

ARTICLE II. PERSONNEL MANAGEMENT SYSTEM

DIVISION 1. GENERALLY

Sec. 22-19. General policy.

Section 4.04 (b)(1) of the Charter provides that the Mayor shall establish written personnel rules and regulations so that appointments and promotion of employees within specified classifications shall be made solely on the basis of merit and fitness demonstrated by examinations or other evidence of competence. The Mayor is authorized to include, in the personal rules and regulations, among other conditions, conditions that address:

- (1) Employment and promotion in the City government based on merit and fitness, free of personal and political consideration and, in no way, influenced by race, religion, creed, color, ancestry, sex, sexual orientation, gender identity and expression, marital status, age, disability or national origin.
- (2) Just and equitable incentives and conditions of employment shall be established and maintained to promote efficiency and economy in the operation of the City government.
- (3) A system to provide the means to recruit, select, develop, and maintain an effective and responsive work force, and to provide plans for employee hiring and advancement, training and skill development, job classification, salary administration, retirement, fringe benefits, discipline, dismissal and other related activities.
- (4) A system by which employees covered by the personnel management system are subject to satisfactory work performance, necessity for performance of work and the availability of funds.

(Code 1973, § 22-131; Code 1992, § 22-26; Ord. No. 368-H, § 2, 5-2-2019)

Sec. 22-20. Classified and exempt status.

All employees of the City shall be designated in either classified or exempt status, as defined in the personnel rules and regulations promulgated by the Mayor pursuant to the Charter. However, the personnel rules and regulations shall not apply to elected officials who shall be deemed to be exempt employees but whose conduct shall be governed by the Charter, ordinances authorized for this purpose by the Charter or State law, and by State law.

(Code 1973, § 22-132; Code 1992, § 22-27)

Sec. 22-21. Organization; Mayor; rules and regulations.

- (a) Pursuant to the authority granted in the Charter and only to the extent granted thereunder, the Mayor shall be in charge of the administrative offices of the City and in charge of the organizational structure of the employee organization and the employees within that structure.
- (b) The Mayor shall be responsible for the development of the personnel rules and regulation pursuant to the Charter. The Mayor shall install, implement and be responsible for the administration and management of a personnel management system conforming to the personal rules and regulations.

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- (c) In furtherance of the Charter requirement that appointments and promotions shall be made solely on the basis of merit and fitness demonstrated by examinations or other evidence of competence, the Mayor is encouraged to include within the personnel rules and regulations specific policies and procedures to govern the following phases of the personnel system:
- (1) Announcement of employment vacancies and the acceptance of applications for employment.
 - (2) Preparation and administration of examination.
 - (3) Establishment and use of eligibility lists.
 - (4) Certification of employment of persons from employment eligibility lists to fill vacancies.
 - (5) Employee performance evaluation system.
 - (6) Establishment of a probationary period prior to appointment as a classified employee.
 - (7) Administration of a classification plan.
 - (8) Administration of pay plan.
 - (9) Establishment of promotional policies.
 - (10) Establishment of hours of work, holidays, annual leave, attendance and leave regulations and procedures.
 - (11) Development of safety and training programs.
 - (12) Outside employment of municipal employees.
 - (13) Relations with employee organizations.
 - (14) Reinstatement and rehiring of former employees.
 - (15) Separation from employment of employees by resignation, suspension, dismissal, layoff, and/or incapacity to perform required duties.
 - (16) Establishment of a grievance procedure for classified employees.
 - (17) Such other matters as may be necessary to carry out the intent and purpose of this article.
- (d) Amendments, changes or revisions of the personnel rules and regulations shall be promulgated by the Mayor. Upon enactment, any amendments, changes or revisions shall be forwarded to the City Clerk, City Council, all City departments and others, as appropriate, and be filed with the POD.

(Code 1973, § 22-136; Code 1992, § 22-31)

Sec. 22-22. Civil service board.

