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**Memorandum**

**DATE:** November 7, 2013  
**TO:** Mayor and City Council  
**THRU:** Rich Dlugas, City Manager *RD*  
**FROM:** Debra Stapleton, Human Resources Director *DS*

**SUBJECT:** Resolution 4728 – Amending Personnel Rule, Definitions; Personnel Rule 1, Section 5, Classified and Unclassified Service; Section 12, Outside Employment; Personnel Rule 3, Section 4, Merit Increases and Salary Decreases; and Section 5, Temporary Detail; Personnel Rule 5, Disciplinary and Appeal Procedures, in its entirety; Personnel Rule 6, Section 3, Voluntary Demotion; Personnel Rule 14, Section 3, Layoff; Personnel Rule 15, Section 6, Charging Vacation Leave; Personnel Rule 16, Section 9, Compensatory Time; and Personnel Rule 19, Section 9, Recording Secretary

**RECOMMENDATION:**

Adopt Resolution 4728 – Amending Personnel Rule, Definitions; Personnel Rule 1, Section 5, Classified and Unclassified Service; Section 12, Outside Employment; Personnel Rule 3, Section 4, Merit Increases and Salary Decreases, and Section 5, Temporary Detail; Personnel Rule 5, Disciplinary and Appeal Procedures, in its entirety; Personnel Rule 6, Section 3, Voluntary Demotion; Personnel Rule 14, Section 3, Layoff; Personnel Rule 15, Section 6, Charging Vacation Leave; Personnel Rule 16, Section 9, Compensatory Time; and Personnel Rule 19, Section 9, Recording Secretary.

**BACKGROUND:**

Staff is proposing several amendments to the Personnel Rules. These proposed amendments make substantive modifications as well as changes that are procedural or housekeeping in nature. Some of the changes resulted from the desire to promote consistency through the application of negotiated changes with the Labor and Trades and Administrative, Clerical and Technical employee groups to the general, non-represented employees. Other changes are designed to clarify procedures. This memo will summarize the substantive changes first and then discuss all others in a separate section.

## **DISCUSSION:**

I. The following proposed amendments make substantive changes as described below:

### **Personnel Rule 1, Section 5, Classified and Unclassified Service**

The proposed revision will allow the City Manager to designate certain classifications as unclassified or of “at will” status. These classifications will be executive level staff positions determined by the City Manager to require strict accountability due to the importance of the positions to the overall management of the City. The positions occupied at the time they are so designated by the City Manager will convert to at-will status only upon being vacated and newly filled so no current incumbent in a designated position will be affected by this Rule change.

### **Personnel Rule 1, Section 12, Outside Employment and Section 13, Employee Contracts with the City**

The language for Section 12, Outside Employment, was significantly expanded to better describe those conditions or situations that would result in outside employment not being approved as well as the procedures for obtaining approval of outside employment.

### **Personnel Rule 5, Disciplinary and Appeal Procedures, in its entirety**

Numerous changes are proposed for Personnel Rule 5. These include significant substantive and procedural changes as well as editing and housekeeping changes for clarity and consistency. The most significant changes are described below:

#### Sections 1, 2, 3, 4: Preliminary notification process added

The current Rule requires the Department Director to issue a pre-dismissal notice to employees outlining the reasons supporting the Department Director’s intent to dismiss and affording employees the opportunity to present their side of the matter before the dismissal action becomes final. The advance notice and opportunity to be heard are due process protections intended to ensure the disciplinary decision is made with complete information. The current Rule does not provide the same advance notice and opportunity to respond for suspensions and involuntary demotions. In order to promote consistency in the handling of disciplinary matters that may result in significant sanctions, City staff is recommending that the Personnel Rule be changed so that a preliminary notification process with an opportunity to respond are also provided for suspensions and involuntary demotions.

