

RESOLUTION 2018-012

A RESOLUTION AMENDING THE CITY OF PAOLA PERSONNEL MANUAL, EFFECTIVE NOVEMBER 14, 2018

WHEREAS, Section 105.270 of the Code of the City of Paola, Kansas provides for the preparation, revision, and amendment of a Personnel Manual; and,

WHEREAS, the City Manager has submitted a proposed and revised Personnel Manual to the Governing Body as follows:

Section 2.4 of the Personnel Manual is hereby amended and reads as follows:

2.4 Electronic Mail, Internet, and Intranet Use; Social Media and Social Networking; City Provided Cell Phones.

- (a) **Electronic Mail, Internet, and Intranet Use Policy.** Electronic mail (email), the internet, and the intranet are provided to enable City employees an opportunity to use technology to work more efficiently and effectively. These technologies provide numerous opportunities to access information, interact with other professionals, and conduct business. All email, internet, and intranet images, electronic files, and other information transmitted by, received through, or stored in these systems are the property of the City.

Only employees of the City whose job duties require the use of the email, internet, and intranet system and others who have received permission by the City Manager or applicable Department Head are authorized users of those systems.

Good judgment and common sense can guide an individual to appropriate use of email, internet, and intranet. The following principles should govern an individual's use of the City's email, internet, and intranet system:

- 1) Transmission of any material in violation of any federal or state law or regulation is prohibited. This includes, but is not limited to: copyrighted material, threatening or obscene material, or material protected by trade secret.
- 2) Use for commercial activities is not acceptable.
- 3) Material that would be considered inappropriate, offensive, or disrespectful to others should not be transmitted, accessed or stored. The use of vulgarities or any other inappropriate language is not acceptable.
- 4) Employees shall not log on and leave connections to the internet open when not in active use.
- 5) Incidental or occasional use of email, the internet, and intranet systems for personal use may occur, subject to the restrictions contained in this policy and all other City policies. The use shall not directly or indirectly interfere with the City's operation of its email, internet, and intranet systems, nor interfere with the user's employment or other obligations to the City.
- 6) Users of the City's email, internet, and intranet have no right or expectation of privacy in business and/or personal related email messages, in the log of internet or intranet sites visited, or in any associated electronic files on the system. All employees, by their use of the City's email, internet, and intranet systems are thereby consenting to being monitored.
- 7) Public Record. As a general rule, electronic messages, like most paper correspondence, will be considered an open public record, subject only to the exemptions set out by Kansas statute. Electronic messages, like paper correspondence are also subject to discovery for legal evidentiary purposes. Utilization of email should take into consideration the possible disclosure of the message being sent.

- 8) Each user should periodically review messages for deletion or archiving. Email messages are subject to the same retention and discovery requirements of paper correspondence. If a message has information that must be retained permanently, the record copyholder must create a paper copy of the message to be filed with other paper documents concerning the same subject.
- 9) Users should report any email messages they receive or that are displayed to them that they believe might reasonably violate this policy.

Anyone found to have violated this policy will be subject to disciplinary action, up to and including termination of employment and criminal prosecution, if appropriate.

- (b) **Social Media and Social Networking.** The City takes no position on an employee's decision to start or maintain a blog or participate in other social media activities while not "on duty". However, it is the right and duty of the City to protect itself from unauthorized disclosure of information.

Social media is defined as "any web-based applications that allow information to be broadcast to an entire network". The network may be "user defined" such as Facebook, or open, like You Tube. Social media differ from e-mail and websites which are addressed by the City's Electronic Mail, Internet and Intranet Use policy (Section 2.4). Examples of social media sites include: LinkedIn, Facebook, Twitter, You Tube and various web logs, or blogs.

Only employees of the City whose job duties require the use of such social media—and others who have received permission from the City Manager or applicable Department Head—are authorized to use those systems while on duty.

