

# CHAPTER EIGHT

## EMPLOYMENT

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# **CHAPTER EIGHT**

## **EMPLOYMENT**

### **I. Philosophy**

Internal or external candidates determined by the City to have the ability and potential to contribute to a high performance workplace shall fill vacant positions. The recruitment, application, referral, and selection process shall be a collaborative effort between the Department of Human Resources and selecting departments designed to ensure that the best applicants are hired. A variety of processes and recruitment resources may be utilized as a means of identifying and selecting candidates who have the greatest potential to meet the service delivery needs of Hampton's diverse citizen population. These processes include maximizing the representation of qualified minorities, women, veterans, and disabled persons for employment and advancement opportunities.

### **II. Recruitment**

The Director of Human Resources shall develop and coordinate effective recruitment processes to best align applicants' education, experience, skills, and abilities with the current and potential needs of the City. Positions may be filled through internal and/or external recruitment as determined appropriate by the Director of Human Resources in coordination with the selecting Department Head. Positions may also be advertised with the local employment commission, newspaper and electronic media, other government agencies, journals, private recruiting firms, colleges, professional and civic organizations, the faith community, etc. The City supports cross training and promotion from within. Competition may be confined to members of the City workforce or a specific department if

determined to be in the best interest of the City.

### **III. Filling of Vacancies**

#### **A. Advertisements**

Job postings shall be developed and used to attract candidates for vacant City positions. Position vacancies shall be advertised for a minimum of five (5) business days.

#### **B. Application Process**

The Director of Human Resources shall establish recruitment methods by which interested candidates and current employees may apply for advertised vacant positions. The process includes the use of standard City application forms that may be supplemented by resumes and other pertinent documentation. The process may be administered by the Department of Human Resources, outside firms, agencies, or consultants as approved by the Director of Human Resources.

1. The application process may include skill tests, written examinations, personal interviews, assessment centers, polygraph tests, drug tests, medical, physical, and/or psychological assessments, physical agility tests, child abuse registry checks, background checks, and other processes as appropriate.
2. A background check of criminal history may be obtained on applicants for employment when, in the interest of public welfare or safety, it is necessary to determine if the past criminal conduct of a person with a conviction record would be incompatible with the nature of the employment under consideration. Use of this criminal history record information shall be limited to the purpose for which it is obtained and

may not be disseminated further.

3. Each person taking a rated or scored examination shall be entitled to review the rating and score within four (4) days after completion of the examination. This information shall not be available to the general public. The Department of Human Resources shall retain examination materials for a period of two (2) years from the date the examination was administered.

### **C. Qualifications and Screening of Applicants**

Qualifications are the education, experience, competencies, skills, abilities, knowledge, and other attributes determined most likely to predict successful job performance in a position.

A screening process shall be established in order to determine those candidates who meet the qualifications for the position to be filled. Such screenings may involve a review of applications, resumes, education and experience credentials, references, preliminary interviews, and other relevant information. Screenings may be completed by the Human Resources staff, hiring department staff, or outside public or private agencies, as deemed appropriate by the Director of Human Resources.

### **D. Referral of Qualified Applicants**

The hiring department may request a specific number of applicants who meet the minimum qualifications for the position for the interview process. Applicants who have self disclosed veteran status as honorably discharged and who meet the minimum qualifications of a vacancy under recruitment will be advanced to the next step in the hiring process.

## **IV. Employment and Supervision**

### **A. Employment of Relatives of City Council Members**

No member of the immediate family of a City Council member may be employed in any position covered by the City's compensation plan. Immediate family is defined as spouse or any other person residing in the same household as the City Council member.

### **B. Employment and Supervision of Relatives**

Employment of relatives of a City employee with supervisory responsibility is prohibited as described in this section. An employee with supervisory responsibilities shall not directly supervise a relative. Relative is defined for the purpose of this section as:

- Spouse
- Parent (including step and in-laws), Guardian
- Child (including step)
- Sibling (including step, half and in-law)
- Aunt or Uncle
- Nephew or Niece
- First Cousin
- Grandparent or Grandchild (including step)

### **C. Employment of Household Members**

Employees with supervisory responsibilities shall not directly supervise anyone who resides in the employee's household.