#### Section 7: Disciplinary Review Group Process

The proposed changes to this section consist of renaming the process and expanding the timeframes for the process as follows:

- The Fact Finding Committee is renamed the Disciplinary Review Group to better describe its function and purpose.
- Timeframes throughout the review process are expanded. The ability to maintain the timeframes as outlined in the current Personnel Rule has been challenging; oftentimes resulting in the need for extensions. The expansion of timeframes is important to allow appropriate time for due process, compilation of recommendations and review. For this reason, the following timeframes are proposed to be changed:
  - The current Rule provides that the Committee convene a Disciplinary Review meeting within ten (10) workdays from the notice of appeal. The proposed Rule change extends that timeframe to twenty (20) workdays to allow for scheduling conflicts.
  - The current Rule provides that the Committee furnish the City Manager with a report of the review and its recommendations within five (5) workdays from the completion of the review. The proposed Rule change extends that timeframe to ten (10) workdays and provides for an extension of no more than five (5) workdays as approved by the City Manager.
  - The current Rule requires the City Manager to issue a written decision within five (5) workdays from the date the report was issued by the Committee. The City Manager may extend the timeframe with written notification to the employee. The proposed Rule extends the City Manager's deadline to ten (10) workdays and maintains the authority to extend with written notification to the employee.

#### Section 8: Merit System Board Hearing Process

This section was modified to extend some of the process timeframes and to clarify the procedures related to setting disciplinary appeal hearings before the Merit System Board. The Merit System Board Rules of Procedure are incorporated by reference and will be amended separately to include very detailed procedures for conducting a Merit System Board hearing, including preliminary and post-hearing activities. In addition, the proposed Rule allows the City to represent the Department Director in a Merit System Board hearing regardless of the employee's representation.

II. The following proposed amendments are considered to be housekeeping in nature:

#### **Definitions**

The proposed changes add definitions for compensatory time, department director, disciplinary action and division head for clarification purposes only.

#### **Personnel Rule 3, Section 4, Merit Increases and Salary Decreases**

Merit-eligible employees are eligible to receive their merit increases on the anniversary of their classification date. Several years ago, the City adopted a procedure whereby if the Department Director does not submit paperwork within 60 days following the eligibility date for a merit increase to either award the merit increase or to defer it for further evaluation, then the employee will receive the full merit increase retroactive to the eligibility date. The proposed change simply documents the City's existing procedure.

### **Personnel Rule 3, Section 5, Temporary Detail**

The proposed Rule change eliminates the need for the City Manager to approve temporary detail assignments consistent with current practice.

### **Personnel Rule 6, Section 3, Voluntary Demotion**

The proposed Rule change clarifies the handling of the salary in the case of a voluntary demotion and the conditions in which a probationary period should be served consistent with current practice.

### **Personnel Rule 14, Section 3: Layoff**

In negotiations with SEIU and ACE in FY 13/14, the layoff provisions of the Memorandum of Understanding (MOU) were modified in order to better align the language of the MOU with the City's Reduction in Workforce Administrative Regulation. The proposed change syncs the Personnel Rule's language with the agreed upon language in the Memorandums of Understanding.

### **Personnel Rule 15, Section 07: Charging Vacation Leave**

In negotiations with SEIU for FY 13/14, the maximum number of vacation hours eligible for payment increased from 20 hours to 25 hours. Consistent with the City's past practice, the proposed Personnel change will provide that same allowance for general, non-represented employees.

### **Personnel Rule 16, Section 9: Compensatory Time**

An increase in the maximum amount of compensatory time was negotiated as part of the ACE contract in FY 13/14 and 14/15. In FY 13/14, the compensatory time maximum was raised from 55 to 60 hours. In FY 14/15, it will be raised from 60 to 65 hours. The proposed change to the Personnel Rule aligns the general employees' compensatory time maximum with that outlined in the ACE contract.

### **Personnel Rule 19, Section 9, Recording Secretary**

The Employee Council requested a change to clarify where the minutes of the meetings are posted.

**PROPOSED MOTION:**

Adopt Resolution 4728 – Amending Personnel Rule, Definitions; Personnel Rule 1, Section 5, Classified and Unclassified Service; Section 12, Outside Employment; Personnel Rule 3, Section 4, Merit Increases and Salary Decreases; and Section 5, Temporary Detail; Personnel Rule 5, Disciplinary and Appeal Procedures, in its entirety; Personnel Rule 6, Section 3, Voluntary Demotion; Personnel Rule 14, Section 3, Layoff; Personnel Rule 15, Section 6, Charging Vacation Leave; Personnel Rule 16, Section 9, Compensatory Time; and Personnel Rule 19, Section 9, Recording Secretary.