Employer Monitoring. City employees have no reasonable expectation of privacy while using the Internet or while using computer or technology equipment, including phones, computers, radios, and text messaging devices for any purpose, including authorized blogging. Your postings can be reviewed by anyone, including the City. The City reserves the right to use content management tools to monitor, review or block content on City blogs that violate City blogging rules and guidelines.

Reporting Violations. The City requests and strongly urges employees to report any violations or possible or perceived violations to supervisors, managers or the HR Department. Violations include, but are not limited to, discussing proprietary information and any unlawful activity related to blogging or social networking.

Employees should remember they are always a representative of the City. Employees who utilize such social media outlets while on their own time or on City time, if applicable, should always exercise good judgment in what they post. Following are principles for the social media posting.

- a) Personal blogs should have clear disclaimers that the view expressed by the author in the blog is the author's alone and does not represent the view(s) of the City. Such disclaimer may read like "the views expressed are mine alone and are not to be interpreted as the view(s) of the City of Paola."
- b) Information published by you should comply with the City's and Department's confidentiality policies.
- c) Rudeness or unprofessional behavior toward a citizen or anyone in contact with the organization is unacceptable.
- d) Your online presence reflects on the City. Be aware that your actions captured via images, posts, or comments may be considered a direct reflection.
- e) Postings should not include the City logo unless permission is asked for and granted by the City Manager pursuant to City policy.
- f) Employees should neither claim nor imply they are speaking on behalf of the City.

- g) Internet postings must respect copyright, privacy, fair use, financial disclosure, and other applicable laws.
- h) Personal social media activities should not interfere with your work commitments.

The above list is not intended to be inclusive and the absence or lack of explicit principle does not limit the application of this policy.

Personal Blogs. The City respects the right of employees to write blogs and use social networking sites and does not want to discourage employees from self-publishing and self-expression. An employee is expected to follow the guidelines and policies set forth to provide a clear line between you as the individual and you as the employee.

The City respects the right of employees to use blogs and social networking sites as a medium of self-expression and public conversation and does not discriminate against employees who use these media for personal interests and affiliations or other lawful purposes.

Bloggers are personally responsible for their commentary on blogs and social networking sites. Bloggers can be held personally liable for commentary that is considered defamatory, obscene, proprietary or libelous by any offended party, not just the City. Employees cannot use blogs or social networking sites to harass, threaten, discriminate or disparage against employees or anyone associated with or doing business with the City.

Disciplinary Action. Employees found to have violated this policy may be subject to disciplinary action, up to and including termination of employment and criminal prosecution, if appropriate.

If an employee has any questions relating to this policy, the employee's personal blog or social networking, the employee should ask his or her immediate manager or supervisor.

- (c) **City Provided Cell Phones.** The City may provide cell phones to some employees for the convenience of the City. These phones and all of its contents are the property of the City of Paola and subject to the policies detailed in Sections 2.4a and 2.4b.

Section 2.9 of the Personnel Manual is hereby added and reads as follows:

2.9 Workplace Bullying Policy

- (a) **General Policy.** The purpose of this policy is to communicate to all employees, including supervisors, department heads that the City of Paola will not in any instance tolerate bullying behavior. Employees found in violation of this policy will be disciplined, up to and including termination.
- (b) **Bullying Defined.** The City of Paola defines bullying as repeated, health-harming mistreatment of one or more people by one or more perpetrators. It is abusive conduct that includes, but is not limited to:
 1. Threatening, humiliating or intimidating behaviors.
 2. Work interference/sabotage that prevents work from getting done.
 3. Verbal abuse

Such behavior violates the general policy for employee conduct which clearly states that all employees will behave in a professional and ethical manner at all times.