- (a) *Board created.* A Civil Service Board (the Board) is created by the Charter. The purpose of the Board is to provide classified employees with an economical and less formal opportunity to have certain discipline reviewed by a board of lay persons. The Board will also hear complaints and make recommendations to the final decisionmaker related to the Whistle-blower's Act and Article II, Division 2 of this Chapter.

The board is a fact finding body that determines whether or not just cause existed with respect to the charges brought by management which resulted in certain disciplinary actions. A classified employee is not required to have an attorney to appear before the Board.

- (b) *Employee rights.* The City will make a reasonable effort to advise a classified employee of his/her rights under this section, identifying the time limitation by which a written grievance must be filed with the civil service board's secretary.

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- (c) *Composition of board and terms of office.*
- (1) The board shall be composed of five regular and three alternate members.
 - (2) The regular and alternate members of the Board shall be residents of the City and be appointed by the City Council to serve overlapping terms of three years.
 - (3) Alternate members shall serve in the absence of any of the regular members.
 - (4) Members of the Board may only be removed during their term by the City Council for cause.
 - (5) Vacancies on the Board, from whatever cause, shall be filled by appointment by the City Council for the unexpired term.
 - (6) No person shall be appointed to the Board who holds any salaried office or employment in the City government nor shall any member be eligible for employment with the City while serving on the Board.
- (d) *Appropriations to enable administration.* Adequate annual appropriations shall be made to enable the Board to effectively administer the provisions of this section.
- (e) *Officers.*
- (1) The Board shall have a Chairperson and Vice Chairperson who shall be regular members of the Board.
 - (2) The Chairperson and Vice-Chairperson shall be elected for one year terms commencing on July 1st of each year who shall serve until a successor is elected. All regular and alternate members present for such election may vote.
 - (3) The Chairperson and Vice-Chairperson shall be nominated and elected by ballot with voting to continue until a majority has agreed.
 - (4) The Chairperson and Vice-Chairperson may serve in each capacity for three consecutive terms only.
 - (5) In the absence of the Chairperson, the Vice-Chairperson shall act as Chairperson.
 - (6) In the absence of the Chairperson and Vice-Chairperson, a chairperson pro-tem shall be elected by the members present to act as Chairperson.
- (f) *Secretary to the civil service board.*
- (1) The City's Human Resources Director (or the Director of a similar City department designated by the Mayor to fulfill the administrative duties of this section) or his/her designee shall serve as the Secretary to the Board. Any reference to the Secretary shall include the Secretary's designee.
 - (2) The Secretary shall determine whether a grievance or issue is timely filed and is within the power and authority of the Board to review, as is established by this section of the Code.
 - a. If the grievance is within the power or authority of the Board and is timely filed, the Secretary will contact all regular members of the Board to schedule a hearing. If a sufficient number of regular board members are not available, alternate board members will be contacted.
 - b. If the grievance is not within the power or authority of the Board or if the grievance is not timely filed, the Secretary will so notify the grievant and no hearing will be scheduled or held.
 - (3) The secretary shall attend all meetings and hearings of the Board and record its official actions in the minutes.
 - (4) The Secretary shall notify all members of the Board, including regular members and alternate members, of all hearing/meeting dates.
 - (5) The Secretary shall provide all members of the Board, including regular members and alternate members, with copies of all correspondence.

(g) *Quorum and voting.*

- (1) A minimum of three members must be present for a quorum.
- (2) A majority of members present and voting must agree for any vote to be effective, except for tie votes as noted in subsection (j) of this section.
- (3) Absent regular members shall be temporarily replaced by alternate members. When seated, alternates shall have all voting powers exercised by regular members.

(h) *Minutes.*

- (1) The official minutes shall, at a minimum, consist of:
 - a. The time and place of each meeting or hearing of the Board;
 - b. Names of the board members present;
 - c. A record of all official acts of the Board;
 - d. The votes of each board member unless the vote is unanimous, which shall be recorded as such;
 - e. When requested, a board member's dissent along with his/her reasons for the dissension.
- (2) The minutes, or a true copy thereof, shall be made available for public inspection.
- (3) The minutes and files of the Board shall be maintained by the Secretary.