## RESOLUTION NO. 4728

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA AMENDING PERSONNEL RULE, DEFINITIONS; PERSONNEL RULE 1, SECTION 5, CLASSIFIED AND UNCLASSIFIED SERVICE; SECTION 12, OUTSIDE EMPLOYMENT; PERSONNEL RULE 3, SECTION 4, MERIT INCREASES AND SALARY DECREASES; AND SECTION 5, TEMPORARY DETAIL; PERSONNEL RULE 5, DISCIPLINARY AND APPEAL PROCEDURES, IN ITS ENTIRETY; PERSONNEL RULE 6, SECTION 3, VOLUNTARY DEMOTION; PERSONNEL RULE 14, SECTION 3, LAYOFF; PERSONNEL RULE 15, SECTION 6, CHARGING VACATION LEAVE; PERSONNEL RULE 16, SECTION 9, COMPENSATORY TIME; AND PERSONNEL RULE 19, EMPLOYEE COUNCIL, SECTION 9, RECORDING SECRETARY.**

**BE IT RESOLVED** by the City Council of the City of Chandler, Arizona that the City of Chandler Personnel Rules, are amended to read as follows:

### **Personnel Rule Definitions**

*Definitions: Add the following definitions:*

COMPENSATORY TIME: Time off with pay, given in lieu of overtime payment.

DEPARTMENT DIRECTOR: An employee who reports directly to the City Manager and is responsible for a major department in the City.

DISCIPLINARY ACTION: Any of the actions listed below:

Suspension: The removal of an employee from an assigned position for a specified period of time with pay.

Involuntary demotion: The involuntary movement of an employee from a position in one classification to a position in another classification having a lower salary grade.

Dismissal: The removal of an employee from regular City appointment for cause.

DIVISION HEAD: A person having managerial responsibility for a functional area of a department and who has been designed a Division Head by the City Manager or Department Director.

### **Personnel Rule 1, Section 5: Classified and Unclassified Service**

*Replace Section 5*

- A. The employees of the City of Chandler are divided into the classified and unclassified service. The purpose of the classified service is to facilitate efficient and economical services to the public and to provide for a fair and equitable system of personnel management. The classified service is composed of all employees in the service of the City of Chandler, except those listed below. Positions that fall under the following categories are in the unclassified service and are exempt from these Rules unless specifically included:

1. Elected officials.
  2. Members of boards and commissions.
  3. City Officers directly appointed by the City Council
    - a. City Attorney
    - b. City Clerk
    - c. Presiding City Magistrate
    - d. City Manager
    - e. City Magistrates
  4. Volunteer and Reserve employees.
  5. Employees who are given a temporary appointment.
  6. Employees in unclassified staff positions as determined by the City Manager
- B. Appointees and employees under categories 2 through 6 of the unclassified service serve in an at-will capacity and their employment is subject to termination by the City at any time for any lawful reason, unless otherwise specifically provided by law or in a written contract of employment.
- C. The appeal provisions of these rules do not apply to any official, appointee, or employee in the unclassified service.
- E. Appointees under categories 2 and 3 of the unclassified service serve at the pleasure of the City Council as determined by the City Charter.
- F. Employees under categories 4 and 5 of the unclassified service serve at the pleasure of the Director of the Department in which they are employed.
- G. Category 6 of the unclassified service comprises executive level staff positions determined by the City Manager to require strict accountability due to the importance of the positions to the overall management of the City. Employees under category 6 of the unclassified service serve at the pleasure of the City Manager and are subject to all City rules except Rule 5, Disciplinary & Appeal Procedures; Rule 6 § 4, Return to City Employment; Rule 12, Probation; and Rule 14 § 3, Lay-off.
- H. Positions occupied at the time they are designated by the City Manager to be in the unclassified service shall convert to at-will status only upon being vacated and newly filled.

**Personnel Rule 1: Section 12, Outside Employment**

*Replace Section 12 in its entirety*

A - Outside employment of any employee shall not be permitted unless approved in writing by the Department Director prior to the commencement of the outside employment. Such approval shall not be given if it is determined that the outside employment is likely to be incompatible with City service. For purposes of this rule, outside employment includes self-employment.

