

MARICOPA SPECIAL HEALTH CARE DISTRICT EMPLOYEE MERIT SYSTEM RESOLUTION

SECTION 1. AUTHORIZATION

By this Resolution, the Maricopa Special Health Care District Board of Directors hereby under the provisions of A.R.S. § 48-5541.01(M)(1) authorizes the creation of the Maricopa Special Health Care District Employee Merit System ("Merit System").

SECTION 2. ADMINISTRATION

The purpose of the Merit System is to provide a uniform and equitable system of personnel administration for employees in the District classified service.

SECTION 3. MERIT PRINCIPLES TO BE OBSERVED

The system of personnel administration for employees in the classified service shall be based upon merit principles and free from political patronage. All actions affecting the employment of personnel in the classified service shall be made according to merit as demonstrated by the qualifications and work performance of the applicant or employee.

SECTION 4. DEFINITIONS

The following words and terms shall have the meaning indicated below unless the context clearly indicates otherwise:

- A. Appeal. A regular employee's written request that the Commission review a suspension, involuntary demotion, dismissal, or reduction in force where permitted by these Rules.
- B. Appointing Authority. An elected official, single executive head of a department, or the designated representative authorized to act in this capacity.
- C. Board. The Maricopa Special Health Care District Board of Directors.
- D. Commission. The Maricopa Special Health Care District Employee Merit System Commission as created by this Resolution.
- E. District. Maricopa Special Health Care District.
- F. Demotion. A change in the assignment of a regular employee to a lower base pay rate.
- G. Department. A District governmental unit designated as an appointed or elected department or a special district under the annual budget for the District.
- H. Director. The Maricopa Special Health Care District Human Resources Director or designee.

- I. Disciplinary Action. An action taken by an appointing authority against an employee, including oral counseling, written warning, suspension, demotion or dismissal.
- J. Employee. A person who is in the District service.
- K. Initial Probation. A specified period of time following the employment of an employee in a budgeted position during which the work performance of the employee is evaluated. An employee may be released from initial probation for or without cause.
- L. Position. A specific employment, whether occupied or vacant, involving duties requiring the services of one person.
- M. Promotion. The movement of an employee to a different position control number at a higher base pay rate through an announced recruitment process.
- N. Regular. The status an employee achieves when retained in a position of the classified service following the successful completion of the initial probation period.

SECTION 5. DISTRICT SERVICE

The District service shall encompass all employment with the District wherein persons are paid a wage or salary from public monies in accordance with official entries on a District payroll. The District service shall not include persons who perform services for which payment is made on a fee, claim or volunteer basis, independent contractors, patients, or inmates of county institutions, commissions and committees appointed by the Board.

SECTION 6. CLASSIFIED SERVICE

The classified service shall include all positions in the District service except those identified as unclassified (including contract) and temporary employees.

SECTION 7. UNCLASSIFIED SERVICE

Within the District service there shall be the unclassified service which shall include all positions expressly authorized as unclassified by applicable state law.

SECTION 8. HUMAN RESOURCES DEPARTMENT

- A. There shall be in the District a human resources department, the executive head of which shall be the Human Resources Director who shall be responsible to the Commission for the accomplishment of all personnel functions assigned by the Board to the Commission and responsible to the Board through the Chief Executive Officer or designee for all other personnel functions in both the classified and the unclassified service.
- B. In the human resources department there shall be a Commission of five members appointed by the Board with the powers and duties hereinafter enumerated. The Commission shall advise the Director, the Chief Executive Officer and the Board concerning employment matters.

SECTION 9. MERIT SYSTEM COMMISSION

- A. Each member of the Board shall nominate a Commission member from among the qualified electors, subject to appointment by the Board. The individual shall support the application of merit principles in public employment and shall be persons with proven and demonstrated knowledge of the health care industry.. No more than three of such members shall be from the same political party. No member of the Commission shall be a member of any local, state, or national committee of a political party or an officer or member of a committee in any partisan political club or organization, or shall hold, or be a candidate for any elective public office except as permitted by this Resolution.
- B. Each member shall hold office for a term of four years. Of the members first appointed, two shall serve a two-year term, two a three-year term and one shall serve a four-year term. In order to maintain the staggered term expiration dates, the following process will be followed: If a member is not reappointed upon the expiration of his/her current term nor is a new member appointed, the current member will continue to serve out the new term until a successor is appointed and qualified. The successor, when appointed, shall serve out the unexpired portion of the new term. Appointment to fill a vacancy caused by other than expiration of term shall also be for the unexpired portion of the term.
- C. A member of the Commission may be removed by the Board for cause. In addition, any one of the following shall constitute the resignation of a Commissioner and authorize the Board member for the District in which the resignation occurred to appoint a new member to fill the unexpired term so vacated:
 - 1. Absence from three consecutive regular meetings without being excused by the Commission.
 - 2. Becoming a candidate for any elective public office except as defined by this Resolution.
 - 3. Accepting any appointive office or employment in the District service.
- D. At its first meeting of each year, the Commission shall elect one of its members as chairman. It shall conduct meetings at such times and places as shall be specified by call of a majority of the Commission or of the chairman. At least four meetings shall be held each year. Three members shall constitute a quorum for the transaction of business. A majority of the quorum may take legal action in all areas of the Commission's duties and powers.

