

MINUTES

MERIT SYSTEM BOARD MEETING

A meeting of the Merit System Board was called to order at 8:00 a.m., **Wednesday, March 20, 2019**, in Personnel Conference Room #3 at 20 E. Main Street, Suite 130, Mesa.

MEMBERS PRESENT

Jack Milligan
Shelley Reimann

MEMBERS ABSENT

Terry Hines, Chair

OTHERS PRESENT

Tracy Hurt – Secretary to the Board
Gary Manning – Human Resources
Talona Felix – Time and Labor Administrator

Board Secretary Tracy Hurt called the meeting to order as Chair was absent. Gary Manning gave introductions and an overview of the Merit Board role and the Personnel Rules revisions requirements by ordinance when there are proposed changes.

Gary and Talona each reviewed portions of the proposed rule changes as follows:

Section #	Section Title	Proposed Revision
250.E.	Reinstatement	Revised section reference from 423.B.6. to 423.B.5.

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.
- 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 Department shall make arrangements for orientation of new personnel.
- D. **Temporary Project Appointment:** A Department Director, City Manager designee, Assistant City Manager, 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 employees who are rehired into a full-time position shall serve a new probation period. All former benefited

employees who met the requirement of two (2) years of continuous employment (accruing at a higher rate) prior to separation from the City and are rehired within nine (9) months of separation will begin accruing vacation time at the same rate they accrued at the time of separation. If the two (2) year requirement had not been met at the time of separation, the employee will return to the beginning accrual rate (the vacation accrual date will reset). All former employees who are rehired within nine (9) months of separation with previously accrued sick time that had not been used or paid out shall have their sick time balance restored upon rehire. (See Sections [423.B.6 B.5.](#) and [423.D.](#)) 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 if rehired within nine (9) months of separation (for internal promotions and shift bids).

Section #	Section Title	Proposed Revision
320.E.1.	Promotion	Revised to specify additional approval required for promotional increases above the midpoint of the range.
320.I.	Shift Differential	Removed references to an eligible shift as a shift of eight (8) or more hours. Also clarified shift diff will be paid for an employee while on sick time.

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 a step not higher than the midpoint of the range to which their class is assigned.
 - 2. If the Assistant City Manager (or designee) or City Manager designee determines that a particular applicant has special qualifications that justify a salary higher than the midpoint of the range, the Assistant City Manager (or designee) or City Manager designee may authorize a special entrance rate at a higher step than the midpoint 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.
- 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%)~~ **the midpoint of the range** 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: (See also [Section 830](#))

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](#) 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 and approved by the Deputy City Manager, Assistant City Manager or City Manager designee. 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. a. 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.
- b. Sworn nonexempt Police Department employees shall be paid shift differential premium for working an eligible shift. An eligible shift ~~is a shift of eight (8) or more hours, which~~ starts on or after 10:00 a.m. and before midnight. Eligible employees who start work on or after 10:00 a.m. will receive shift differential premium for all work performed from 3:30 p.m. to 8:00 a.m.
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. ~~With the exception of sick time, S~~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, ~~if the shift is eight (8) or more hours, and the call back shift starts on or after 2:00 p.m. and before midnight. Employees will receive shift differential premium for all work performed from 3:30 p.m. to 8:00 a.m. and but~~ shall be compensated in accordance with call-out policies, ~~unless the shift meets the eligibility requirements.~~
5. Shift differential premium shall be paid according to the chart identified in [Management Policy 400](#) - Timekeeping and Leave Administration.

Section #	Section Title	Proposed Revision
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330.F.	Exceptional Performance Recognition Award	Revised to clarify award amounts for consistency with Policy. Also revised rating definitions for consistency with current Performance Appraisal Form.
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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 (for full-time classified employees) or one year from hire date (for full-time at-will and benefited part-time employees) and then annually on the common review date until the 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 days' 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 Assistant City Manager, 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 be from \$100 net up to \$500 net ~~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"~~ "Meets" or "Exceeds" Expectations 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~~" "**Meets**" or "**Exceeds**" **Expectations** on their most recent performance appraisal. (See [Management Policy 322](#) - Special Performance Rewards)

- G. **Unscheduled Pay Increases:** Upon approval of the Assistant City Manager, 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 #	Section Title	Proposed Revision
420.	Paid Time Off	Clarified shift differential will be paid for an employee while on sick time.

