

## **Number 9.0 - TYPES OF SEPARATION**

**Effective Date:** March 1, 1996

**Applicable To:** All classified employees with the Executive Branch of the State of Vermont.

**Issued By:** Department of Personnel

**Approved By:** William H. Sorrell, Secretary of Administration

### **PURPOSE AND POLICY STATEMENT**

The purpose of this policy is to define the types of separation of State employees and the procedures to be taken.

### **DEFINITIONS**

**SEPARATION** - is the termination of an employee from employment by the State through resignation, dismissal, retirement, or layoff.

**EFFECTIVE DATE OF SEPARATION** - is the last day on which an employee actually works, except as prescribed by 3 VSA 264 (limited instances when the use of sick leave is authorized).

**LACK OF WORK** - when there are insufficient funds to permit the continuation of current staffing; or there is not enough work to justify the continuation of current staffing.

**LAYOFF/REDUCTION IN FORCE** - is the layoff or separation of a classified employee from employment due to a lack of work or otherwise pursuant to management rights.

### **GENERAL GUIDELINES**

**NOTE:** Prior to separating any employee from State service, managers and supervisors **MUST** contact their agency/department personnel officer for more details.

Agencies and departments are encouraged to establish guidelines for their managers and supervisors to use when conducting exit interviews with employees who are terminating their employment with State government. Information gained from employee exit interviews may be useful to management in assessing the reasons for staff turnover, and may also be used to provide recommendations for improvements in the agency/department. Agency/department guidelines should be shared with the Employee Relations Division of the Department of Personnel, so that we may know what information is being gathered and how it is being utilized.

## **Section 9.00 - Retirement**

Retirement is the separation of an employee from State service in accordance with the provisions of the Vermont Employees' Retirement System or other retirement systems under which an employee is eligible to receive retirement benefits.

It is expected that employees will notify their supervisor as far in advance as possible of the actual date of retirement.

Employees should contact the State Retirement Services Division at 828-2305 for individual retirement counseling and specific details or requirements.

## **Section 9.01 - Resignation**

A resignation is the separation from State service by an employee's voluntary act. The Rules and Regulations for Personnel Administration provide that an employee must give at least two (2) weeks' notice of a resignation and put the reasons for the resignation in writing to the appointing authority. They also provide that a resignation, once submitted, may not be withdrawn by the employee except with the consent of the appointing authority. Employees who do not give two (2) weeks' notice of their resignation may forfeit payment of an equal number of unused annual leave days by which the notice is short of two (2) weeks.

There are circumstances, however, in which a resignation may nonetheless be valid and effective even though the employee has not put it in writing. This may be the case either where the employee has orally resigned or where he or she has simply stopped coming to work. In each of these circumstances, all of the circumstances will be assessed to determine whether the employee has taken actions sufficient to demonstrate a voluntary resignation.

If an employee has orally resigned, the supervisor should request a written resignation. If that request is not honored or is refused, the appointing authority should confirm by letter to the employee that the resignation occurred and has been irrevocably accepted. In the absence of a timely protest from the employee after this has been done, it should be clear that the employee intended to resign.

However, if an employee orally resigns and thereafter disputes that the resignation was effective, or seeks to withdraw the resignation, the Department of Personnel Employee Relations staff should be consulted for assistance in formulating an appropriate response. If the circumstances demonstrate that the employee has already voluntarily resigned, the appointing authority has the authority to grant or deny the employee's request to withdraw the resignation.

An example of a circumstance in which a voluntary resignation was found to have occurred was when the employee turned in office keys to the supervisor, indicated "I'll see you later," came back after several days and removed personal property from the

work place, and then claimed, after several more days of not working, that she had not resigned.

However, in another example, an oral resignation was found to have been coerced where, mid-way through a warning period, the unit chief and employee's supervisor met with the employee, who was not represented in the meeting by the Vermont State Employees' Association, Inc. (VSEA), and gave the employee a couple of hours, i.e., until the end of the day, to resign or face an imminent dismissal. Even though the employee had agreed in the meeting to resign, that resignation was found to have been involuntary, and was therefore invalid.

As noted above, there are also times that an employee simply stops reporting for work. The contract provides that an employee who is absent from work for five (5) consecutive work days without authorization and without contacting management is considered to have voluntarily quit. Again, the Employee Relations should be consulted before action is taken in such a circumstance to ensure contractual compliance.

Finally, there may be circumstances in which the appointing authority has concerns with respect to allowing an employee to work out the period until a resignation takes effect. The Employee Relations Division of the Department of Personnel should be contacted at 802-828-3454 to discuss options where such concerns exist.

### **Section 9.02 - Dismissal**

The Disciplinary Action Article of the current Agreements between the State of Vermont and the VSEA must be followed when contemplating dismissal. However, such dismissal must still be in writing (See Number 9.1 Immediate Dismissal). However, original probationary employees may be dismissed by the State solely at the discretion of management without regard to the provisions of the contract.

NOTE: The agency/department appointing authority must be notified prior to the dismissal of any employee. The personnel officer must be consulted as to the process. The content of the letters must be discussed with the Employee Relations Division of the Department of Personnel.

### **Section 9.03 - Reduction in Force**

There may be circumstances when an agency/department must implement a reduction in force (RIF) (See Number 5.10, Reduction In Force). This should only be done after a thorough review of agency/department programs and a financial analysis of the mission, mandates, and staffing. The appointing authority makes the initial decision as to the number of employees and classes that will be affected by the layoff. Once this decision has been made, the agency/department must notify the personnel officer and the Employee Relations Division of the Department of Personnel prior to implementing any layoff procedures or notification of employees. The Reduction in Force Article of the

current contract provides a system which must be followed to ensure the equitable and consistent treatment of classified employees when a reduction in force occurs.

The contract outlines the following procedures for RIF:

- which employees are covered
- the timing and manner of notification to employees and the VSEA
- determining order of separation

#### **Section 9.04 - Disability RIF**

Employees who may have to be separated from their position due to an illness or injury that renders them incapable of performing their usual job could be considered for disability RIF status. The request for disability RIF must be supported by medical evidence acceptable to the appointing authority.

The appointing authority must first accommodate an employee with a disability following the requirements of the Reasonable Accommodation Policy as required by the federal Americans with Disabilities Act (See Number 3.2 Reasonable Accommodation). If no accommodation is available, disability RIF would be the next step.