

DEPARTMENT OF HUMAN RESOURCES

2.9 POLICY ON SEPARATION FROM EMPLOYMENT

(a) Purpose and Scope

- (1) Purpose.** The purpose of this policy is to establish uniform practices for separation from employment with the Maryland Judiciary, excluding involuntary termination of employment (For involuntary termination of employment, see the Policy on Disciplinary Actions).
- (2) Scope**
 - (A) This policy applies to:
 - (i) employees who are paid through the Central Payroll Bureau of the Comptroller; and
 - (ii) employees of the State Board of Law Examiners, the Thurgood Marshall State Law Library, the Commission on Judicial Disabilities, and the Maryland Court of Appeals Standing Committee on Rules of Practice and Procedure.
 - (B) This policy does not apply to:
 - (i) locally funded employees in the Circuit Courts;
 - (ii) employees of the Attorney Grievance Commission and the Client Protection Fund;
 - (iii) employees of the Register of Wills or the Orphans' Court; and
 - (iv) judges.

(b) Definitions

- (1) Administrative Head:**
 - (A) For the Court of Appeals and Court of Special Appeals, the Clerk of the Court for all employees under the Clerk's supervision, and the Chief Judge for all other employees, in the appellate court where the employee works;
 - (B) For the Circuit Courts, the Clerk of the Court for all employees under the Clerk's supervision, and the County Administrative Judge for all state employees under his or her supervision;
 - (C) The Chief Judge of the District Court, the Chief Clerk, or the Administrative Clerk or Administrative Commissioner for all employees under his or her supervision;
 - (D) For the Administrative Office of the Courts (AOC), the State Court Administrator;
 - (E) For any units, the head of the unit where the employee works; or,
 - (F) Any person who serves as the authorized designee, by express written designation, of any of the foregoing persons.
- (2) Judiciary Human Resources Department (JHRD)** – The department within the AOC that is responsible for, but not limited to, the following functions for State employees in the Maryland Judiciary: human resources policy development, administration, and interpretation; recruitment; employment and orientation services; employee benefits; position classification and salary administration; and employer-employee relations.

- (3) **Unit** – The State Board of Law Examiners, the Thurgood Marshall State Law Library, the Commission on Judicial Disabilities, and the Maryland Court of Appeals Standing Committee on Rules of Practice and Procedure.
- (4) **Work Day** – An employee’s normally scheduled work day.

(c) Policy Statement

There are many reasons for which an employee may choose or be required to leave employment with the Judiciary. This policy describes the general categories of separation (excluding the involuntary termination of employment for reasons other than reduction in force) and outlines procedures to follow. The involuntary termination of employment for reasons other than reduction in force for regular employees is covered under the Policy on Disciplinary Actions.

(d) Separation from Employment

- (1) **Resignations** (Except for Resignations in-Lieu-of Termination, which are covered in the Policy on Disciplinary Actions.)
 - (A) A resignation is an oral or written statement by an employee of intent to voluntarily terminate employment with the Judiciary. An employee planning to resign should submit a written notice of resignation to the immediate supervisor or the administrative head specifying the last day of employment and the reason for leaving. If the employee resigns orally and does not submit a written resignation, then the supervisor shall prepare a written memorandum to the employee and the administrative head confirming the resignation, including the last day of work. The administrative head shall promptly notify the JHRD of the resignation.
 - (B) For an employee to resign or transfer from the Judiciary in good standing, the employee must provide the resignation notice at least two weeks before the last day of work. The Director of the JHRD may grant discretionary exceptions to this requirement based on unusual or extenuating circumstances. Once the resignation is provided, the administrative head, in consultation with the JHRD and with or without the approval of the employee, may make the effective date of the resignation earlier than the date the employee provided, if the administrative head and JHRD determine it is in the best interest of the Judiciary to do so.
- (2) **Job Abandonment**
 - (A) An employee who does not report to work for three consecutive work days, does not notify the supervisor of the extent and cause of the absence, and does not provide sufficient supporting documentation, has abandoned his or her employment absent extraordinary circumstances.
 - (B) If this occurs, the supervisor must promptly notify the administrative head. The administrative head shall promptly provide written notification to the JHRD. Job abandonment is a voluntary

resignation without notice and precludes the employee from future employment with the Judiciary.