SECTION 420. PAID TIME OFF

Paid time off is the time an employee is absent from work but receiving pay. Paid time off categories include, *but are not limited to:* observance of a holiday, vacation, sick, compensatory time, discretionary time, voting, jury duty/witness, bereavement, administrative leave, and donated time. Refer to [Management Policy 400](#) for a complete list of all paid time off categories.

All paid time off can be taken in quarter (¼)-hour increments, unless otherwise noted. An employee receiving pay in any of the paid time off categories will be paid at the employee's effective rate of pay. ~~With the exception of sick time, s~~[Shift differential](#) shall not be paid for any employee on paid time off.

Section #	Section Title	Proposed Revision
421.B..	Observation of Holidays	Revised to allow employees the ability to observe a holiday that falls on a regular day off, at any point from the time of accrual to the end of the calendar year.

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 four (4) weeks before or after the~~

~~holiday at any point from the time of accrual to the end of the calendar year, 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 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: 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. An employee on disciplinary dock on a holiday is not eligible for holiday pay.
- 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 shall not receive 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 #	Section Title	Proposed Revision
423.B.	Sick Time – Accrual	Revised method used to calculate sick time, including the addition of a pro-rated grant schedule for new hires. Added requirement for full-time employees to work a minimum number of hours in a pay period in order to continue to accrue sick time. Clarified grant schedule for rehires and returning/reactivated non-benefited/seasonal employees.
423.F.5.	Use of Sick Time	Clarified employee’s call-in time to be at least ½ hour prior to start of shift.

SECTION 423. SICK TIME

A. Definition:

1. Earned paid sick time shall be provided to an employee for the following reasons:
 - a. The employee’s mental or physical illness, injury or health condition; or to care for a family member with an illness, injury or health condition;
 - b. The employee’s need for medical diagnosis, care, or treatment of a mental or physical illness, injury or health condition; or to care for a family member with the same need;
 - c. The employee’s need for preventive medical care; or to care for a family member with the same need;
 - d. Closure of the employee’s worksite by order of a public official due to a public health emergency or an employee’s need to care for a child whose school or place of care has been closed by order of a public official due to a public health emergency, or care for oneself or a family member when it has been determined by the health authorities having jurisdiction or by a health care provider that the employee’s or family member’s presence in the community may jeopardize the health of others because of his or her exposure to a communicable disease, whether or not the employee or family member has actually contracted the communicable disease;
 - e. Absences necessary due to domestic violence, sexual violence, abuse or stalking, provided the absence is to allow the employee to obtain for the employee or the employee’s family member:
 - 1) Medical attention needed to recover from physical or psychological injury or disability caused by domestic violence, sexual violence, abuse or stalking;
 - 2) Services from a domestic violence or sexual violence program or victim services organization;
 - 3) Psychological or other counselling;
 - 4) Relocation or taking steps to secure an existing home due to the domestic violence, sexual violence, abuse or stalking; or

- 5) Legal services, including but not limited to preparing for or participating in any civil or criminal legal proceeding related to or resulting from the domestic violence, sexual violence, abuse or stalking.
2. For purposes of this Section 423, the term family member means:
 - a. Regardless of age, a biological, adopted or foster child, stepchild or legal ward, a child of a committed partner, a child to whom the employee stands *in loco parentis*, or an individual to whom the employee stood *in loco parentis* when the individual was a minor;
 - b. A biological, foster, stepparent or adoptive parent or legal guardian of an employee or an employee's spouse or committed partner or a person who stood *in loco parentis* when the employee or employee's spouse or committed partner was a minor child;
 - c. A person to whom the employee is legally married under the laws of any state, or committed partner of an employee as registered under the laws of any state or political subdivision;
 - d. A grandparent, grandchild or sibling (whether of a biological, foster, adoptive or step relationship) of the employee or the employee's spouse or committed partner; or
 - e. Any other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

