



**STATE OF HAWAII  
DEPARTMENT OF HUMAN RESOURCES  
DEVELOPMENT  
POLICIES AND PROCEDURES**

POLICY NO. 702.003 ERD/PTO	NO. of PAGES 7
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TITLE: **SEPARATION FROM SERVICE**

APPROVED:  
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James K. Nishimoto, Director

**I. POLICY**

Employees who separate from State service for reasons such as resignation, discharge, layoff, or death shall be treated fairly, and in a uniform manner, as provided for in this policy and procedure.

**II. RATIONALE**

These procedures are intended to provide an orderly, uniform, and fair application of actions for the separation of employees from State service. This policy and procedure is not intended to be cited as the authority for a discharge action.

**III. DEFINITIONS**

“Discharge” means an action taken by the appointing authority to involuntarily separate an employee from State service. A discharge may be for administrative reasons or for misconduct.

“Resignation” means an action taken by an employee who severs his/her employment relationship with the State.

**IV. SCOPE**

These procedures shall apply to all employees in the executive branch, excluding certificated employees of the department of education, employees appointed by the University of Hawai‘i board of regents, employees of the Hawai‘i Health Systems Corporation, and non-civil service employees, unless otherwise specified. Student helpers and student interns are not considered employees for purposes of this policy.

**V. PROCEDURES**

**A. RESIGNATION FROM SERVICE**

1. Notice of Resignation

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When an employee elects to separate from service, the employee shall notify the appointing authority at least fifteen calendar days before the date of the separation, unless the appointing authority waives this requirement.

#### 2. Withdrawal of Resignation

A resignation shall be binding on the employee upon the submission of the resignation notice. It may be withdrawn only with the appointing authority's consent.

#### 3. Resignation in Good Standing

A resignation is deemed to be in good standing when the resignation is submitted in accordance with Section V.A.1., *Notice of Resignation*, and the employee is not subject to a suspension, demotion, or investigation due to alleged impropriety on the employee's part at the time of the employee's separation.

#### 4. Resignation Submitted During an Investigation

When an employee submits a resignation while being the subject of an investigation pertaining to an alleged impropriety on the employee's part, the appointing authority shall determine whether to:

- a. Discontinue the investigation and accept the resignation as one in good standing; provided that the requirements of Section V.A.1., *Notice of Resignation*, have been met; or
- b. Continue the investigation and accept the resignation on the condition that it may be changed to a discharge, depending upon the outcome of the investigation.

### B. DISCHARGE FROM SERVICE

#### 1. Authority for a Discharge Action

An employee may be discharged for administrative reasons or for misconduct. The authority for a discharge action may be pursuant to a statute, a provision of the employee's collective bargaining agreement, or other valid employment reason.

#### 2. Reasons for Discharge

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A discharge action may be taken for various reasons but may not be for reasons that are retaliatory or discriminatory. When taking a discharge action, it is sound practice to carefully investigate and properly document the justification for the discharge.

Examples of situations that may result in a discharge action for administrative reasons include, but are not limited to:

- a. The employee fails to successfully complete the initial probation period;
- b. The employee fails to maintain any applicable qualifications or becomes otherwise disqualified for his/her position;
- c. The employee does not report to work for fifteen calendar days or does not report to work for fifteen calendar days following the expiration of his/her authorized leave of absence;
- d. The employee has an infectious or contagious disease which is medically substantiated that poses a significant health or safety risk to others, and the appointing authority is unable to accommodate the employee without incurring undue financial or administrative burdens or without altering basic aspects of the programs or function for which the employee was employed;
- e. During the employee's leave of absence, the employee accepts other employment or engages in an activity that conflicts with or is contrary to the duties of the employee's employment or the purpose of the employee's leave of absence;
- f. The employee is convicted of any act, attempt, or conspiracy to overthrow the State or the federal government by force or violence;
- g. The employee submits a notice of resignation while subject to a suspension, demotion, or discharge action pursuant to Section V.A.4., *Resignation Submitted During an Investigation*, or fails to provide a proper resignation notice pursuant to Section V.A.1., *Notice of Resignation*;

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- h. The employee who is under investigation fails to report to work or to an interview with the investigating officer after properly being notified;
- i. The civil service employee or non-civil service employee who is disabled due to a work-related injury or illness refuses placement in a position that is identified through the placement process or fails to participate in the placement process;
- j. No suitable placement can be identified for the civil service employee or non-civil service employee who is disabled due to a work-related injury or illness;
- k. The employee who, after lawful notice or process, willfully refuses or fails to appear before any court, judge, legislative committee, or any officer, board or commission, or once having appeared, refuses to answer any questions pursuant to § 78-9, HRS, *Failure to appear or testify, termination of employment*;
- l. The employee is incarcerated for a period deemed a hardship on operations as determined by the appointing authority;
- m. The employee provides false or misleading information on a job application or during the examination process or gains unauthorized access to or assistance with an examination;
- n. The employee is found unsuitable for employment in the position held;
- o. The employee fails to meet performance requirements; or
- p. The duration of the temporary appointment has ended and the services of the employee are no longer needed.

