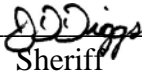


<b>YORK-POQUOSON SHERIFF'S OFFICE</b>	<b>RULES AND REGULATIONS</b>
<b>SUBJECT: Termination of Employment</b>	<b>NUMBER: RR 1-20</b>
<b>EFFECTIVE DATE: March 1, 2021</b>	<b>REVIEW DATE: November 3, 2020</b>
<b>AMENDS/SUPERSEDES: RR 1-20, February 1, 2003</b>	<b>APPROVED:</b> _____  Sheriff
<b>VLEPSC: PER.09.04</b>	

1    **INDEX WORDS**

- 2
- 3    Death
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- 8    Post-separation benefits
- 9    Resignation
- 10   Retirement
- 11   Separation procedures
- 12   Termination
- 13   Voluntary resignation

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15   **POLICY**

16

17   This policy outlines resignation and termination procedures for both the employee and the

18   County and applies to all sworn and non-sworn positions within the Sheriff's Office. Employees

19   may resign voluntarily or their employment may be involuntarily terminated with cause.

20

21   **PURPOSE**

22

23   The purpose of this order is to outline and establish procedures concerning different methods of

24   resignation or termination of employment.

25

26   **PROCEDURES**

- 27    • Voluntary resignation
- 28      ○ To resign in good standing, employees shall give notice in writing to the Sheriff at
- 29      least (14) days prior to the effective date of the resignation.
- 30      ○ Further, employees holding the rank of Captain or above shall provide a minimum of
- 31      (30) days' notice.
- 32      ○ In the event exigent circumstance exists this notice can be waived or modified at the
- 33      discretion of the Sheriff.
- 34      ○ See York County Personnel Policies Manual, Section 12-1 for guidance.
- 35      ○ A resignation shall be effective when tendered. No written acceptance of a
- 36      resignation shall be required as a condition precedent to its effectiveness.
- 37      ○ Generally, the specific number of days required for resignation are contained in the
- 38      letter of offer provided to the employee upon initial hire or promotion.

- 39           ○ The Sheriff shall transmit all resignations to the Human Resources Office within 24  
40           hours of receipt.
- 41           ○ The notice period is for the benefit of the employer and should the Sheriff decide that  
42           an effective separation, sooner than that proposed by the employee, is in the County's  
43           best interest, an earlier date may be established after consultation with the Human  
44           Resources Manager.
- 45           ○ No compensation is due beyond the actual date set.
- 46
- 47           ● Retirement
- 48           ○ Retirement is addressed under York County Policy Section 12-2
- 49           ○ The County is a member of the Virginia Retirement System (VRS) and employees are  
50           entitled to retire pursuant to the rules established by VRS.
- 51
- 52           ● Death
- 53           ○ When an employee dies while in the service of the County, all compensation due is  
54           paid to the legal representative of the employee's estate or any other properly  
55           designated individual.
- 56           ○ Assistance and benefit counseling is provided to survivors of the employee by the  
57           York County Human Resources Manager.
- 58           ○ Pay and benefits accrue to the last day of actual service provided to the County.
- 59
- 60           ● Termination
- 61           ○ An employee may be terminated as set forth in this policy.
- 62           ○ In circumstances such that a non-probationary employee is eligible (or being  
63           considered) for termination, the Chief Deputy will provide the employee with
- 64           ▪ A written notice, or
- 65           ▪ In situations when it is not possible to personally deliver a written notice to an  
66           employee, the notice may be given orally with the written notice sent to the  
67           employee's last known address, setting forth the following:
- 68           ❖ A statement of the reasons for which the termination of the employee is being  
69           considered, in sufficient detail to enable the employee understand fully the  
70           violation, infraction, conduct or offense for which termination is being  
71           considered.
- 72           ❖ That the employee's past performance, including any prior disciplinary  
73           records has been considered;
- 74           ❖ The effective date of the proposed termination, which should be no sooner  
75           than seventy-two (72) hours from the employee's receipt of the notice;
- 76           ❖ That the employee is suspended, generally with pay, but for no longer than  
77           five (5) work days from the date of the Notice of Proposed Termination or  
78           until a final decision is made, whichever occurs sooner.
- 79           ❖ That the employee has the right to respond either in writing or in person, at the  
80           option of the employee, within two (2) working days of receipt of the notice
- 81
- 82           ○ Before an employee is terminated, the Sheriff shall conduct a determination hearing  
83           with the employee involved.