SECTION 10. POWERS AND DUTIES OF THE COMMISSION

The Commission shall perform such duties and exercise such powers as are necessary to carry out the provisions of this Resolution. In addition to the duties imposed upon it elsewhere, it shall be the duty of the Commission to:

- A. Cause the Director to prepare such policies and procedures as it may find necessary or appropriate for the administration of the Merit Rules.
- B. Represent the public interest in the improvement of personnel administration in the District service.
- C. Advise the Board, Chief Executive Officer and Director of problems concerning personnel administration.
- D. Advise and assist in fostering the interest of institutions of learning, civic, professional and employee organizations in the improvement of personnel standards in the District service.
- E. Review actions concerning the administration of personnel in the District service and make recommendations to the Board.
- F. Serve as the independent personnel board for the District under ARS § 38-532(H) and to adopt policies and procedures as it may deem necessary or appropriate under such authority.

SECTION 11. APPOINTMENT AND DUTIES OF THE DIRECTOR

- A. The Director shall be a person who has had experience in the field of public personnel administration and supports merit principles in public employment.
- B. The Director, as executive head of the human resources department, shall direct and supervise all of its activities. In addition to the duties imposed elsewhere, it shall be the duty of the Director or designee to:
 1. Attend meetings of the Commission and act as its secretary and keep minutes of its proceedings.
 2. Establish and maintain a roster of all employees in the District service, in which there shall be set forth, as to each employee, the job title, pay, status and other pertinent data.
 3. Appoint such employees of the human resources department and such special assistants as may be necessary to carry out effectively the provisions of this Resolution.
 4. Develop, in cooperation with appointing authorities and others, programs for the improvement of employee effectiveness including training, health, counseling and welfare.
 5. Review the operation and effect of this Resolution and of the Rules and report findings and recommendations to the Commission, the Chief Executive Officer and the Board.
 6. Perform any other lawful act considered necessary or desirable to carry out the purposes and provisions of this Resolution.
 7. Make annual reports to the Board and Commission and such special reports as considered desirable regarding personnel administration in the District service and recommendations for improvements.

SECTION 12. MERIT SYSTEM RULES

- A. The Director shall prepare and submit to the Commission proposed Rules for the classified service. Reasonable notice shall be given to all appointing authorities; appointing authorities and employees shall be given an opportunity, upon request, to appear before the Commission to express their views thereon.

- B. Rules or amendments which are approved by the Commission shall be submitted through the Chief Executive Officer to the Board. If no action is taken by the Board within 60 days after submission, then the Rules or amendments shall automatically become effective. The Rules shall provide for:
1. An employment process to assess the relative fitness of applicants.
 2. Promotion practices which shall give consideration based upon qualifications and work performance. Vacancies shall be filled by promotion whenever practicable.
 3. Criteria for the rejection or competitive screening of applicants and candidates.
 4. The establishment of lists for employment and promotion, upon which lists shall be placed the names of candidates, and where applicable, their ranking on the respective assessment processes.
 5. Periods of initial probationary employment, during which time the employee may be released or demoted without cause.
 6. Transfer from a position under one appointing authority to a position under a different appointing authority.
 7. Reductions in force resulting from lack of funds, lack of work, or abolishment of positions; and for transfer of employees who have been subject to a reduction in force.
 8. Dismissal or demotion of regular employees only for cause.
 9. Suspension without pay of regular employees only for cause.
 10. Establishment of a plan for resolving employee concerns and complaints and alleged unlawful discrimination.
 11. Such other Rules, not inconsistent with this Resolution, as may be proper and necessary for its enforcement.