### **D. Employment of Non-United States Citizens**

Applicants who are non-United States citizens and are legally residing in the United

States shall be considered for employment, appointment, promotion, and other personnel actions on the same basis and under the same processes as other applicants for employment, except for sworn Police Division positions.

**E. Employment of Virginia Retirement System (VRS)/Hampton Employees Retirement System (HERS) Annuitants**

An individual receiving a VRS and/or a HERS annuity may be employed in any position not covered by the retirement system(s). Individuals employed under these circumstances should consult with the Retirement System Administrator prior to employment in order to be made aware of any restrictions imposed by the IRS, VRS, HERS and/or any other regulatory agency.

**V. Age Requirements**

Persons under sixteen (16) years of age shall not be employed in Permanent Full-Time positions. The employment of persons less than eighteen (18) years of age shall conform to applicable laws governing the employment of minors. Permanent Full-Time sworn Police Division employees shall be (i) less than seventy (70) years of age; (ii) twenty (20) years of age at the time of application; and (iii) twenty-one (21) years of age at the time they are sworn. Uniformed Fire and Rescue Division employees shall be eighteen (18) years of age at the time of application.

**VI. WAE Employment**

An applicant who meets the minimum qualifications may be selected and appointed to a WAE position without regard to the competitive process referenced in this manual.

**VII. Provisional Appointments**

The Director of Human Resources may appoint an applicant who meets the

minimum qualifications to a Permanent Full-Time position for which competition has not been conducted for a period not to exceed ninety (90) calendar days. A provisional appointment shall only be used when in the opinion of the City Manager it is essential to the efficient operation of the City, the health and safety of citizens, or preservation of City property. Those appointments shall continue only until appropriate competition is conducted, a qualified individual is selected, or the position is no longer available.

### **VIII. Acquisition of Permanent Status**

In order to acquire permanent full-time or permanent part-time status, an individual must participate in a competitive process and be selected as provided in Section III of this Chapter.

### **IX. Probationary Period**

#### **A. Purpose of Probationary Period**

The probationary period is an integral part of the employment relationship and shall be used to assess the new employee's suitability, work performance and conduct. An employee may be separated during the probationary period if the employee does not meet expectations.

#### **B. Length of Probationary Period**

The probationary period for Permanent full-time positions shall be twelve (12) months. The probationary period for sworn Police Division, uniformed Fire and Rescue Division, and 911 Telecommunications Specialists personnel shall encompass the required training period plus twelve (12) months in a regular duty assignment. When an employee is in a non-work status (e.g. work related injury or occupational disease, FMLA, extended leave without pay, military leave) for a prolonged period (usually more than thirty (30) days

or 240 hours), the Department Head may extend the probationary period for a time period that shall not exceed the total time of the employee's absence from regularly assigned duties. This extension shall be documented by the Department Head in a memorandum to the Director of Human Resources and a copy provided to the employee.

**C. Extension of Probationary Period**

Department Heads may, with job related justification, extend the initial probationary period for an additional period of time not to exceed six (6) months. Extensions of the probationary period shall be documented and included in the employee's personnel file in the Department of Human Resources. The probationary period extension shall be discussed with the employee prior to the end of the initial probationary period and the employee shall be notified in writing of the specific reasons for such extension.

**D. Disciplinary Actions during Probationary Period**

Employees who have not completed the probationary period may be subject to disciplinary action as outlined in Chapter Two, "Employee Relations", as deemed appropriate by the manager/supervisor and/or Department Head. An employee disciplined during the probationary period shall have no grievance rights against such action.