- 84 ○ A final decision will not be made by the Sheriff until the employee has been given the  
85 opportunity to express his version of the circumstances.  
86 ○ If the employee requests the right to respond in person, the Sheriff should  
87 immediately schedule an informal hearing.  
88 ○ The employee should be afforded an opportunity to explain his or her side of the  
89 story, to present any documentary evidence on his or her behalf, and to argue his or  
90 her side of the case.  
91 ○ Such hearings are intended to be informal, and legal representatives are not permitted.  
92 ○ If, after the hearing or consideration of the employee's written response, the Sheriff  
93 finds that the charge or charges against the employee are true and support the  
94 termination, the Sheriff will notify the Chief Deputy of his/her decision.  
95 ○ If the Sheriff disagrees with the decision to terminate the employee, he/she will refer  
96 the case back to the Chief Deputy for the purposes of reassessing disciplinary actions.  
97 ○ Persons whose employment has been terminated for cause are precluded from future  
98 employment with the department unless the department later finds that the evidence,  
99 which sustained the termination for cause was incompetent or unreliable.  
100 ○ Under no circumstances shall employees respond to oral or written requests for  
101 information on employees who have been terminated for cause.  
102 ○ To release any information, the Sheriff's Office must receive written authorization,  
103 signed by the former employee.  
104 ○ Upon receipt of written authorization, the Sheriff's Office may provide the requesting  
105 agency with the terms of the employee's termination for cause, the relevant evidence  
106 that supported the termination, and any administrative decision, which has been  
107 reached, by a hearing officer or panel related to the termination.  
108     ▪ The determination hearing with the Sheriff does not apply to probationary  
109 employees but at the Sheriff's discretion, he/she may allow a determination  
110 hearing.  
111  
112 ● Employee separation procedures, York County Policy Section 12-5, Employee  
113 Separation.  
114 ○ All pay and benefits accrue to the last day of actual service provided to the County  
115 and employees cannot expect to receive any compensation or benefit for periods of  
116 time beyond the last day physically worked, including pay for holidays, sick or  
117 vacation days, etc., that occur after the last day worked.  
118 ○ Since benefit accruals occur on the last day of the month, the employee must  
119 physically work the last day of the month in order to receive this accrual.  
120  
121 ● Layoffs, York County Policy Section 12-6, Layoffs.  
122 ○ Any involuntary separation other than for disciplinary reasons is considered a layoff.  
123 Layoffs occur when in the opinion of the County Administrator proper management  
124 requires a reduction or change in the work force or the elimination of certain positions  
125 or programs.  
126 ○ Regular full-time and regular part-time employees to be laid off are notified in  
127 writing by the County Administrator and at a minimum are given the same notice as  
128 required when an employee resigns (see York County Policy Section 12-1, regarding  
129 resignations).

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- Clearing debt and equipment, York County Policy Section 12-7, Clearing Debt and Equipment Accounts.
  - Employees who separate from County service must clear all debts to the County and account for and turn in all County equipment in their possession or for which they are responsible, including keys, uniforms, tools, equipment, credit cards, identification cards, books, manuscripts, papers, etc. to the property/evidence custodian.
  - Failure to clear all debts and turn in County equipment will result in the initiation of collection procedures to recover these losses.
  
- Separation pay, York County Policy Section 12-8, Separation Pay
  - Generally, all compensation due and any settlement for accrued leave is included in the paycheck due on the next regularly scheduled payday.
  