- (C) The administrative head and the JHRD shall consult and prepare a written notice to the employee, which either the administrative head or the JHRD, as they prefer, must deliver to the employee in person, by mail, or by any other effective means. The notice shall advise the employee that he or she has abandoned his or her position and, therefore, has voluntarily resigned from employment. The notice also shall indicate the effective date of the resignation. The effective date shall be the last day the employee was at work or on approved leave, whichever last occurred. The notification shall provide at least three work days for the employee to respond with any extraordinary circumstances that the employee believes would warrant a reversal of the determination.
- (D) If the employee does not respond to the notice, the job abandonment stands. If the employee responds, the administrative head shall consider the employee's response and, in consultation with the JHRD, has the discretion to rescind the job abandonment or allow it to stand. The employee may not grieve this decision.

(3) Reductions in Force

- (A) Reductions in Force (RIFs) normally arise from a reduction in funding or lack of work. Such actions may result, however, from reorganization, restructuring, and/or re-engineering some aspect of the operation of the Judiciary.
- (B) Employees separated from employment because of a RIF may reapply for any future vacancy with the Judiciary for which they qualify. Separations from employment due to a RIF are not subject to a grievance action.

(4) Retirement. An employee who is a member of the Maryland State Retirement and Pension System has two retirement options: length of service and disability.

- (A) Length of Service. An employee planning to retire due to length of service must submit a written notice of intent to retire and the effective date of the retirement to the administrative head and the JHRD as early as possible, preferably no later than two months before the effective date of retirement. The employee must promptly complete the necessary retirement paperwork.
- (B) Disability Retirement
 - (i) Ordinary Disability. An employee who supplies medical documentation confirming inability to continue employment or to perform his or her essential job duties due to an illness or medical condition may apply for disability retirement. To be eligible, the employee must have:
 - (I) A minimum of five years of eligibility service;
 - (II) Permanent incapacity to perform his or her job duties due to medical reasons; and,

- (III) Approval by the Medical Board and Board of Trustees of the Maryland State Retirement Agency.
 - (ii) An employee who believes he or she may be eligible for disability retirement should contact the local human resources associate or JHRD for the appropriate forms.
- (C) **Accidental Disability Retirement.** An employee who supplies medical documentation confirming inability to continue employment or perform his or her essential job duties due to an accidental on-the-job injury may apply for accidental disability retirement. For an employee to be eligible for accidental disability retirement, all of the following requirements must be met:
- (i) The employee must be totally and permanently disabled as the direct result of a specific accident that occurred at a definite time and place;
 - (ii) The accident(s) occurred while the employee was performing assigned duties;
 - (iii) The employee is not responsible for the accident(s) through willful negligence;
 - (iv) The disabling condition was caused by an accident that occurred within the last five years. (If the employee does not meet the five-year filing deadline for accidental disability, the employee may still be eligible to file for ordinary disability.); and
 - (v) The employee's claim is approved by the Medical Board and Board of Trustees of the Maryland State Retirement Agency.
- (D) There is no minimum service requirement for accidental disability benefits.
- (E) An employee who believes he or she may be eligible for accidental disability should contact the local human resources associate or JHRD.

(e) Leave Requests Pending Separation from Employment

The supervisor has discretion to grant or deny requests for leave presented by an employee who has given notice of resignation or retirement or who has received notice of a RIF or termination of employment. To the extent practicable, such leave requests should be processed in accordance with the appropriate Judiciary leave policy. If an employee does not report to work after submitting a two-week notice of resignation or retirement and is absent without approval, then the separation from employment will not be in good standing.

(f) Judiciary Exit Survey Form

Supervisors or administrative heads should, upon an employee's separation from employment, provide the employee with a Judiciary Exit Survey form. The employee may complete the form and mail, email, or fax it to the JHRD, Office of Employee Relations and ADA Compliance.

(g) Security and Return of Personal Property

- (1)** For security reasons, the only individuals who may have access to an employee's work space, equipment, and personal property upon the employee's separation from employment are:
 - (A) The employee, with approval of Judiciary management and security personnel;

- (B) Judiciary management and security personnel; and,
- (C) With proper authorization, appropriate law enforcement personnel.

(2) An employee's personal belongings may be provided to the following individuals upon the employee's separation from employment:

- (A) The employee;
- (B) An authorized representative of the employee, with the approval of Judiciary management and security personnel; and,
- (C) With proper authorization, appropriate law enforcement personnel.

(h) Interpretive Authority: The JHRD is responsible for the interpretation of this policy.

(i) Exceptions: The Chief Judge of the Court of Appeals or the State Court Administrator may make exceptions to any provisions of this policy.

(j) Not a Contract: This policy does not constitute or create an express or implied contract. It is not intended to, and does not, create contractual obligations with respect to any matter it covers.