**E. Separation during Probationary Period**

At any time during the probationary period the Department Head in coordination with the Director of Human Resources or designee may separate an employee if the employee fails to meet expectations (see Chapter Nine, "Separations" for required notice period). An employee separated from employment during the probationary period shall have no grievance rights against such separation.

## **X. Temporary Assignment**

Temporary assignment of an employee to a vacant position or alternate duties and responsibilities other than that to which the employee is normally assigned may be used to meet emergencies, to cover anticipated absences, pending official assignment of personnel or restructuring of the department and/or development of a position. Except as provided below, employees shall not normally be temporarily assigned to higher level positions, or duties, in excess of a total of ninety (90) work days or 720 hours, in any twelve (12) month period. Approved temporary assignments and the reasons therefore shall be made a part of the employee's personnel file and any qualifying experience gained may be used in any competitive examinations or applications filed subsequent to such temporary assignment. Temporary assignments of thirty (30) working days or 240 hours or less shall be exempt from the formal documentation and approval requirements of this section.

Where reorganization is pending employees may be assigned alternate duties for an indefinite period of time. However, if the reorganization results in higher level duties that warrant a permanent or temporary promotion, the employee shall be compensated at the appropriate higher rate retroactive to the date on which a normal temporary assignment would end.

## **XI. Fitness for Duty**

A Department Head after consultation with the Department of Human Resources may require a fitness for duty examination when an employee exhibits an inability to perform the essential functions of the position. The Department of Human Resources will coordinate the fitness for duty examination at the requesting department's expense. If the examining physician determines that the employee is unable to perform the essential

functions of the position, the employee may be reassigned or separated from employment in accordance with City policies and applicable laws and regulations. Prior to separation, the employee will be provided with a reasonable opportunity to find another position within the City or file for retirement. If the examining physician determines the employee is able to perform the essential functions of the position, the Department Head shall take appropriate personnel action under the applicable provisions of this manual. Refusal to comply with a fitness for duty examination may result in disciplinary action up to and including dismissal.

## **XII. Reduction-in-Force**

A reduction-in-force (RIF) occurs when a Permanent Full-Time employee's position is eliminated due to budgetary restrictions, lack of work, reorganization, or other similar reasons. Employees not covered by the RIF policy include the City Manager, City Attorney, Assistant City Managers, Assistants to the City Manager, Council appointees, Department Heads and personnel assigned to the Executive Compensation Pay Plan, and any other employees who may be excluded under Section 15.2-1507 (A)(3) of the Code of Virginia. Employees not covered by the RIF policy may at the discretion of the City Council or the City Manager be granted a lump sum severance payment if separated from employment.

### **A. Identification of Employees Affected by RIF in Multiple Incumbent Positions**

If a position with multiple incumbents is targeted for elimination, the Director of Human Resources shall establish a retention register for the affected department to include the names of all employees within that department currently assigned to the targeted position as follows:

1. The Department of Human Resources shall assign points based on the most recent performance evaluation for merit increase purposes and full years of service with the City of Hampton.
2. All employees assigned to the targeted position shall receive five (5) points for an overall rating of 'Surpassed', or ten (10) points for an overall rating of 'Exceeded'.
3. All employees assigned to the targeted position shall receive one (1) point for each full year of service with the City of Hampton up to a maximum of ten (10) points for ten (10) or more years.
4. All points shall be assigned and totaled for each employee. A retention register shall be developed in ascending order from lowest to highest total retention points. Employees shall be identified for reduction-in-force beginning with the employee with the lowest number of points on the retention register.
5. Ties in points will be administered as follows:
  - a. Preference will be given to employees having the greatest number of performance points.
  - b. Preference will be given to employees based on date of hire/rehire as a Permanent Full-Time employee when both performance points and seniority points are tied.
  - c. Preference will be given based on official employment record and history of formal disciplinary action when two (2) or more employees have the same total retention points and the date of hire/rehire is the same.

## **B. Reduction-in-Force Notification Process:**

Once a position has been targeted for RIF, the Director of Human Resources shall provide employees assigned to targeted positions a written notice of separation at least thirty (30) days prior to elimination of the position.