- Post-separation benefits, York County Policy Section 12-9, Post Separation Benefits.
  - The County offers employees and their families, in accordance with federal law, the opportunity for a temporary extension of health coverage (called "continuation coverage") at group rates in certain instances when employment is terminated (for reasons other than gross misconduct) and coverage under the plan would otherwise end.
  - In addition, employees are notified of their right to proceeds on deposit into their Virginia Retirement System (VRS) account, any options available to them to dispose of funds accumulated in a deferred compensation account, options to convert VRS life insurance, and other information concerning benefit programs in which the employee has participated.
  
- Severance pay, York County Policy Section 12-10, Severance Pay
  - Severance pay may be approved by the County Administrator for probationary or non-probationary separations that do not involve misconduct. When approved, the amount of severance pay shall not be less than 1/26th or more than 1/12th of the terminating employee's annual salary rate.

**MANDATORY REPORTING OF RESIGNATIONS OR TERMINATION**

- Compliance with state employment reporting procedures
  - To comply with the regulations established by the Criminal Justice Services Board (CJSB) and the Department of Criminal Justice Services (DCJS) and as otherwise specified by law, agencies shall submit notice of resignations or the termination status of all sworn deputies.
    - If the deputy resigns or has his or her employment terminated for reasons that may subject the deputy to de-certification, the Sheriff shall notify DCJS as required by law
  
- De-certification
  - In accordance with Section [15.2-1707](#), Code of Virginia, for incidents occurring after July 1, 2021, the Sheriff shall notify the Criminal Justice Services Board in writing

- 176 within 48 hours of becoming aware that any certified law enforcement officer  
177 currently employed by his agency has:
- 178 ▪ Been convicted of or pled guilty or no contest to a felony or any offense that  
179 would be a felony if committed in the Commonwealth of Virginia;
  - 180 ▪ Been convicted of or pled guilty or no contest to a Class 1 misdemeanor involving  
181 moral turpitude or any offense that would be any misdemeanor involving moral  
182 turpitude, including but not limited to petit larceny or any offense involving moral  
183 turpitude that would be a misdemeanor if committed in the Commonwealth of  
184 Virginia;
  - 185 ▪ Been convicted of or pled guilty or no contest to any misdemeanor sex offense in  
186 the Commonwealth or another state or the United States including but not limited  
187 to sexual battery or consensual sexual intercourse with a minor 15 or older;
  - 188 ▪ Been convicted of or pled guilty or no contest to domestic assault or any offense  
189 that would be domestic assault under the laws of any other state or the United  
190 States;
  - 191 ▪ Failed to comply with or maintain compliance with mandated training  
192 requirements;
  - 193 ▪ Refused to submit to a drug screening or has produced a positive result on a drug  
194 screening reported to the Sheriff's Office, where the positive result could not be  
195 explained to the satisfaction of the Sheriff;
  - 196 ▪ Who resigned or was terminated in advance of being convicted of an offense  
197 requiring decertification upon conviction for offenses occurring after July 1,  
198 2021;
  - 199 ▪ Who resigned or was terminated in advance of a pending drug screening  
200 occurring after July 1, 2021;
  - 201 ▪ Who resigns or was terminated for engaging in serious misconduct as defined by  
202 the state professional standards of conduct occurring after July 1, 2021;
  - 203 ▪ Who resigns or is terminated for acts committed, while in the performance of his  
204 duties, that compromises the deputies credibility, integrity, honesty or other  
205 characteristics that constitute exculpatory or impeachment evidence in a criminal  
206 case occurring after July 1, 2021.
- 207
- 208 ○ Upon receiving notification of any of the above listed offense or incidents occurring  
209 after July 1, 2021, in accordance with Section [15.2-1707](#), Code of Virginia, the  
210 Sheriff shall notify the Criminal Justice Services Board in writing within 48 hours of  
211 becoming aware that any certified law enforcement officer currently employed by his  
212 agency has:
    - 213 ▪ Been convicted of or pled guilty or no contest to a felony or any offense that  
214 would be a felony if committed in the Commonwealth of Virginia;
    - 215 ▪ Been convicted of or pled guilty or no contest to a Class 1 misdemeanor involving  
216 moral turpitude or any offense that would be any misdemeanor involving moral  
217 turpitude, including but not limited to petit larceny or any offense involving moral  
218 turpitude that would be a misdemeanor if committed in the Commonwealth of  
219 Virginia;