For purposes of the definition of "family member" in this subsection, "committed partner" means an individual who has been declared the committed partner of an employee under the requirements of the City of Mesa Benefits Plan Document, or an individual who is at least 18 years of age living together in a common household with an employee who is at least 18 years of age; and in which the employee and the individual are each other's sole committed partner; they are not legally married to each other; they are not legally married to, legally separated from, or a committed partner to any other person; and they are not related by blood closer than would bar them from being legally married in the State of Arizona.

B. Accrual:

1. Effective ~~July 1, 2017~~ **January 1, 2019**, employees will accrue sick time as follows. See **Management Policy 400 – Timekeeping and Leave Administration for the pro-rated grant schedule for new hires.**
 - a. **Full-Time:**
 - Two (2) hours per pay period
 - An additional forty-four (44) hours will be granted on January 1 of each year, or a prorated amount on date of hire for new hires.
 - Total combined accrued and granted hours will not exceed ninety-six (96) hours in a calendar year.

~~employees can accrue and use up to a maximum of forty (40) paid sick time hours per calendar year.~~

- ~~5.~~ Non-benefited and seasonal employees ~~hired after July 1, 2017 will begin—accruing sick time on the date of hire; however, these employees cannot begin using the accrued time sick time hours~~ until the ninetieth (90th) calendar day after their date of hire. These employees can ~~accrue and~~ use up to a maximum of forty (40) paid sick time hours per calendar year.

The ninety (90)-day waiting period does not apply to returning/~~reactivated~~ non-benefited/seasonal employees, nor does it apply to non-benefited/seasonal employees who met the 90-day waiting period prior to separation and are rehired within nine (9) months of separation.

- ~~6-5.~~ Former employees who are rehired within nine (9) months of separation with previously accrued sick time that had not been used or paid out shall have their sick time balance restored upon rehire. ~~Employees rehired within nine (9) months of separation and within the same calendar year as their date of separation will not receive a prorated grant on date of rehire. Employees rehired within nine (9) months of separation and within the following calendar year after date of separation will receive a prorated grant on date of rehire. See Management Policy 400 – Timekeeping and Leave Administration for the pro-rated grant schedule for new hires. See also Sections 250.E and 423.D.~~

6. ~~Returning/reactivated non-benefited and seasonal employees who return to work within the same calendar year as last day worked/date of inactivation will not receive an additional grant upon return. Returning/reactivated non-benefited and seasonal employees who return to work in a subsequent calendar year, will receive a full grant (not pro-rated) on the date of their return to work.~~

- C. **Conversion of Sick Time to Vacation Time:** Unused accrued sick time is carried over from year to year with no cap, subject to the limitations on usage. However, employees may elect to convert sick to vacation time under the following circumstances:

1. Full-time employees with a balance of one thousand forty (1,040) unused sick time hours can convert sick time hours accrued above 1,040 unused sick time hours to vacation time.
2. Part-time benefited employees with a balance of five hundred twenty (520) unused sick time hours can convert sick time hours accrued above 520 unused sick time hours to vacation time.
3. Fire personnel working a twenty-four (24)-hour shift with a balance of one thousand four hundred fifty-six (1,456) unused sick time hours can convert sick time hours accrued above 1,456 unused sick time hours to vacation time.
4. Part-time non-benefited and seasonal employees are not allowed to convert any accrued sick time hours to vacation time.

Employees who elect to convert sick time to vacation time in accordance with this subsection are required to execute the **Sick Time Conversion Election Form**.

If elected, an employee's sick time shall be converted to vacation time on the basis of one (1) hour of vacation time for every one (1) hour of excess sick time accrued.

If an employee's balance exceeds the above-referenced applicable amount, and the employee elects to convert the excess sick time to vacation time, the option to convert in accordance with this section is only available for newly accrued hours after the election is effective.