SECTION 13. APPLICANT ASSESSMENT

- A. An assessment process shall be used to evaluate the qualifications of applicants to perform the duties of positions for which a list is to be established.
- B. The assessment process may involve a written examination, review of applications and attachments, oral board, demonstration of skill, other assessment techniques which may be developed or any of the above in combination.

SECTION 14. MINIMUM QUALIFICATIONS

The minimum qualifications prescribed for any District employment shall not be less than those prescribed by law. Changes to the minimum qualifications prescribed for any District employment that increase educational requirements shall have no effect on the eligibility of incumbents to continue in their employment unless such change is required by state or federal law.

SECTION 15. SUSPENSION, DEMOTION, DISMISSAL

- A. An appointing authority may discipline, suspend, demote or dismiss a regular employee only for cause. Each of the following constitutes authorized cause for discipline, suspension, demotion or dismissal of a regular employee under this Resolution:
1. Fraud in securing or maintaining employment.
 2. Incompetency.

3. Inefficiency.
4. Abuse of leave.
5. Neglect of duty.
6. Insubordination.
7. Dishonesty.
8. Possessing, dispensing, or being under the influence of alcohol, a narcotic, barbiturate, marijuana, tranquilizer, hallucinogenic or any other drug listed and/or defined in ARS § 13-3401, which would affect the employee's suitability for continued employment, except in accordance with medical authorization or in the lawful performance of the employee's regularly assigned duties.
9. Violation of a Board authorized policy which supports a drug-free workplace or which opposes substance abuse.
10. Absence without authorized leave.
11. Charged with the commission of a criminal act which affects the employee's suitability for continued employment.
12. Conviction of a criminal act which affects the employee's suitability for continued employment.
13. Discourteous treatment of the public or fellow employees.
14. Improper political activity as proscribed by state or federal law or by this Resolution.
15. Unlawful discrimination, including harassment, by an employee against or in favor of another person.
16. Misuse of government property.
17. Violation of District or departmental policies or procedures.
18. Violation of the Code of Ethics.
19. Falsifying, destroying or altering documents.
20. Failure to meet certifications, licensure or certifications required by the position.
21. An appointing authority, may suspend a regular employee for cause without pay for a period not exceeding 30 calendar days for any single cause. The appointing authority shall give the employee written notice of the intention to effect any such suspension and an opportunity to respond before the date it is intended to become effective.

Such notice shall set forth the factual basis and cause for the suspension in sufficient detail to indicate the reasons for the action and shall be prepared in such form and given in such manner as the Director prescribes.

- C. An appointing authority, subject to these Rules may demote a regular employee for cause from a position in any given base pay rate to a position in a lower base pay rate for which the employee possesses necessary qualifications. The appointing authority shall give the employee written notice of the intention to effect any such demotion and an opportunity to respond before the date it is intended to become effective. Such notice shall set forth the factual basis and cause for the demotion in sufficient detail to indicate the reasons for the action and shall be prepared in such form and given in such manner as the Director prescribes.
- D. An appointing authority, subject to these Rules may dismiss a regular employee for cause. The appointing authority shall give the employee written notice of the intention to effect any such dismissal and an opportunity to respond before the date it is intended to become effective. Such notice shall set forth the factual basis and cause for dismissal in sufficient detail to indicate the reasons for the action and shall be prepared in such form and given in such manner as the Director prescribes.
- E. Inability for medical reasons is cause to dismiss but connotes no improper conduct on the part of the employee nor does it contemplate corrective or progressive steps.
- F. In addition to the causes prescribed herein, the Commission or the Board may establish other causes that are deemed necessary.

SECTION 16. APPEAL BY EMPLOYEE

- A. Any regular employee who is suspended, involuntarily demoted or dismissed may appeal to the Commission. The appeal shall be in writing and filed with the Director or designee, as ex officio Clerk of the Commission, not later than ten business days following the date of personal delivery or the mailing, via certified mail, of the written notice suspending, demoting, or dismissing the employee by the appointing authority. If mailed, the notice shall be sent to the employee's last known address.
- B. A copy of such appeal shall be forwarded by the Director to the appointing authority. The ex officio Clerk of the Commission shall thereupon assign a time and place for a hearing and shall give notice thereof to all parties concerned. Within 20 calendar days from the filing of the appeal, the Commission shall commence the hearing to either affirm, modify, or revoke the appeal. Continuances of the hearing date will be granted only when good cause is shown.
- C. The appellant may appear personally or be represented by legal counsel, or by a lay representative of his or her choosing.. Unless requested otherwise by the appellant, hearings are conducted privately. Private hearings restrict who may be present while testimony is being taken. Upon the conclusion of taking testimony, the entire proceedings become a matter of public record.