- (c) **Examples of Bullying.** The City considers the following types of behaviors examples of bullying. This list is not intended to be a complete list of misconduct that may result in immediate termination or other disciplinary action; these are merely some examples of unacceptable conduct:
1. Verbal bullying. Slandering, ridiculing or maligning a person or his or her family; persistent name-calling that is hurtful, insulting or humiliating; using a person as the butt of jokes; abusive and offensive remarks.
 2. Physical bullying. Pushing, shoving, kicking, poking, tripping, assault or threat of physical assault, damage to a person's work area or property.
 3. Gesture bullying. Nonverbal gestures that can convey threatening messages.
 4. Exclusion. Socially or physically excluding or disregarding a person in a work-related activities.
- In addition, the following examples may constitute or contribute to evidence of bullying in the workplace.
1. Using obscene or intimidating gestures.
 2. Not allowing the person to speak or express themselves (i.e. ignoring or interrupting).
 3. Personal insults and use of offensive nicknames.
 4. Public humiliation in any form
 5. Public reprimands.
 6. Repeatedly accusing someone of errors that cannot be documented.
 7. Deliberately interfering with mail and other communications.
 8. Spreading rumors and gossip regarding individuals.
 9. Encouraging others to disregard a supervisor's instructions.
 10. Manipulating the ability of someone to do his or her work (i.e. overloading, under loading, withholding information, setting deadlines that cannot be met, giving deliberating ambiguous instructions).
 11. Taking credit for another person's ideas.
 12. Deliberately excluding an individual or isolating him or her from work-related activities, such as meetings.
 13. Unwanted physical contact, physical abuse or threats of abuse to an individual or individual's property (defacing or marking up property)
- (d) **Bullying Complaint Procedure.** Any employee who feels he/she is being subjected to bullying should immediately contact one of the persons listed below with whom the employee feel the most comfortable. Complaints may be made orally or in writing to:
1. The employee's immediate Supervisor.
 2. The employee's Department Head.

3. Other Supervisory Personnel.
4. The Human Resource Director.
5. The City Manager.

Employees shall not make a complaint to the person who is the alleged bully or persons who are alleged to be involved in the bullying. Instead the complaint should be made to the other listed persons.

The recipient of the complaint shall immediately report the complaint directly to the Human Resources Director. Once a complaint is received, the Human Resources Director shall inform the City Manager of the complaint and shall immediately conduct a thorough investigation regarding any complaint except if the City Manager is named as a witness or alleged to have engaged in the wrongful conduct. In such an event, the Human Resources Director shall inform the City Council. If the Human Resources Director is named as a witness or alleged to have engaged in the wrongful conduct, the City Manager's designee shall conduct the investigation. At the discretion of the City Manager, a neutral third-party may be secured to investigate any complaint of bullying. If third-party investigators are used, disclosure of any investigation report and its content will be restricted to the City.

An investigation will be conducted consistent with the City's investigation procedures. The City shall complete an investigation as soon as practicable upon receipt of any complaint of bullying.

When asked, all employees shall cooperate fully and completely with such investigations. Refusal to cooperate, or interfering with an investigation in any way, shall subject employees to immediate disciplinary action, up to and including discharged from employment.

The investigation findings, along with any recommendations, shall be submitted by the investigator to the City Manager. The City Manager shall take disciplinary or remedial action as appropriate. The City Manager shall notify the complainant and any other parties of the investigative findings as appropriate.

If the City Manager determines, after reviewing the investigation report, that the complaint was intentionally falsified by the employee filing the complaint, the City Manager shall take immediate and appropriate disciplinary action against the employee, to be determined on a case-by-case basis, up to and including termination.

Section 3.6 of the Personnel Manual is hereby amended to read as follows:

3.6 Initial Training Period. Each employee, including full-time, part-time, seasonal, and temporary employees, shall satisfactorily complete a minimum six-month training period before being granted regular status. Such initial training period may, upon the approval of the City Manager, be terminated before its completion.

At the close of the initial training period, the Department Head or City Manager shall make a determination regarding continued employment and pay. At the discretion of the Department Head or City Manager, the employee's initial training period may be extended.

No initial training period shall be deemed completed until the Department Head and City Manager approve a satisfactory performance evaluation.