- D. **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, up to a maximum of 520 hours for full-time employees, 260 hours for benefited part-time employees, and 728 hours for Fire personnel working a twenty-four (24) hour shift.
- E. **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.
- F. **Use of Sick Time:**
1. Employees shall be allowed to use earned paid sick time for the reasons listed in [Section 423.A.1](#).
 2. Sick time can be used in one-quarter ($\frac{1}{4}$) hour increments.
 3. Requests to use sick time must be submitted to the employee's supervisor. Whenever possible, the request shall include the expected duration of the absence.
 4. When the use of sick time is foreseeable, the employee shall make a good faith effort to provide advance notice and shall make a reasonable effort to schedule the time in a manner that does not unduly disrupt operations.
 5. When the use of sick time is not foreseeable, the employee must notify the immediate supervisor **within at least** one-half ($\frac{1}{2}$) 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.
 6. Employees are not required to find a replacement worker to cover the hours during which the employee is using paid sick time.
 7. The use of paid sick time under this section cannot count as an absence that may lead to or result in discipline or any other adverse employment action.
 8. For paid sick time absences of three (3) or more consecutive work days, a Department Director (or designee) or City Manager designee may require reasonable documentation that the paid sick time has been used for a reason set forth under [Section 423.A.1](#). Documentation signed by a health care professional indicating the time is necessary shall be considered reasonable documentation for purposes of this section.

In cases of absences due to domestic violence, sexual violence, abuse or stalking, the following types of documentation selected by the employee shall be considered reasonable:

- a. A police report indicating that the employee or the employee's family member was a victim of domestic violence, sexual violence, abuse or stalking;
- b. A protective order; injunction against harassment; a general court order; or other evidence from a court or prosecuting attorney that the employee or employee's family member appeared, or is scheduled to appear, in court in connection with an incident of domestic violence, sexual violence, abuse or stalking;
- a. A signed statement from a domestic violence or sexual violence program or victim services organization affirming that the employee or employee's family member is receiving services related to domestic violence, sexual violence, abuse or stalking;
- b. A signed statement from a witness advocate affirming that the employee or employee's family member is receiving services from a victim services organization;
- c. A signed statement from an attorney, member of the clergy, or a medical or other professional affirming that the employee or employee's family member is a victim of domestic violence, sexual violence, abuse or stalking; or
- d. An employee's written statement affirming that the employee or the employee's family member is a victim of domestic violence, sexual violence, abuse, or stalking, and that the time was taken for one of the reasons set forth in Section 423.A.1.e. The employee's written statement, by itself, is reasonable documentation for absences under this paragraph. The written statement does not need to be in an affidavit format or notarized but shall be legible if handwritten and shall reasonably make clear the employee's identity, and if applicable, the employee's relationship to the family member.

A supervisor may not require that the documentation provided under this subsection explain the nature of the health condition or the details of the domestic violence, sexual violence, abuse or stalking.

9. For all absences listed in Section 423.A.1 sick time will be used first; followed by, if needed and with supervisor approval, 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.
10. For non-workplace injuries or illnesses, a Department Director (or designee) or City Manager designee may require an employee receive an Independent Medical Examination (IME) by a licensed health care practitioner designated by the City Manager or designee. If the initial examination occurs on a scheduled work day, the employee shall be paid for his/her time including travelling to and from the examination (contact Time & Labor for the appropriate pay code). All related medical expenses resulting from the initial exam are paid by the employee's department. The employee is responsible for the payment of all other related medical expenses if additional treatment is required. 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.

- 11. A Department Director (or designee) may send home an employee who is ill at work. In these instances, sick time will be used first, followed by, if needed and with supervisory approval, other forms of paid time off or dock status.