(i) *Meetings.*

- (1) The Board shall determine the frequency, day, and place of its meetings in order to best carry out the powers and duties entrusted to it by the Code.
- (2) Meetings will be used to conduct the administrative affairs of the Board, elect the Chairperson and Vice-Chairperson, receive any informational or educational matters, and handle any other business that falls within the purview of the Board including the holding of hearings provided by this section.
- (3) Meetings of the Board are open to the public.
- (4) Notice of Board meetings shall be published in the manner required by law.

(j) *Hearings.*

- (1) The Board shall hear complaints related to the Whistle-Blower's Act pursuant to Chapter 22, Article II, Division 2 of this Code.
- (2) The Board shall also hear and review grievances submitted by classified employees resulting from disciplinary actions of demotion, dismissal, or suspension in excess of 15 calendar days.
- (3) In the event a grievance is timely filed, the Board will meet within a reasonable period of time and continue until both the grievant and the department have rested their respective cases and made their respective closing arguments. This shall not prevent the Board from continuing a hearing or conducting a hearing on more than one day.
- (4) The secretary shall record the hearing. Neither the City nor the Board shall be held responsible for a recording that is incomplete or inaudible. The Board shall have the authority to reject any request to make an audio or video recording of the hearing unless a nondisruptive recording device is used.
- (5) Should either party desire to have proceedings of the Board recorded by a court reporter, that party shall arrange for and bear the cost of such court reporter.
- (6) The board shall have the power to question witnesses and receive relevant evidence.

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- (7) The secretary shall administer the oath to all witnesses prior to a witness testifying.
 - (8) During the hearing, both the grievant and the department that administered the disciplinary decision shall have the right to be heard, be represented by persons of their choice who are authorized by law to represent them, and to present evidence and testimony to the Board.
 - (9) At the hearing, the technical rules of evidence shall not apply.
 - (10) It shall be the City's burden to demonstrate by a preponderance of the evidence that there was just cause for the charges of misconduct made by the City. Once the City has presented evidence sufficient to establish just cause for the charges, the grievant must demonstrate that there was not just cause for the charges.
 - (11) After the parties have made their closing arguments, the Board shall close the evidentiary phase of the hearing, deliberate, and issue a written order setting forth the Board's findings. The parties shall have no right to address the Board after the evidentiary phase of the hearing is closed; however, the Board may ask questions of the attorneys/representatives if they deem it necessary, but shall ensure that both sides have an opportunity to answer the questions.
 - (12) In the event of a tie vote by the Board concerning whether just cause existed for a charge of misconduct, the City shall not have met its burden and the City's charge of misconduct shall not be deemed upheld.
 - (13) Within seven calendar days of the conclusion of the hearing, the Board shall forward its written order to the grievant, the department, and the Mayor.
 - (14) The Board shall not have the authority or power to award damages, costs and/or attorney's fees. The Board shall not have the authority or power to order that any particular action be taken except to reverse the discipline when, based upon the facts found by the Board, the Board has found that no just cause existed for the charges of misconduct brought by management which resulted in the discipline. The Board shall not have the authority or power to review the procedures used to impose the discipline.
 - (15) Evidence introduced shall be retained and the records and files shall be maintained by the Secretary as required by the F.S. ch. 119, and may be destroyed as allowed by law.
- (k) *Continuances of hearings.*
- (1) When either party requests a continuance of a hearing prior to the commencement of a hearing:
 - a. If both parties consent, the Secretary may approve the continuance; and
 - b. If either party objects, the Board shall schedule a meeting to promptly resolve the request. Both parties shall be permitted to be represented and to present argument on that issue at such meeting.
 - (2) If the hearing has commenced and either party requests a continuance, the Board shall resolve the request.
 - (3) If the grievant is the party requesting the continuance, the City's obligation (if any such legal obligation exists) to pay backpay shall end on the date of the originally scheduled hearing.
- (l) *Review of the Board's findings.*
- (1) With regard to all adverse employment actions being reviewed, the grievant shall have the right to have the decision of the Board reviewed in accordance with the law.