During the thirty (30) day notice period, the employee will be encouraged to compete for vacancies available for which the employee meets the minimum qualifications.

Employees who have completed the probationary period and whose most recent overall performance management evaluation rating is "Surpassed" or better and who have had no formal disciplinary actions within the last twelve (12) months will be guaranteed an interview for vacant positions for which they apply and meet the minimum qualifications.

If the employee does not successfully obtain another position within the thirty (30) day notice period, the employee will be separated from employment as a result of lay off due to RIF and will be eligible to receive a lump sum severance payment. The severance payment shall be equal to an amount that is equivalent to the number of hours that the employee would otherwise have been scheduled to work during the subsequent four (4) week period. The severance payment will be processed as supplemental wages and will be subject to regular state and federal tax withholdings as required by law. The severance payment will be the financial responsibility of the department losing the employee and position as a result of reduction-in-force and will be processed in accordance with the City's payroll policies and procedures.

## **C. Grant Funded Employees and Other Special Situations**

Department Heads shall be responsible for notifying grant-funded employees of possible grant termination not later than thirty (30) calendar days prior to scheduled termination of the grant. A copy of the written notification shall be sent to the Director of

Human Resources who shall obtain the City Manager's determination regarding the applicability of the reduction-in-force procedures. The RIF procedure may be waived in whole or in part, or expanded to include individual cases involving special situations or employees with unique or special skills, by the City Manager.

### **XIII. Responsibility for Human Resources Administration**

The Director of Human Resources shall be responsible for the development and maintenance of all documentation and procedures required to formalize employment and to effectively implement this manual. All official employment records, including individual personnel files, medical records, and recruitment files shall be managed by the Department of Human Resources.

The Director of Finance will develop and implement procedures necessary to ensure that employee pay rates and pay changes are supported by appropriate documentation, processed, and authorized in accordance with sound and accepted accounting principles. Leave, payroll and benefits records shall be maintained by the Department of Finance.

Each department shall maintain official time and attendance documentation for departmental employees. Employee records are retained in accordance with the State of Virginia record retention guidelines.

#### **A. Documentation Of Personnel Actions**

An individual selected for employment shall not commence work until the appropriate pre-employment screenings, new hire orientation and required documentation (e.g. payroll, benefits, I-9) are complete. All employment actions will comply with established procedural and documentation guidelines as authorized by the Director of Human Resources or designee.

## **B. Disclosure Of Employee Information And Data**

The Department of Human Resources maintains employee information and data intended for official use.

### **1. Information Requested by City Departments**

Routine requests for employee information shall be given to representatives of City departments if it is certain that there is a need for the information. Requests shall be referred to the Director of Human Resources or designee who shall ensure that the individual making the request is a City employee and that the requested information is necessary.

### **2. Information Requested by Current and Former Employees**

Upon providing proof of identification, current and former employees have the right to review information maintained in official personnel files. Current and former employees shall do so by contacting the Department of Human Resources during normal business hours.

### **3. Information Requested by Individuals Outside of the City Organization**

Requests for information concerning City employees are often received from federal agencies, credit bureaus, individual employers, and others. The following information may be given in response to these requests:

- a. Verification of Name
- b. Verification of Employment
  1. Present Employees - Verification that the individual is employed by the City
  2. Terminated Employees - Dates of employment

- c. Verification of other information will be given upon the presentation of a release signed by the employee
- d. Verification of information will be provided to federal and state agencies that are legally entitled to the information
- e. Verification of information will be provided as mandated by federal and state law
- f. Any other document or information authorized for release by the City Attorney's office in response to a Virginia Freedom of Information Act request, subpoena duces tecum or court order.