B - Outside employment that is incompatible with City service includes, but is not limited to, the following:

1. Any employment which would physically or mentally hamper the employee in his or her ability to do the job required by the City.
2. Any employment which would bring discredit on the City service or the employee.
3. Any employment which would conflict with the employee's duties as a City employee.
4. Any employment which would require the employee to work hours that conflict with the employee's City work schedule or would require the City to incur overtime obligations to another employee due to employee's unavailability.
5. Any employment in which the employee receives compensation from anyone other than the City for rendering services ordinarily performed within the course and scope of the employee's City employment.
6. Any employment in which the employee receives compensation for performing personal services for the City other than those ordinarily provided in the capacity in which the employee is employed by the City.
7. Any employment which requires the employee to perform any activity that is subject to the control, review, audit, inspection, or enforcement by the employee or the City department or division in which the employee is employed or assigned.
8. Any employment which detrimentally affects the employee's attendance at or performance of his/her City job, including employment which deprives the employee of a sufficient amount of rest before reporting to his/her City job.
9. Any employment in which the employee is involved in any way in marketing to or soliciting business from the City.
10. Any employment with an entity or organization from which the City procures goods or services or with which the City has a lease or other contractual agreement. The

Department Director may determine such employment to be compatible with City service if the proposed employer has more than 10 employees in the Phoenix metropolitan area; the City employee will have no role in the management, control, or marketing of the outside employer; and the employee has no greater interest in any business conducted with the City than any other employee of the outside employer.

C - All requests for approval to engage in outside employment shall be reviewed by the Human Resources Director, or designee, for potential incompatibility with the employee's City service.

D - Approval to engage in outside employment may be subject to specific written conditions imposed by the Department Director the violation of which shall result in immediate revocation of such approval. A copy of the written approval and any related conditions shall become part of the employee's personnel file.

E - An employee shall request renewal of the approval to engage in outside employment every two years. The employee shall report to his or her director any change in the scope, duties, or conditions of the employee's outside employment within ten (10) days of the effective date of such change.

F - Approval of an employee's outside employment may be revoked at any time by the Department Director or City Manager if it is determined that the employee's outside employment is incompatible with City service.

G - The denial or revocation of approval for outside employment is not subject to appeal or grievance under these rules or any memorandum of understanding.

H – Approval to engage in outside employment shall be suspended for any periods during which the employee is on continuous medical leave, industrial leave, Family and Medical Leave (FMLA), or Short-Term Disability (STD) leave.

I - Outside employment activities shall not be conducted at any time during the employee's on-duty work shift or on City property. No City property or equipment shall be used for outside employment purposes at any time. This restriction includes computer hardware and software, email, Internet, copiers, faxes, typewriters, word processors, calculators, office equipment and supplies, telephones, pagers, vehicles, heavy equipment, furniture, buildings and facilities.

J – The approval requirements of this rule do not apply to work assignments performed by officers of the Chandler Police Department under the Extra Duty Program.

### **Personnel Rule 3, Section 4G, Merit Increases and Decreases**

#### *Add Section 4G*

If the Department Director does not submit an action within 60 days following the eligibility date for a merit increase to either award a merit increase or to defer the merit increase for further evaluation of the employee, then the employee shall automatically receive a full merit increase retroactive to the eligibility date.

### **Personnel Rule 3, Section 5, Temporary Detail**

*Replace Section 5*

Upon recommendation of the Department Director and upon approval of the Human Resources Director, an employee may be detailed, on a temporary basis, to another class and/or position. Assignment to temporary detail shall begin on the first day of a pay period. Such detail normally shall be limited to a period of six months. However, with the approval of the Human Resources Director, the detail may be extended if in the best interests of the City. If the detail is to a higher graded class and is anticipated to last longer than one pay period, the employee shall be paid at the rate of the higher-class beginning with the first day of the detail. If one serves less than one pay period, no such payment shall be made. If the employee is to be paid at the rate of the higher class, the salary shall be set at least 5% higher than the employee's existing salary, however, the employee's salary may not be increased above the maximum of the salary grade of the higher class. All benefits, including vacation accrual, shall be temporarily adjusted accordingly during the temporary assignment. If the detail is to a class or position at the same or lower salary grade, the employee's salary shall not change.

### **Personnel Rule 5, Disciplinary and Appeal Procedures**

*Replace in its entirety*

#### **01- Notice of Disciplinary Action of Dismissal, Demotion or Suspension**

A. If a Department Director determines that a classified, regular employee should be dismissed, demoted, or suspended, the Department Director shall prepare a written pre-disciplinary notice which shall state the specific reason(s) and supporting evidence for the disciplinary action with sufficient specificity to enable the employee to understand the reasons for the action. The pre-disciplinary notice shall be coordinated with the Human Resources Director. The notice generally shall be provided in person to the employee. If circumstances preclude personal delivery to the employee, then the notice shall be mailed by certified mail to the most recent known address. A signed receipt from the employee shall be attached to a copy of the pre-disciplinary notice and filed with the Human Resources Director.