- D. Both the employee and appointing authority shall be notified reasonably in advance of the hearing. The Commission, or a duly appointed hearing officer, shall conduct the hearing. The conduct of the hearing shall not be bound by technical rules of evidence. An official record of the hearing, including exhibits, shall be made.
- E. If, after the hearing, a majority of the Commission members present at the meeting where the vote is taken determine that the action appealed from was arbitrary or taken without reasonable cause, the appeal shall be sustained; otherwise, the appeal shall be dismissed. The Commission shall have the power to determine the amount of back wages and leave accruals, where appropriate, and shall do so after taking into consideration just and equitable relief to the employee and the best interests and effectiveness of the District service.
- F. The findings and decisions of the Commission shall be final and shall be subject only to administrative review as provided in ARS § 12-901 et seq. The appointing authority shall have 35 days from the date of the decision of the Commission to either file for an administrative review or to take such measures as are necessary to comply with the decision of the Commission.
- G. An employee who has been subject to a reduction in force by reason of lack of funds, lack of work, or abolition of position may file an appeal with the Commission only on the grounds that the calculation of the employee's retention points was inaccurate and resulted in that employee being selected for separation before another.

SECTION 17. NONDISCRIMINATION

Unlawful discrimination, as defined by state or federal law, in any manner by a District official, appointing authority, or employee against or in favor of any applicant or employee because of race, gender, religion, color, national origin, age or disability shall be prohibited.

SECTION 18. POLITICAL ACTIVITY

- A. It is the intent of the District to conform to the public policy that government programs be administered in an unbiased manner and without favoritism for or against any political party or group or any member in order to promote public confidence in government, government integrity, and the efficient delivery of governmental services and to ensure that employees are free from any express or implied requirement or any political or other pressure of any kind to engage or not engage in political activity.
- B. Regular employees shall not:
 - 1. Make political endorsements by which they identify themselves as District employees.
 - 2. Use or promise to use any official authority or influence for the purpose of influencing the vote or political action of any person or for any consideration.
- C. A regular employee shall not be a member of any national, state, or local committee of a political party, or an officer or chairman of a committee of a partisan political club, or offer himself as a candidate for nomination or election to any public office which is either paid or partisan by filing nomination papers or making a formal public declaration of candidacy, or take part in the management or affairs of any political party or in the management of any partisan campaign or recall effort, except than an employee may:
 - 1. Express his opinions;

2. Attend meetings for the purpose of becoming informed concerning the candidates for public office and the political issues;
 3. Cast a vote;
 4. Sign nomination or recall petitions;
 5. Make contributions to candidates, political parties, or campaign committees contributing to candidates or advocating the election or defeat of candidates;
 6. Circulate candidate nomination petitions or recall petitions;
 7. Engage in activities to advocate the election or defeat of any candidates;
 8. Solicit or encourage contributions to be made directly to candidates or campaign committees contributing to candidates or advocating the election or defeat of candidates.
 9. Campaign for himself and hold unpaid, nonpartisan, public office;
 10. Campaign for or against ballot issues, referendum questions, constitutional amendments, municipal ordinances, etc.
- D. A regular employee shall not engage in any activity permitted by this Section while on duty, while in uniform or at public expense unless otherwise provided by state or federal law.
- E. The provisions of this section shall not apply to school board elections or community college district governing board elections, and a regular employee may serve as a member of the governing board of a common or high school district or as a member of a community college district governing board.
- F. A regular employee shall not be discriminated against for engaging in or not engaging in any activity permitted by this section.
- G. No person shall solicit a regular employee to engage in or not engage in activities permitted by this Section with the direct or indirect use of any threat, intimidation or coercion including threats of discrimination, reprisal, force or any other adverse consequence including the loss of any benefit, reward, promotion, advancement or compensation.
- H. Any person in the District service who violates any of the provisions of this section shall be subject to disciplinary action up to and including dismissal.

SECTION 19. NONCONFORMITY WITH FEDERAL AND STATE LAW OR REGULATION

If any provision of this Resolution conflicts or is inconsistent with state or federal law or regulations, the Commission is authorized to vary the terms of its Rules to the extent necessary to comply with law and/or conditions established for federal and state grants.

SECTION 20. COMPLIANCE

When dealing with regular employees, appointing authorities shall conform to, comply with, and aid in carrying into effect the provisions of this Resolution and the Rules adopted hereunder.