Examples of situations that may result in a discharge for misconduct include, but are not limited to, dishonesty, theft, fraud, harassment, insubordination, vandalism, sabotage, sleeping on the job, patient abuse, or criminal behavior.

- 3. Written Notice of Discharge
  - a. Civil Service Employees

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When an appointing authority discharges a civil service employee, the employee shall be given a written notice of the discharge at least ten days prior to the discharge. The notice shall contain the following:

- (i) The specific reasons for the discharge;
- (ii) The date of the discharge;
- (iii) An opportunity to respond to the specific reasons for the termination prior to the date of the discharge; and
- (iv) The requirements for filing an appeal under the departmental internal complaint procedure, collective bargaining agreement grievance procedure, or executive order, as appropriate.

When discharging a civil service employee at the end of a temporary appointment, the appointing authority shall provide a written notice of discharge as provided in Section V.B.3.b., *Written Notice of Discharge, Non-Civil Service Employees*.

#### b. Non-Civil Service Employees

When an appointing authority discharges a non-civil service employee, the employee shall be given a written notice of the discharge at least ten days prior to the discharge. The notice shall contain the following:

- (i) The specific reasons for the discharge; and
- (ii) The date of the discharge.

This section shall not apply to employees with 89-day appointments or to employees whose positions are exempt from civil service. Exempt employees are at-will employees who may be discharged at the prerogative of the employer, subject to applicable federal and State employment laws.

Notwithstanding that this section does not apply to exempt employees, the appointing authority has the discretion to give an exempt employee written notice of discharge at least ten days prior to the discharge because such action would constitute a sound human resource practice.

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### 4. Employees under Investigation

When an employee is under investigation and does not report to work, the appointing authority may discharge the employee without regard to the requirements of Section V.B.3., *Written Notice of Discharge*. The effective date of the discharge shall be the employee's last known day of work.

5. If, during the period immediately after an employee has received written notice of discharge, the appointing authority believes that the retention of the employee at the work site is detrimental to the State, other employees, or the general public, the appointing authority may remove the employee from service with full pay. The employee will then continue to earn full pay until the date of the discharge.

### C. LAYOFF

When a layoff is necessary, a civil service employee with a permanent appointment shall be discharged pursuant to the layoff or reduction-in-force provisions of the respective collective bargaining agreement or executive order.

### D. DEATH

The appointing authority shall process the discharge of an employee upon the verification of the employee's death.

## VI. BACKGROUND

Act 253, SLH 2000, replaced the terms "dismissal" and "termination" with the term "discharge," which has a broader application. See § 76-46, HRS, *Discharges; demotions*.

## VII. AUTHORITIES AND REFERENCES

### A. AUTHORITIES

§ 76-1, Hawai' i Revised Statutes, *Purposes; merit principle*

§ 76-18, Hawai' i Revised Statutes, *Examinations*

§ 76-27, Hawai' i Revised Statutes, *Probationary service and other requirements for membership in civil service*

§ 76-29, Hawai' i Revised Statutes, *Person ineligible for appointment*

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§ 76-30, Hawai‘ i Revised Statutes, *Tenure; resignations*

§ 76-41, Hawai‘ i Revised Statutes, *Performance appraisal systems; failure to meet performance requirements*

§ 76-43, Hawai‘ i Revised Statutes, *Layoff*

§ 76-46, Hawai‘ i Revised Statutes, *Discharges; demotions*

§ 78-9, Hawai‘ i Revised Statutes, *Failure to appear or testify, termination of employment*

**B. REFERENCES**

Article XVI, § 1, Constitution of the State of Hawai‘ i, *Civil Service*

§ 26-5, Hawai‘ i Revised Statutes, *Department of human resources development*

§ 76-11, Hawai‘ i Revised Statutes, *Definitions*

§ 76-17, Hawai‘ i Revised Statutes, *Rules; policies, standards, and procedures*

§ 89-10.8, Hawai‘ i Revised Statutes, *Resolution of disputes; grievances*

§14-1-3 (3) (E), Hawai‘ i Administrative Rules, *General responsibilities of director*