B. Within three (3) working days from the date the pre-disciplinary notice is personally delivered to the employee, the employee may provide a response to the Department Director stating why the proposed disciplinary action should not be taken. If the pre-disciplinary notice is mailed to the employee, the employee shall have five (5) work days to respond from the date the notice is mailed. The response shall be submitted in writing by the employee. At the Department Director's discretion, the employee may be permitted to provide a verbal response instead of the required written response. Within three (3) working days after receipt of the employee's response, the Department Director shall review the pre-disciplinary notice and the employee's response and determine whether there are reasonable grounds to believe that the reasons for the disciplinary action are true and support the proposed action. If the Department Director requires more time to make a determination, the Department Director may request through the Human Resources Director an extension from the City Manager. If the Department Director determines that there are not reasonable grounds for the proposed disciplinary action, the Department

Director shall submit to the employee and the Human Resources Director a written withdrawal of the pre-disciplinary notice. The withdrawal of the notice does not preclude the Department Director from taking any other disciplinary action authorized by the Personnel Rules.

C. If the Department Director determines that there are reasonable grounds for the disciplinary action, the Department Director shall provide the employee with a final notice. The final notice shall state the specific reason(s) for the disciplinary action with sufficient specific information to enable the employee to understand the reasons for the disciplinary action. Alternatively, the final notice may incorporate the pre-disciplinary notice by reference and such incorporation shall constitute sufficient specific information concerning the reasons for disciplinary action. Such notice shall be coordinated with the Human Resources Director and personally delivered to the employee or mailed by certified mail to the most recent known address. Service is complete upon mailing. A signed receipt from the employee shall be attached to a copy of the final notice and filed with the Human Resources Director. All classified regular employees may avail themselves of the appeal procedure as provided in this Rule.

## **02 - Dismissal**

The Department Director may determine the dismissal of an employee is warranted for disciplinary purposes in accordance with Section 5 of this Rule. Written notice of the dismissal shall be coordinated with the Human Resources Director and provided as forth in Section 1 of this Rule. All classified regular employees may avail themselves of the appeal procedure provided by this Rule if dismissed.

## **03 - Involuntary Demotion**

A. The Department Director may demote an employee whose ability to perform the required duties falls below the minimum requirements of the classification or for other disciplinary purposes in accordance with Section 5 of this Rule. Written notice of the demotion shall be coordinated with the Human Resources Director and provided as forth in Section 1 of this Rule.

B. An employee who is demoted to a class with a lower salary grade shall be paid at a rate fixed by the Department Director in coordination with the Human Resources Director. The demoted employee shall be assigned a new classification date effective upon demotion. All classified regular employees may avail themselves of the appeal procedure provided by this Rule if involuntarily demoted.

## **04 – Suspension without Pay**

A. The Department Director may suspend an employee without pay at any time for disciplinary purposes in accordance with Section 5 of this Rule. Suspension without pay shall not exceed thirty (30) consecutive calendar days, nor shall any employee be suspended without pay for more than thirty (30) work days in any 12 month period. Employees of exempt status, as defined under the Fair Labor Standards Act (FLSA), may not be suspended without pay for periods of less than one (1) workweek, except as provided under the FLSA for violations of significant workplace conduct or safety rules, regulations, and policies.

B. The employee shall be notified of any suspension without pay in writing as set forth in Section 1 of this Rule. All classified regular employees may avail themselves of the appeal procedure provided by this Rule if suspended without pay.

#### **05 - Reasons for Disciplinary Action Up to and Including Dismissal**

A. The tenure of every employee in the City service shall be contingent upon acceptable conduct and satisfactory performance of duties.