#### **XIV. Scheduling of Work**

##### **A. Administrative Workweek**

a) **General Workforce** Seven (7) consecutive calendar days constitute an administrative workweek for all City employees with the exception of uniformed Fire and Rescue and sworn Police division. The administrative workweek begins at 12:01 a.m. Saturday and ends at 12:00 midnight on the following Friday. The calendar day on which a shift begins is considered the day of duty for that day even though the work schedule may extend into the next calendar day or into the following administrative workweek.

##### **b) Uniformed Fire and Rescue Division Employees**

Uniformed, Fire and Rescue Division non-exempt employees may have work schedules consisting of a total of 156 regularly scheduled hours every twenty-one (21) day cycle or a total of 2704 hours per year. The Fire Chief or designee shall utilize a shift arrangement that assigns uniformed non-exempt

operational Fire and Rescue Division employees to duty for six (6) twenty-four (24) hour shifts and one (1) twelve (12) hour shift in a twenty-one (21) day cycle.

**c) Sworn Police Division Employees**

Sworn Police Division non-exempt Employees will have work schedules consisting of 160 regularly scheduled hours every twenty-eight (28) days, or a total of 2080 hours per year.

**B. Regular Workday, General Operating Hours, and Meal Periods**

The regular workday and general operating hours for most City employees shall be five (5) eight (8) hour days, Monday through Friday from 8:00 a.m. to 4:30 p.m. with a one-half (.5) hour meal period. Meal periods during which the employee is entirely free of job duties are not considered compensable time in accordance with the Fair Labor Standards Act (FLSA). When the work schedule will not permit time off for meal periods, an on-the-job meal period of less than thirty (30) minutes may be authorized. The employee must spend the on-the-job meal period at or near the work station. Under these conditions, any authorized meal period of less than thirty (30) minutes shall be compensable time.

Employees are permitted to take a one (1) hour meal period with supervisor approval. The work schedule must be adjusted by an additional one-half (.5) hour to offset the additional one-half (.5) lunch to ensure that the employee is available to perform their duties for a total of eight (8) hours per workday and/or assure a full forty (40) hours of work time per administrative workweek.

**C. Make Ready And Clean-Up Time**

Incidental duties that are directly connected with the performance of a job (e.g. obtaining and replacing work tools or materials) shall be considered part of the job

requirements. When work shifts overlap, the shifts will be arranged so that time required for incidental duties will be part of the regularly scheduled work day. When incidental duties cannot be made a part of the regularly scheduled workday, the extra time that is compensable must be approved by a supervisor in advance and shall not exceed thirty (30) minutes per day.

#### **D. Alternative Work Schedules and Arrangements**

Alternative work schedules may include any daily or weekly work schedule or work arrangement that is approved by the Department Head, including work-at-home, telecommuting, job sharing, flex-time, compressed work week, and/or other scheduling designed to accommodate extended hours of operation. Implementation of an alternative work schedule must be documented and coordinated with the Director of Human Resources or designee. Department Heads authorizing alternative work schedules and arrangements shall do so in accordance with City policies as outlined in the Personnel Administrative Instruction.

### **XV. Safety**

The City's Safety Program is dedicated to providing the safest working environment possible for all City employees. Department Heads are responsible for maintaining a safe work environment. As a condition of employment, employees are required to follow safety procedures and guidelines. Employees shall:

1. Report all unsafe conditions to the manager/supervisor.
2. Keep work areas clean and orderly at all times.
3. Report all accidents immediately to the manager/supervisor.
4. Obey all safety rules and follow published work instructions.
5. Wear required personal protective equipment.

6. Actively participate in and support safety practices.

Specific procedures for reporting and investigating accidents shall be contained in a Chapter 6, Section IV Workers' Compensation and the associated Personnel Administrative Instruction.

#### **XVI. Searches**

The City reserves the right to conduct investigatory searches, without employee consent, of all areas and property over which the City maintains full control or joint control with an employee. Such areas and property include, but are not limited to, desks, closets, bookcases, lockers, file cabinets, City vehicles and/or private vehicles used in conducting City business. When feasible, investigatory searches should be approved in advance by the Department of Human Resources.