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- Been convicted of or pled guilty or no contest to any misdemeanor sex offense in the Commonwealth or another state or the United States including but not limited to sexual battery or consensual sexual intercourse with a minor 15 or older;
  - Been convicted of or pled guilty or no contest to domestic assault or any offense that would be domestic assault under the laws of any other state or the United States;
  - Failed to comply with or maintain compliance with mandated training requirements;
  - Refused to submit to a drug screening or has produced a positive result on a drug screening reported to the Sheriff's Office, where the positive result could not be explained to the satisfaction of the Sheriff;
  - Who resigned or was terminated in advance of being convicted of an offense requiring decertification;
  - Who resigned or was terminated in advance of a pending drug screening;
  - Who resigns or was terminated for engaging in serious misconduct as defined by the state professional standards of conduct;
  - Who resigns or is terminated for acts committed, while in the performance of his duties, that compromises the deputies credibility, integrity, honesty or other characteristics that constitute exculpatory or impeachment evidence in a criminal case.
- Upon receiving notification of any of the above listed offense or incidents occurring after July 1, 2021, the Criminal Justice Services Board shall decertify such law-enforcement officer.
    - Such officer shall not have the right to serve as a law-enforcement officer within this Commonwealth until his certification has been reinstated by the Board.
  - When a conviction has not become final, the Criminal Justice Services Board may decline to decertify the officer until the conviction becomes final, after considering the likelihood of irreparable damage to the officer if such officer is decertified during the pendency of an ultimately successful appeal, the likelihood of injury or damage to the public if the officer is not decertified, and the seriousness of the offense.
    - The Department of Criminal Justice Services is authorized to waive the requirements for decertification for good cause shown.
    - In accordance with Section [15.2-1708](#)., Code of Virginia, the following procedures shall be observed in decertifying a sworn deputy:
      - ❖ Service of notice.
        - The Board shall, within ten days of de-certification, serve notice upon an affected officer, in person or by certified mail, and upon the law-enforcement or jail agency employing said officer, by certified mail, specifying the action taken and remedies available.
        - The Board shall stay final action until the period for requesting a hearing expires.
      - ❖ De-certification hearing.

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- Any law-enforcement officer who has been decertified may, within thirty days of receipt of notice served by the Board, request, by certified mail, a hearing, which shall be granted by the Board.
  - Upon receipt of such request, the Board shall set a date, time, and place for the hearing within sixty days and serve notice by certified mail upon the affected officer.
  - The Board, or a committee thereof, shall conduct such hearing. The affected officer may be represented by counsel. In the absence of a request for hearing, de-certification shall, without further proceedings, become final thirty days after the initial notice.
  - ❖ Standard of review.
    - The de-certification of a law-enforcement under Section [15.2-1707](#), Code of Virginia, shall be sustained by the Board unless such law-enforcement officer shows, by a preponderance of the evidence, good cause for his certification to be reinstated.
  - ❖ Final decision after request for hearing.
    - The Board shall render a final decision within thirty days.
  - ❖ Notice of final action.
    - The Board shall notify the officer and the law-enforcement agency involved, by certified mail, of the final action regarding de-certification.
  - ❖ Reinstatement after de-certification.
    - Any officer who is decertified may, after a period of not less than five years, petition the Board to be considered for reinstatement of certification.