B. The following shall constitute grounds for dismissal, demotion or suspension:

1. The employee is incompetent or inefficient in the performance of assigned duties.
2. The employee has displayed an improper or abusive attitude; or the employee displayed improper or abusive conduct which resulted in, or caused a risk of physical harm, injury, or damage to another person or to property.
3. The employee can no longer perform the essential duties of the job and reasonable accommodations cannot be made.
4. The employee has violated any lawful or official rule, policy, regulation, or order, or failed to obey any lawful and reasonable order given by a supervisor with authority to issue such order.
5. The employee has taken for personal use a fee, gift, or other valuable item(s) in the course of assigned duties, or in connection with assigned duties. However, recognition of individual employee achievement, in the form of letters of recognition or plaques, which have only intrinsic value, are allowed if approval by the Department Director is obtained.
6. The employee has used, threatened to use, or attempted to use, political influence for personal gain or for any other person in securing employment benefits or advantages.
7. The employee has violated the City's Drug-Free Workplace Policy as announced by the City Manager.
8. The employee has been convicted of a felony, or a misdemeanor involving moral turpitude when such conviction would be detrimental to the conduct of the employee's City business.
9. The employee has made a false statement, written or oral, attempting to conceal any past or present criminal activity.
10. The employee, through negligence or willful conduct, has caused damage to public property or waste of public supplies or funds.

11. The employee has been absent without approved leave.
12. The employee has engaged in unauthorized activities which are not job related on City time, or on City property, or has used City property for personal gain.
13. The employee has directly or indirectly received or paid any assessment, subscription or contribution for the purpose of electing any candidate to a municipal public office or political party on City property or during working hours.
14. The employee has engaged in improper political activities as prohibited by Rule 1 Section 16.
15. The employee has abused sick leave privileges.
16. The employee has engaged in conduct which might bring discredit to the City service.
17. The employee has falsified City records.
18. The employee has lied about a job related matter or made a material misrepresentation during an investigation.
19. The employee has stolen city property.
20. The employee has engaged in any other conduct of equal gravity to the reasons enumerated in this Rule.

## **06 - Appeals Procedure**

A. A regular classified employee who has completed the probationary period may appeal any dismissal, demotion, or suspension to the City Manager and the Merit System Board by submitting the appeal in writing to the City Manager through the Human Resources Director. The appeal shall be made within five (5) workdays of receipt of the written notice of dismissal, demotion, or suspension if the notice has been personally delivered to the employee. If the notice has been sent by certified mail to the employee, the employee shall also have five (5) work days to appeal from the date the notice is mailed. Any dismissal, demotion, or suspension shall take effect on the date indicated in the dismissal, demotion, or suspension order despite any pending appeal. The appeal procedure shall normally be a two-step process. However, the City Manager may at any time refer the appeal directly to the merit System Board.

1. The City Manager, or designee, shall first review and make a decision on the appeal in accordance with the Disciplinary Review Group procedures described in this Rule.
2. If the employee is not satisfied with the City Manager's decision resulting from Disciplinary Review Group Process, the employee may further appeal to the Merit System Board following the procedures in this Rule.

B. No appeal shall be considered if more than five (5) work days have elapsed from the date of the written notice of dismissal, demotion or suspension if the notice is personally delivered to the employee, or five (5) work days from the date any such notice is mailed if not personally delivered.

#### **07- Disciplinary Review Group Process**

A. The purpose of the Disciplinary Review Group is to review appeals of disciplinary actions involving dismissal, demotion, or suspension of regular employees and provide the City Manager with as much information on personnel appeals as is possible prior to the City Manager, or designee, rendering a decision on the appeal. The Disciplinary Review Group shall consist of three persons, as indicated below:

1. The Human Resources Director, or designee, shall act as President of the Disciplinary Review Group. In the event the Human Resources Director has a conflict of interest in regard to an appeal to be heard, the City Manager shall appoint a senior member of the staff, who has no direct connection with the appeal to be heard, to serve as Alternate President.
2. A member of the Employee Council or other employee organization as provided by Memorandum of Understanding. Except as otherwise provided in a Memorandum of Understanding, the member will be selected on a rotational basis from among those members of the Employee Council who have volunteered to serve on the Disciplinary Review Group. An Employee Council member may not serve on the Disciplinary Review Group if the member has a direct connection with, or works in the same Department as, the employee whose appeal is being heard.
3. One Department Director, reporting directly to the City Manager, who is assigned to a department other than the employee's department and who has no direct connection with the employee whose appeal is to be heard. The City Manager shall designate the Department Director.

