holiday pay, 33
holiday premium, 26
Human Resources Director, 4
immediate family, 29, 32
incompetence, 37
industrial injury, 6, 32, 33
industrial insurance program, 32
initial, 4
initial regular employment probation, 1, 2, 36, 40
injury, 33
insufficient number of candidates, 12
insurance, 34
insurance coverage, 49, 51
insurance participation, 34, 35
insurance premium, 34
insurance program, 35, 45
intellectual property, 11
interviews, 13, 14
invention, 11
investigation, 38
job description, 17
job share, 4
journey-level, 2
jury duty, 26, 33
lateral transfer, 18
lawful/reasonable direction, 37
layoff, 51
list, 11, 12
loyalty oath, 55
Loyalty Oath, 8, 11
Management Policy, 4
meal break, 38
meal breaks, 39
medical retirement, 51
Memorandum of Understanding (MOU), 8
merit system, 1
Merit System, 4
Mesa City Charter, 4
military duty, 6
military leave, 33
military service, 6
minimum age, 9
minimum number of hours, 32, 33
minimum qualifications, 10, 11, 12, 17, 43
minimum requirement for employment, 9
minimum standards, 38
miscarriage, 29
misstatement of fact, 13
~~moral turpitude~~, 37
moving violations, 38
negligence, 38
new employee hire form, 8
non-benefited part-time, 29
non-benefited part-time employee, 4
non-City worker, 10
non-disciplinary corrective action, 48
non-exempt employee, 26
notice, 20
notification of candidates, 14
nursing mothers, 39

on-call, 24
open competitive recruitment, 5, 11, 12
order of employment lists, 11
original City probation, 4
outside employment, 11
overtime, 2, 23, 24, 38
overtime authorization, 24
paid time off, 30
paid time off, 4, 14, 23, 25, 27, 28
paid time off, 33
part-time employee, 40
part-time employees, 36
pay decrease, 20
pay increase, 21
pay period, 38
pay step, 17
performance appraisal, 4, 5, 8, 39, 41
performance decrease, 20
performance evaluation, 20, 40
performance expectation, 2
performance improvement required, 20
performance increase, 20
performance issue, 7
performance rating, 13, 20
performance test, 13
personal representative, 20, 41
Personnel Appeals Board, 52
personnel changes, 8
Personnel Director, 4
personnel file, 8, 39
physical agility test, 13
physical and mental disabilities, 9
physical or mental ability, 13
Plan Document, 36
post-accident testing, 42
post-employment relationship, 15
pre-deprivation hearing, 4, 20, 25, 41, 48, 49, 50, 52
pre-employment requirements, 9
pre-employment testing, 42
preference points, 13
pregnancy, 29
pre-placement testing, 42
probation, 5, 14, 16, 39, 40, 43, 50
probation extension, 40
probationary employee, 5, 40, 41
professional conduct (Ethics), 54
promotion, 5, 8, 15, 18, 43, 45
promotion list, 11, 12
promotional testing, 41
public service employment, 5, 16
qualification, 17
qualified, 5, 8, 12, 14, 43, 50
qualified applicant, 17
random testing, 42
rater, 5
rating authority, 39
reasonable accommodation, 9, 13, 31
reasonable suspicion testing, 42
reclassification, 5, 17, 18
recruitment, 12
recruitment summary list, 5, 11, 12, 14
reduction in pay, 41, 48
reduction in workforce, 6, 8, 11, 45, 51
reduction in workforce list, 11, 14, 52
reemployment, 6
~~regular employment status~~, 40
regular full-time employee, 5, 11, 29, 31
regular positions, 16
regular rate of pay, 5
rehire, 5, 10
rehired, 5
reinstatement, 5, 10, 12, 14
reinstatement list, 5, 11, 12, 14, 28, 30
relative, 15
residency requirement, 9
resignation, 5, 6, 13, 14, 51
resignation withdrawal, 51
rest period, 38
retirement, 5, 6, 31, 51
retirement system, 45
return to work, 31, 32
reviewing authority, 39
rotational assignment, 44
safety sensitive, 10
salary, 17, 19
salary adjustment, 6, 21
salary increase, 44
salary plan, 17
salary range, 17
seasonal employee, 1, 6, 10, 15, 19, 36
section, 6, 8
security sensitive, 10
selection processes, 13
seniority, 6, 15
separation, 3, 6, 14, 29, 30, 51
service, 6
service of notice, 7, 52
shift differential, 19
shift differential pay, 26
shift differential premium, 20
short-term disability, 3, 35
sick time, 14, 24, 25, 26, 29, 30, 31, 32, 35
sick time conversion, 31
special assignment, 44
special leave, 6, 23, 31, 34, 35
special performance appraisal, 39
special recruitment rate, 17
specialty pay scale, 18
stability pay, 15, 16, 22, 34
standards of conduct, 3, 7, 37, 48, 49, 52
stand-by, 24

state requirements, 7
step pay, 2, 4
step pay increase, 6, 20, 32, 39, 41, 44
step pay increase deferred, 41
step pay increase denial, 39, 45
step pay review, 34, 41, 43, 50
subpoena, 13
substance abuse testing, 42
successful performance, 21
suspension, 5, 6, 25, 48, 49
sworn promotional lists, 12
temporary agency workers, 6, 10, 36
temporary project appointment, 14
temporary project employee, 6, 15
terminating employment, 5
termination, 6, 8, 19, 27, 31, 41, 48, 50, 52
termination of service, 1
test validity, 13
tests, 13
theft, 38
time off, 1, 25, 32, 33, 34, 36
time worked, 38
training, 8, 13, 36
transfer, 7, 11, 16, 18, 29, 30, 31, 42, 43, 45
transfer convenience of the City, 43
transfer inter-department, 43
transfer intra-department, 43
travel pay, 33
tuition reimbursement, 36
unauthorized absence, 31
unclassified, 1
undue influence, 37
unexcused absence, 25
unpaid time away from work, 3
unpaid time off, 7, 27, 34
unscheduled pay increase, 21
USERRA, 33
vacancy, 11, 12
vacant position, 50
vacation, 4
vacation pay out, 29
vacation time, 24, 25, 27, 28, 29, 31, 32, 33, 35
violation of policy, 37
voluntary demotion, 19
volunteer, 10
voting, 4, 26
willful misconduct, 38
witness, 26, 52
witness time, 33
work days, 25
work period, 38
work rules, 38
work week, 5, 23, 38
Workers' Compensation, 32
written counseling, 7, 8
written reprimand, 7, 25, 48