Section 3.7 of the Personnel Manual is hereby amended to read as follows:

3.7 Promotions and Transfers. It is the policy of the City to fill all vacancies with the most qualified applicant. Whenever possible, the City will fill vacancies with current employees. All employees seeking promotion or transfer shall be expected to meet all of the requirements of the position, including medical examinations, drug tests for certain positions, and other tests deemed necessary by the City Manager. Any offer of promotion or transfer will be contingent upon the applicant passing all required tests.

Employees promoted within the City's service shall be evaluated at the end of their first six (6) months in the promoted position. A promoted employee may receive a pay increase at the time of the promotion and/or may receive a pay increase upon the satisfactory completion of the period. During that time, the Department Head may cancel the promotion and assign the employee to his former position or a similar position.

Section 3.11 of the Personnel Manual is hereby amended to read as follows:

3.11 Residency Requirement. Employees may reside outside the City except where residency within the City is required by state law or by an employment agreement. Departments may require a response time residency in order to provide efficient and timely services to citizens.

Section 6.8 of the Personnel Manual is hereby amended to read as follows:

6.8 Personal Leave.

(a) **Annual Personal Leave.** Full time employees who are not in an initial training status will be given eight (8) hours of personal time at the beginning of the calendar year with pay. Personal leave will be given no later than the second payroll in the calendar year. Personal leave is subject to the schedule of the supervisor and should be used before December 1st of said calendar year. If personal leave is not used during the year, it shall be forfeited at the end of the year without any payment due to the employee. Personal time may be taken in one hour increments.

(b) **Bonus Personal Time.** Bonus personal time shall be rewarded to employees not using sick leave as prescribed by the following schedule:

<u>Hours of Sick Leave Used</u>	<u>Personal Hours Awarded</u>
0 - 3	24
3.5 - 8	16
8.5 - 16	8
16.5 or more	0

*To qualify for bonus personal time, an employee must have been employed by the City for the entire calendar year. Bonus personal time will be awarded no later than the fourth pay period of the calendar year and must be used prior to the end of the calendar year that it is awarded or it shall be cancelled without any payment due to the employee. Bonus personal time may be taken in 1 hour increments.

*To qualify for bonus personal time, an employee must have been employed by the City for the entire calendar year. Bonus personal time will be awarded no later than the fourth pay period of the calendar year and should be used by December 1st of said calendar year. Bonus personal leave must be used prior to the end of the calendar year that it is awarded or it shall be cancelled without any payment due to the employee. Bonus personal time may be taken in 1 hour increments.

(c) **Pay at Termination.** Employees shall receive payment for unused personal leave upon termination as stated in Section 4.13.

Section 7.5 of the Personnel Manual is hereby amended to read as follows:

7.5 Disciplinary Actions. The form of discipline is determined on a case-by-case basis and depends entirely upon the facts and circumstances of each situation. The City is not obligated to use increasingly severe means of discipline with individual employees, but is free, at and within its sole discretion, to impose the discipline it deems necessary.

The City may, in its sole discretion, take other, more-stringent disciplinary actions if it believes such action is appropriate and necessary. Under certain circumstances, the City Manager, Department Head or supervisor may determine the misconduct is so severe that termination is warranted. On all occasions, and at the discretion of the City Manager, Department Head or supervisor, the following forms of disciplinary action may be taken:

- (a) **Verbal Warning.** A verbal warning is a verbal reprimand given to an employee by his/her supervisor or Department Head. A record of the warning shall be recorded in the employee's file.
- (b) **Written Reprimand.** A written reprimand is a written notice to an employee by his/her supervisor or Department Head, a copy of which shall be recorded in the employee's file.
- (c) **Re-Training.** Re-training is a trial period of a specific length of time during which an employee is required to fulfill a set of conditions, to improve work performance, or to improve on-the-job behavior or adherence to City policies. Failure to meet the re-training requirements may result in additional disciplinary actions, up to and including termination.
- (d) **Salary Reduction.** A salary reduction is the lowering of an employee's rate of pay within the pay range to which the employee's position is assigned.
- (e) **Demotion.** A demotion is the placement of an employee into a position of a lower pay range.
- (f) **Suspension.** A suspension is the removal of an employee from service, with or without pay, for a specific period of time.
- (g) **Reimbursement.** Payment from an employee or terminated employee who has been deemed responsible for equipment that was lost, stolen or damaged due to neglect or carelessness. Payment may be partial or total cost of replacement equipment.
- (h) **Termination.** Termination is the removal of an employee from City employment.

Section 8.4 of the Personnel Manual is hereby amended to read as follows:

8.4 Layoffs. Whenever a reduction in personnel becomes necessary due to a reduction in funds, work or similar reason, layoffs order will be based on the recommendation of the Department Head. In preparing a recommended order of layoff, the Department Head shall consider the lengths of service and the job performances of the employees involved. Employees with the classifications involved generally will be laid off in the following order: temporary employees, initial training employees, re-training employees, part-time employees and regular full time employees.

Employees selected for layoff shall be provided with a written notice at least fourteen (14) calendar days prior to the layoff.

Recall of employees shall be in the reverse order of layoff. Accordingly, the first persons to be laid-off will be the last persons re-hired. Employees will only be recalled to the department from which they were laid off. Employees laid off while in initial training or in re-training status have no rights to recall.

Chapter 15 of the Personnel Manual is hereby amended to read as follows:

CHAPTER 15 DISPUTE RESOLUTION

The City believes that open communication is essential to the maintenance of a productive work environment. The City realizes that, from time to time, problems, concerns or disputes may arise which, if left unresolved, will negatively impact the work environment. The purpose of the City's dispute procedure is to provide an outlet for those problems, concerns, or dispute that cannot be resolved informally with your supervisor. The presentation of a formal dispute does not affect the at-will nature of employment

with the City of Paola. All employees are employee's at-will, and may be terminated at any time, with or without cause, and with or without review pursuant to this procedure.

Limitations. The following limitations apply to the City's Dispute Procedure:

- (a) Eligibility. An employee, who wishes to take advantage of the dispute procedure, must be a regular full-time employee and must have successfully completed his or her initial training period.
- (b) Application. The policy or procedure of the City which directly affects the employee.

Dispute Procedure

Dispute must be filed following the procedure below, with the exception of harassments allegations defined in Section 2.6. Harassment allegations should be made through the procedures described in the City's Non-Harassment Policy Section 2.6 of the Employee Handbook.

(a) A dispute must be submitted in writing within five (5) business days following the event upon which the dispute is being made. Disputes shall be submitted to the Employee's immediate supervisor with a copy to the Human Resource Director. All disputes shall include:

1. A statement of all relevant facts upon which the dispute is based and a specific regulation or policy which the employee believes was violated.
2. The remedy or adjustment sought.
3. Disputes shall be signed by the employee and dated as of the date of submission.

(b) The immediate supervisor shall forward the dispute along with his or her recommended resolution to the department head within five (5) business days of receipt. The immediate supervisor's recommended resolution shall include confirmation or denial of each factual allegation set out in the dispute, along with any recommended remedy or adjustment.

In the event that the dispute involves discrimination or retaliation by the immediate supervisor, or termination, demotion or suspension without pay, the employee may present the dispute directly to City Manager.

(c) The department head shall render a written decision on the dispute within five (5) business days following receipt of the immediate supervisor's recommended resolution. Copies of the department head's decision will be sent to the employee, the immediate supervisor involved and the Human Resource Director.

(d) If the employee is dissatisfied with the decision of the department head, he/she may submit his/her dispute, and the decision, to the City Manager for review. Requests for review must be submitted in writing within five (5) business days following receipt of the department head's decision. The City Manager shall render a written decision on the request within five (5) business days. The City Manager's decision shall be final and conclusive. Copies of the City Manager's decision will be sent to the employee, immediate supervisor, department head involved and the Human Resource Director.