B. The duties of the Disciplinary Review Group are to conduct internal, administrative reviews of appeals filed by any employee subject to these rules regarding dismissal, demotion, or suspension. The Group shall forward a written report including a recommendation, if any, to the City Manager, or designee.

C. If a written notice of appeal is timely filed in accordance with this Rule, the Disciplinary Review Group President shall convene a review within 20 workdays of the notice of appeal. The review shall be private and shall not be an adversarial proceeding. Neither the employee nor any supervisor requested to appear at the disciplinary review proceeding shall be permitted representation at the proceedings. The Disciplinary Review Group shall be an administrative function of the City Manager's office.

D. The President shall notify, in writing, the other Disciplinary Review Group members, the employee, the employee's Department Director, the City Manager, and any other person the group wants to call to ascertain the facts, of the time, place, and location of the review.

E. The Disciplinary Review Group shall meet individually with the employee and any other persons the group wants called. In addition, Department Directors shall be provided an opportunity to present information at the Disciplinary Review Group proceeding if they would like to do so. Each person shall be given the opportunity to present their understanding of the facts relating to the challenged disciplinary action and shall answer any questions asked by the Disciplinary Review Group.

F. Within ten (10) work days following the completion of the review, the Disciplinary Review Group shall furnish the employee and the City Manager, or designee, with a report of the review and its recommendations. If circumstances preclude completion of such a report within ten (10) work days, the Disciplinary Review Group President may request an extension of no more than five (5) work days from the City Manager.

G. Within ten (10) workdays following the issuance of the Disciplinary Review Group's report, the City Manager, or designee, shall review the report and issue a written decision. The City Manager, or designee, may extend the time limit for the decision by giving written notice to the employee. A copy of this decision shall be given to the Department Director and the employee or the employee's representative. If the decision is personally delivered to the employee, the employee shall sign and acknowledge receipt of the decision. If notice of the decision is mailed, it shall be sent certified mail requiring a return receipt. Service is complete upon mailing. The City Manager, or designee, may defer a decision and refer the appeal directly to the Merit System Board.

H. If the employee is dissatisfied with the City Manager's decision, the employee may appeal the decision to the Merit System Board within three (3) work days after the decision is personally delivered to the employee, or the employee's representative, or within five (5) work days after the notice is mailed if mailed to the employee, or the employee's representative, rather than personally delivered. An appeal shall be made by filing a written request with the Human Resources Director. Filing may be accomplished by e-mail, facsimile, hand-delivery, or U.S. mail but must be received by the Human Resources Director within the required time frames. The Human Resources Director, or designee, shall transmit the request for appeal to the Chairperson of the Merit System Board and the City Manager by e-mail or U.S. mail. The transmittal shall include a description of the actions taken by the Disciplinary Review Group and the City Manager, or designee. A copy of the Disciplinary Review Group's report and recommendations, if any, will accompany this transmittal.

#### **08 - Merit System Board Hearing Process**

A. The City of Chandler Merit System Board shall be established in accordance with Section 4.02 of the City of Chandler Charter and Merit System Board Rules of Procedure.

B. The functions of the Merit System Board shall be:

1. To conduct appeal hearings involving dismissal, suspension, or demotion of regular employees as provided by these Rules.
2. To review amendments and changes to these Rules and submit recommendations to the City Manager upon request of the City Manager.
3. Upon request of the City Manager, to investigate and make recommendations on any matter of personnel policy.

C. Within five (5) work days of the receipt of a validly filed appeal, the Board Chairperson shall decide whether or not to appoint a Hearing Officer to hear the appeal. If the Chairperson does not refer the matter to a Hearing Officer within five (5) work days of receipt of the appeal, the matter shall be deemed to be heard by the Board.

D. When an appeal is referred to the Merit System Board for hearing, the Board Chairperson shall use best efforts to schedule the hearing at the earliest possible mutually convenient time. Except as provided herein and in the Merit System Board Rules of Procedure, the hearing shall be scheduled to commence within sixty (60) work days after the appeal was filed, unless both parties agree in writing to a later date. The hearing may be conducted in one or more meetings and for good cause may be continued by the Board Chairperson as long as necessary to assure fair treatment of all parties.

E. The employee may present the appellant's case but shall have the right to be represented by legal counsel of the employee's choosing, which shall be at the employee's expense. The City Attorney, or designee, shall represent the Department Director and City in support of the disciplinary action.