- G. **Confidentiality and Nondisclosure:** A supervisor may not require disclosure of details relating to domestic violence, sexual violence, abuse or stalking or the details of an employee's or an employee's family member's health information as a condition of providing earned paid sick time. If a supervisor possesses health information or information pertaining to domestic violence, sexual violence, abuse or stalking about an employee or employee's family member, such information shall be treated as confidential and not disclosed except to the affected employee or with the permission of the affected employee.

- H. **Advancement and Transfer:** Sick time shall not be advanced to an employee, and sick time cannot be transferred between employees.

- I. **No Retaliation or Discrimination:** Retaliation or discrimination against an employee or former employee for the proper use of sick time is unlawful and strictly prohibited.

Section #	Section Title	Proposed Revision
424.C.	Bereavement- Amount of Time	Revised to allow Fire personnel working a 24- hour shift to use bereavement time for an absence up to 48 hours or 2 work shifts (v. 2 consecutive shifts).

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, committed partner, 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. For purposes of this section, a committed partner is an individual who meets the definition of committed partner as described in the City of Mesa Health Plan Document (whether covered in the Health Plan or not).

- C. **Amount of Time:** For full-time employees, an absence up to fifty (50) work hours will be allowed for bereavement time to provide an employee time to grieve, which includes attending and/or preparing 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 to provide an employee time to grieve, which includes attending and/or preparing for funerals/memorial services.

For benefited part-time employees, up to twenty-five (25) work hours will be allowed for bereavement time to provide an employee time to grieve, which includes attending and/or preparing 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 #	Section Title	Proposed Revision
430.A.	Unpaid Time Off - Paid Time Off Accrual	Revised to include a requirement for full-time employees to work a minimum number of hours in a pay period in order to continue to accrue sick time.

SECTION 430. UNPAID TIME OFF

- A. **Paid Time Off Accrual:** Effective January 1, 2013, employees accrue vacation time once they have met a minimum number of hours in a biweekly pay period. **Effective January 1, 2019, full-time 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 vacation ~~time~~ **and/or 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. **For sick and vacation, f**Full-time employees must meet a minimum of sixty-five (65) hours in a biweekly pay period;
 2. **For sick and vacation, f**ire personnel working a twenty-four (24)-hour shift must meet a minimum of fifty-four (54) hours in a biweekly pay period;
 3. **For vacation only, b**enefited 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:** Employees on unpaid time off without a paycheck or in receipt of a paycheck that is insufficient to cover all owed insurance premiums, are responsible for the payment of the employee portion of the insurance premiums for the coverage they desire. Employees will be invoiced by and must make payments directly to the Payroll Office when due. Failure to make timely payments may result in termination of coverage, loss of any COBRA continuation privileges (or life insurance portability or

conversion privileges) that might otherwise apply to a termination of coverage and collections proceedings by the City to obtain payment. Employees may also be responsible for reimbursing the appropriate health plan and/or insurance carriers for benefit payments made for services incurred and claimed (for self and/or family members) after the coverage termination effective date.

Section #	Section Title	Proposed Revision
510.B.8.	Causes for Discipline or Dismissal	Clarified overall statement for ease of reading; separated into 4 brief statements.
510.B.8.c.		Added: Failure to report a misdemeanor arrest
510.B.8.d.		Added: Misdemeanor conviction depending on severity and nature
510.B.13.		Added: Unlawful harassment/discriminatory conduct committed on or off the job against another employee or applicant for 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. A felony conviction. ~~of~~
 - b. ~~F~~failure to report any felony or misdemeanor conviction. ~~of~~
 - c. ~~Failure to report any felony or misdemeanor~~ arrest.
 - d. A misdemeanor conviction, depending on the severity and nature of the conviction.

Employees are required to report to their chain of command upon the start of the employee's next scheduled work day following the conviction or arrest.
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 ~~committed on or off the job~~ against another employee or applicant for employment on the basis of race, color, national origin, age, disability, religion, sex, sexual orientation, gender identity and expression, veterans' status, marital status, or genetic information 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 #	Section Title	Proposed Revision
540.C.1.a.	Initial Regular Employment Prob	Added Police & Fire Dispatcher Trainee and Police & Fire Dispatcher Lateral classifications to an 18-month initial probation period (v. 12 months).