Time Limits. A dispute not advanced to the subsequent step within the time limit provided shall be deemed permanently withdrawn, and as having been settled on the basis of the decision most recently given. Failure on the City's representatives to answer within the time limit set forth in any step will entitle the employee to proceed to the next step.

In the event that the City Manager is unavailable (vacation, illness, etc.) to respond to a dispute, the City Manager may appoint a designee to respond to the dispute or the City may, at its option, extend the time for responding to the dispute.

Limitation on Review. Details of dispute and investigations shall be kept as confidential as possible. No dispute shall be viewed or decided by any person outside the City.

Retaliation Prohibited. Retaliation in any form against an employee who has filed a dispute in good faith is prohibited and cause for disciplinary action pursuant to this Employee Handbook. No employment related decision shall be made in retaliation for filing a dispute in good faith.

Abeyance. If a dispute is filed with any other board, agency or court with concurrent jurisdiction concerning the subject matter of a dispute filed pursuant to this policy, the dispute may, at the City's option, be held in abeyance until such other board, agency or court has rendered its decision.

Definitions of the Personnel Manual is hereby amended to read as follows:

Definitions

Department Head: A person directly responsible for the administration of a City Department.

Household Member: Anyone residing in the same residence as the employee.

Human Resources Director: The person hired to fulfill the duties of the Personnel Director or Human Resources Director.

Immediate Family: Immediate family includes only the employee's parents, stepparents, spouse, children, sisters or brothers, grandparents, grandchildren, mother or father-in-law, and brothers or sisters-in-law.

Pay Grade: Range of pay according to an employee's level or rank in the classification plan.

Pay Range: A series of pay steps, from the entrance rate to the maximum of the range, identified by letters.

Position: A post of employment with assigned responsibilities and duties to be performed by one employee.

Initial Training Employee: An employee who is serving a minimum six-month training period.

Initial Training Period: A working test period during which an employee is required to demonstrate his/her fitness, for the position to which he/she has been employed, by actual performance of the duties of the position, and/or adherence of City/Department policies and/or on-the-job behavior.

Re-Training Employee: An employee who has previously served a minimum six-month training period but is under disciplinary action for a designated length of time.

Re-Training Period: A specified length of time working test period during which an employee is required to demonstrate his/her fitness, for the position to which he/she has been employed by actual performance of the duties of the position and/or adherence of City/Department policies and/or on-the job behavior.

Professional Supervisory Responsibility: An individual has "professional supervisory responsibility" for another individual if he or she performs functions including, but not limited to supervising, evaluating, hiring, coaching, counseling, recommending, advising or making decisions that confer benefits such as compensation, promotions or other remuneration or that may impact upon other employment opportunities.

Promotion: Increase in the duties and responsibilities of an employee such as to involve a higher grade; transfer of an employee to a position in a higher grade.

Relative: The employee's parent, stepparent, spouse, child, sister, brother, aunt, uncle, niece, nephew, grandparent, grandchild, mother or father-in-law, and brother or sister-in-law.

Reprimand: A form of disciplinary action designed not only to admonish or warn an employee, but also to lead, guide, direct, and instruct the employee in how to correct and avoid repeating a mistake, infraction, deficiency, or other problem.

Supervisory Personnel: A person reporting directly to a Department Head, and responsible for supervising one or more other employees.

Transfer: Change of duties from one position to another in the same grade.

Volunteer: A non-paid individual in the position he/she holds. When acting as a volunteer an individual is not an employee regardless of other city employment.

NOW THEREFORE BE IT RESOLVED by the governing Body of the City of Paola, Kansas that said Sections of the Personnel Manual be hereby amended and adopted as the official policy of the City of Paola, Kansas effective on November 14, 2018.

BE IT FURTHER RESOLVED that this Amended Personnel Manual is intended to and shall replace all previous versions, and that copies of said manual shall be available in the office of the City Clerk.

PASSED, APPROVED AND ADOPTED this 13th day of November, 2018.

Artie Stuterville, Mayor

ATTEST: [seal]

Daniel G. Droste, City Clerk