F. Within five work days of the issuance of a Scheduling Order in accordance with the Merit System Board Rules of Procedure, the Board Secretary shall provide written notice to the employee, the employee's representative, the City Attorney, the City Manager, and the Mayor and City Council of the time, place, and location of the hearing.

G. The Merit System Board appeal proceedings shall be conducted in accordance with the Merit System Board Rules of Procedure. All Merit System Board hearings shall comply with Arizona Open Meetings Law and Public Records Law.

H. Within seven (7) work days of the conclusion of the Merit System Board Hearing regarding the employee's appeal, the Board's Findings and Advisory Opinion shall be transmitted to the City Manager. Copies shall be provided to the employee, Human Resources Director, and City Attorney.

I. Following receipt of the Merit System Board's Findings and Advisory Opinion, the City Manager shall render a written, dated decision to the employee, the City Attorney and the Department Director. A copy of the decision shall be provided to the employee's representative, the Human Resources Director, and the Merit System Board. The City Manager may include in

the decision an order for the reinstatement of any or all back pay and/or allowances which may be due the employee because of the dismissal, suspension, or demotion. There is no appeal from this decision. The decision shall normally be issued within ten (10) work days after receipt of the Merit System Board's recommendation unless circumstances preclude the City Manager from making a decision within that time frame.

### **09- Hearing Officer**

The Chairperson of the Merit System Board may appoint a person who is not a City employee to serve as hearing officer for any appeal to the Merit System Board. Hearing officers shall conduct proceedings as set forth in the Merit System Board Rules of Procedure.

### **Personnel Rule 6, Section 3, Voluntary Demotion**

*Replace Section 3B and add Section 3D*

B. When an employee is voluntarily demoted, the salary in the new class may be set by the Department Director after coordination with the Human Resources Director. The employee shall not be given a new date of classification on the effective date of the demotion.

D. An employee with regular status who voluntarily demotes generally shall not be required to serve a probationary period. However, if the demotion is to a different class, an initial probationary period will be required if there is a significant, distinct difference in job responsibilities and qualification requirements between the employee's current class and the class to which the employee wishes to transfer.

### **Personnel Rule 14, Section 3, Layoff**

*Replace Section C and add Section D*

C. When no position of the same class exists within the City or all employees in the class have greater seniority than the laid-off employee, the employee may request, in writing, to be placed in a lower class within the same job family. The lower-class may be in any department of the City. When such a request is made, the Human Resources Director, or designee, shall determine if the employee meets the minimum requirements and can perform the essential functions of the requested classification.

D. When the laid-off employee meets the requirements to be placed in a lower class, an employee in the class who has the least seniority with the City shall be laid off and the laid-off employee with greater seniority placed in the position.

**Personnel Rule 15, Section 6, Charging Vacation Leave**

*Replace Section 6C*

C. General non-represented employees shall have the option to receive payment for the cash value of up to twenty five (25) hours of their vacation accrual balance at the employee's base hourly rate. This option shall be exercised only once per fiscal year.

**Personnel Rule 16, Section 9, Compensatory Time**

*Replace Section 9A*

A. Compensatory time shall not accrue beyond 72 hours maximum for Fire Department personnel working more than a 40-hour week. All other non-exempt employees shall not accrue beyond 60 hours maximum in FY 13/14 and 65 hours in FY 14/15 unless otherwise negotiated as part of a Memorandum of Understanding.

**Personnel Rule 19, Section 9, Recording Secretary of the Employee Council**

*Replace Section 9*

A. The Human Resources Director shall provide a Recording Secretary of the Council who shall:

1. Maintain a complete file of all documents belonging to the City of Chandler Employee Council.
2. In cooperation with the President and Human Resources Director, prepare the agenda and give notice of meetings.
3. Attend meetings and take and publish minutes to the Employee Council ChanWeb site once approved.
4. Prepare correspondence and needed.
5. Keep copies of all materials pertaining to the Employee Council meetings.

B. The Recording Secretary will not be required to take minutes of Committee meetings.

C. The Recording Secretary is not empowered to vote.

PASSED AND ADOPTED BY THE City Council of the City of Chandler, Arizona, this \_\_\_\_ day of November, 2013.

ATTEST:

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
MAYOR

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Resolution No. 4728 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on the \_\_\_\_ day of November, 2013 and that a quorum was present thereat.

\_\_\_\_\_  
CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY