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. **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. **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, **Police/Fire Dispatcher Trainees, Police/Fire Dispatcher Laterals.**
 - 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.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. 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 days' 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 #	Section Title	Proposed Revision
620.B.	Inter-Department Transfer	Revised to require additional approval for a transfer that also includes a promotional increase above the midpoint of the range.

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 **Department Directors, Assistant City Managers, Deputy City Managers or City Manager designees approval is required if the transfer includes a promotional increase above the midpoint of the range. 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.

The Board asked for clarification or indicated concerns as follows:

Section 250.E. - Shelley asked where the nine-months provision comes from and Gary and Talona explained that Proposition 206 specifies nine months.

Section 320.E.1 – Jack asked if salary ranges are established on an annual basis and Gary indicated that we have a salary plan and approximately every two years we do a benchmark against the market using our surrounding core cities such as Glendale, Tempe, Chandler, Phoenix and Scottsdale, and use the average maximum to establish our maximum.

Shelley asked what promotion would result in no increase. Gary explained that in some instances the employee is looking for new opportunities and the increase is not applicable, although there are few of these situations, and the change being made to rules is to specify additional approval is required for any promotional pay increase above the salary midpoint.

Section 320.I. – Shift Differential

Jack indicated that it seemed contradictory to pay shift differential for sick time while specifying that required training on another shift is not paid at the shift differential. Jack stated that we should pay shift differential for required training on another shift if we are required to pay it for sick time.

Talona explained that paying the shift differential for sick leave is what is now required by state statute.

Shelley Reimann added that as a wife of a police officer on graveyard/swing shift she thinks that the shift differential pay should be applied to training, vacation and sick time. The impact of the shift on the family is disruptive and the budget/paycheck is also negatively affected when you take vacation time because you lose the shift differential. She stated the intent of the new law requiring shift differential pay be applied to sick leave was because there should not be the consequence of losing the shift differential for sick time. She feels the same applies to training and vacation time.

Talona explained that the new law only requires sick time leave, not other categories. Our revision to Personnel Rules regarding shift differential for sick time would put us in compliance with the law.

Gary advised the board that they can indicate approval of the sick time shift differential pay in order to ensure the City is in compliance with state law while also recommending the City consider including these additional situations (training, vacation).

Section 330.F. – Exceptional Performance Recognition Award

Jack asked if the award is grossed up for taxes to ensure the award amount is the actual amount the employee receives, and Gary confirmed.

Section 423.B. – Sick Time – Accrual

Jack asked if examples are ever provided in the personnel rules since they may be hard to understand as these accrual situations can be complicated. Talona indicated that we reference the corresponding Management Policies and that is where the examples would be.

Section 430. – Unpaid Time Off

Jack asked if this was a retroactive language clean up. Talona confirmed that the change was in effect as of January 1st and we are now updating the language.

Section 510. – Standards of Conduct

Jack asked if requiring employees to report an arrest versus reporting a conviction is violating employee's rights since arrests tend to be a discriminatory process. Shelley also expressed concern and indicated that the Board did not approve this language in the last revision because it seemed like an invasion of privacy and could be a burden on certain groups of people due to the institutional discrimination in arrests.

Gary explained that nothing in the list under Section 510.8. requires an automatic disciplinary action. The rules have always contained reporting a felony arrest. We have added failure to report a misdemeanor arrest and misdemeanor convictions that may be a cause for discipline based on the severity and nature of the conviction.

Shelley asked if there is any guidance or matrix for supervisors so that it is consistently and fairly applied. If a supervisor doesn't particularly care for an employee, it could be made to be an issue when it otherwise would not be.

Gary noted that we have checks and balances so that supervisors can not impose discipline by themselves. Discipline must be signed off on by the supervisor, department director and Human Resources Director. HR serves as that matrix. We review all disciplinary actions.

Jack asked how enforcement of reporting would be accomplished. Depending on employees to report could result in honest employees reporting and those who are dishonest would not. What process could be put in place that would enforce voluntary reporting?

Gary explained that for non-driving arrests, we would have no way of knowing if the employee did not report unless it made the newspaper, or the employee talked about it at work. There is never going to be a guarantee of 100% reporting. If down the road a felony arrest occurs, we would be able to see prior arrests and that could be some additional justification for moving forward with discipline. It is a good point – we will never be able to know of 100% of them.

Jack stated that he is opposed to setting up a rule that we can't really enforce when it comes to what I think is a violation of privacy rights on an arrest. An arrest is not a conviction. The history of arrests (not stating anything regarding the City of Mesa) but as a national economy arrests are lopsided when you look at the numbers. Do we want to put something in the rules that is more than likely not going to be reported by dishonest employees? Do we want to have a rule that you can't enforce?

Gary explained that what we really need to know about is some of the more serious misdemeanor arrests. This does not automatically result in discipline. For example, an employee arrested for domestic violence and has interactions with citizens representing the City we want to be aware of that. It allows us to monitor the situation.

Jack asked what "Conduct of a type that will bring discredit or embarrassment to the City" means. Gary explained that it could be a variety of things. It is difficult to list every violation that may occur for which the City would want to take some action. We list the ones that are easy to identify, what we don't know is what other activities may rise to that level.

Jack noted that it does not say "significant" embarrassment which gives a lot of leeway with this rule. Could some of the arrests covered below also be covered in item number: seven: Conduct of a type that will bring discredit or embarrassment to the City?

Gary said that many other rules do possibly fall under that category, but it would not be fair to the employee to have to guess.

Shelley noted her concern with including misdemeanor arrests because in some instances of domestic violence calls, both parties are arrested. Employee privacy and the humiliation of reporting to a supervisor is a concern and could affect a career.

Gary read some examples of types of misdemeanors for which a person could be arrested:

- Petty theft
- Prostitution
- Public intoxication
- Simple assault
- Disorderly conduct
- Trespassing
- Vandalism
- Reckless driving
- Discharging a firearm in city limits
- Possession of cannabis or first-time possession of other drugs

Jack and Shelley indicated that they would support the changes related to **Section 510** with the exception of **misdemeanor** arrest.

Section 540. – Probation

Jack asked if the 18-month probation for Police and Fire Dispatchers is the standard for all municipalities. Gary indicated that it may be, however, we have implemented it due to the length of training required for these positions.

Section 320.I. – Shift Differential

Additional discussion of shift differential for required training on an alternate shift and vacation time resulted in a request for the City to consider looking into this and discussing possible scenarios and timeframes that shift differential would be appropriate.

Shelley moved to approve the proposed changes with the exception of the requirement to report a misdemeanor arrest as indicated in Section 510.8.c. and approval of Section 320.I. with a recommendation that the City take into consideration other situations when it may be appropriate to pay shift differential as discussed (vacation, required training on alternate shift, etc.).

The motion was seconded by Jack.

Voting as follows:


Shelley voted affirmative
Jack voted affirmative
Terry Hines - absent.

There being no further business, motion to adjourn by Shelly Reimann and seconded by Jack Milligan. The vote to adjourn was affirmed by Shelly and Jack. The meeting adjourned at 9:44a.m.

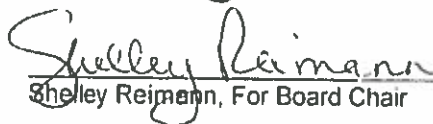
XC: Christopher J Brady, City Manager (IMMEDIATELY for applicable Council Agenda)
e-mail to Jill Kotsur - City Manager's Office receives any rule changes, council report, and ordinance for Council Meeting
DeeAnn Mickelsen, City Clerk
Merit System Board Members
Human Resources Staff (ONLY after Council Approval)
Mayor's Office



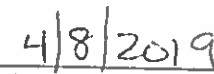
Tracy Hurt, Board Secretary



Date



Shelley Reimann, For Board Chair



Date