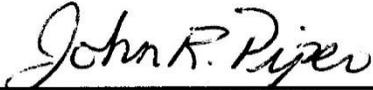




**WINCHESTER POLICE DEPARTMENT OPERATION ORDER**

**NOTE:** This policy is for internal use only, and does not enlarge an employee’s civil liability in any way. It should not be construed as the creation of a higher standard of safety or case in an evidentiary sense, with respect to third party claims. Violation of this policy, if proven, can only form the basis of a complaint by this Department, and then only in a non-judicial administrative setting.

|                                                                                                                        |  |                                                                                                                                |                                     |                                                                                                                                                                                                                                                                                                   |
|------------------------------------------------------------------------------------------------------------------------|--|--------------------------------------------------------------------------------------------------------------------------------|-------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Number<br><b>1-19</b>                                                                                                  |  | Effective Date<br><b>July 31, 2020</b>                                                                                         | Review Date<br><b>March 1, 2020</b> | Reviewing Division<br><b>Administration</b>                                                                                                                                                                                                                                                       |
| Subject<br><b>TERMINATION OF EMPLOYMENT</b>                                                                            |  | <input type="checkbox"/> New Policy<br><br><input checked="" type="checkbox"/> Amends<br><br><input type="checkbox"/> Replaces |                                     | This policy shall apply to personnel assigned to the following divisions:<br><br><input checked="" type="checkbox"/> All Personnel<br><br><input type="checkbox"/> Patrol Division<br><br><input type="checkbox"/> Administration Division<br><br><input type="checkbox"/> Investigation Division |
| References<br><br>VLEPSC: PER.09.02, PER.09.04                                                                         |  |                                                                                                                                |                                     |                                                                                                                                                                                                                                                                                                   |
| <br><hr/> Chief of Police or Designee |  | July 31, 2020<br><hr/> Date                                                                                                    |                                     |                                                                                                                                                                                                                                                                                                   |

**I. PURPOSE**

The purpose of this policy is to outline and establish procedures concerning termination of employment.

**II. POLICY**

Employees may be terminated during probation or with cause. There are instances that could occur in which the employee would be given an opportunity to involuntarily separate in lieu of termination. Therefore, this policy establishes procedures for the protection of the employee and the Department. This policy applies to all employees of the Department.

**III. DEFINITIONS**

A. Involuntary Separation

A separation from employment that is reported as a resignation, based on documented evidence of poor performance, and concluded by a signed, written agreement between the employee and the Department. Through the written document, the Department and the employee mutually agree to sever the employment relationship.

B. Termination for Cause

An involuntary separation from employment based on documented evidence of an employee's poor performance, misconduct, or charged or uncharged criminal

conduct, "Cause" refers to a violation of policy, a city or county ordinance, or state or federal law.

#### **IV. PROCEDURES**

##### **A. Involuntary Separation**

Involuntary separation can occur, with or without advance notice, in lieu of termination at the discretion of the Chief of Police.

##### **B. Termination of Probation**

1. The Department may terminate the employment of a probationary employee without either a right of appeal or grievance. Sworn officers serve a probationary period defined as one (1) year following the date they successfully complete the basic training academy. For non-sworn personnel, the probationary period is nine (9) months following hiring unless otherwise stipulated. For Emergency Communications personnel, the probationary period is nine (9) months following completion of the basic communications training.

2. The employee termination report shall state either "unsatisfactory performance during the probationary period" or "resignation".

##### **C. Termination for Cause**

1. Before terminating employment for cause, the employee shall be notified in writing of the basis for the termination. 2. Under no circumstances shall Department personnel respond to oral or written requests for information on employees who have been terminated for cause. To release any information, the Department must refer all requests to the Director of the City of Winchester Human Resources Department.

#### **V. MANDATORY REPORTING OF RESIGNATIONS OR TERMINATION**

##### **A. Compliance with State Employment Reporting Procedures**

1. 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 officers, reserve officers, part-time officers, and emergency communications specialists.

2. If the sworn officer or emergency communications specialist resigns or has his or her employment terminated for reasons that may subject the employee to decertification, the Department shall notify DCJS as required by law.

B. Decertification

1. According to Virginia Administrative Code 6VAC20-240-60, officers may be decertified under the following conditions:
  - a. The officer has been convicted of or has pled no contest to a felony or any offense that would be a felony if committed in Virginia;
  - b. The officer has failed to comply with or maintain compliance with mandated training requirements; or
  - c. The officer has refused to submit to a drug screening or produced a positive result on a drug screening reported to the employer, where the positive result cannot be explained to the Department's satisfaction.
  
2. According to Virginia Code 15.2-1708, the following procedures shall be observed in decertifying a sworn officer:
  - a. The Department must submit a written request to DCJS, signed by the Chief of Police, specifying that a reason for decertification exists. The letter must include sufficient documentation for the request and the results of any due process hearings. For matters involving criminal conviction defined in Virginia Code 15.2-1707, notification to DCJS must occur within 48 hours.
  - b. Within ten (10) days of receipt of the letter, DCJS, on behalf of the CJSB, shall send a letter to the affected officer and the Department, acknowledging the request for decertification. The letter shall also notify all parties of the available legal remedies.
  - c. If the affected officer does not request a hearing within thirty (30) days of receipt of the DCJS letter, DCJS, on behalf of the CJSB, shall prepare a notice of decertification which shall be mailed to the affected officer and the Department.
  - d. If the affected officer requests a hearing, the CJSB shall set a date, time, and location for the hearing and shall notify the affected officer and the Department. The hearing shall be conducted within sixty (60) days of receipt of the hearing request.
  - e. Upon completion of the hearing, the chairman and CJSB executive committee, shall report to the CJSB, which shall then make a final determination concerning decertification within thirty (30) days after the hearing.
  - f. The DCJS shall send to the affected officer and the Department written notification of the final decision of the CJSB by certified mail.