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- (2) With regard to the review of demotions or suspensions in excess of 15 calendar days, the decision of the Board shall be binding on the Mayor to implement within 15 calendar days after receiving the written order of the Board.
 - (3) With regard to the review of dismissals, the Mayor shall have the right to have the decision of the Board reviewed in accordance with the law.
- (m) Business meetings and hearings of the Board shall be governed by Robert's Rules of Order unless modified by the Board or otherwise specified by ordinance or by law.
- (Code 1973, § 22-135; Code 1992, § 22-30; Ord. No. 836-G, §§ 1, 2, 6-21-2007; Ord. No. 42-H, §§ 1—3, 9-6-2012; Ord. No. 474-H, §§ 3—5, 8-19-2021)

Sec. 22-23. Unlawful acts.

- (a) No person shall give, offer, or promise to any employee, or of an employee request, solicit, accept or agree to accept any pecuniary or other benefit not authorized by law in connection with past, present or future employment with the City.
- (b) No City employee, examiner, or other person shall defeat, deceive or obstruct any person in the right to examination eligibility, certification or appointment under policies and principles established by this article, or furnish to any person any special or confidential information for the purpose of affecting the rights or prospects of any person with respect to employment with the City.

(Code 1973, § 22-138; Code 1992, § 22-32)

Sec. 22-24. Penalties.

Any person determined to be in violation of this article shall be ineligible for employment with the City, and, if such person is an officer or employee of the City government, shall forfeit the office or position.

(Code 1973, § 22-139; Code 1992, § 22-33)

Sec. 22-25. Cooperation with other governmental agencies.

The Mayor may cooperate with other governmental agencies charged with public personnel administration in conducting personnel tests, recruiting personnel, training personnel, establishing lists from which eligible applicants shall be certified for appointment and for the interchange of personnel.

(Code 1973, § 22-140(b); Code 1992, § 22-34)

Sec. 22-26. Code of ethics.

Pursuant to section 3.07 of the Charter, the code of ethics for public officers and employees set forth in F.S. ch. 112 shall apply to all elected and appointed officers and employees of the City. Additionally, section 22-23 shall be considered part of this code of ethics.

Secs. 22-27—22-49. Reserved.

DIVISION 2. WHISTLE-BLOWER PROTECTION

Sec. 22-50. Purpose and findings.

The City Council finds that it is in the best interests of the City of St. Petersburg to ensure that employees who have knowledge of unlawful activity, misfeasance or malfeasance by the City or its independent contractors report such knowledge to the appropriate authorities for investigation and corrective action. In order to encourage employees to report such information without fear of reprisal, it shall be the policy of the City to prohibit adverse action against an employee who has been properly designated as a whistle-blower for disclosing such information to an appropriate official or agency. Recognizing that the State of Florida has adopted the Whistle-blower's Act, F.S. §§ 112.3187 et seq., which provides for the adoption of local procedures for administrative enforcement, the City Council intends that this section be interpreted consistently with the Act, as it may be amended from time to time.

(Ord. No. 474-H, § 2, 8-19-2021)

Sec. 22-51. Definitions.

The following words, terms, and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adverse personnel action means the discharge, suspension, transfer or demotion of any employee or the withholding of bonuses, the reduction in salary or benefits, or any other adverse action taken against an employee within the terms and conditions of employment by the City.

City shall include all City of St. Petersburg, Florida departments, divisions, and offices.

Employee shall mean a person who performs services for, under the control and direction of, or contracts with, an agency or independent contractor for wages or other remuneration.

Independent contractor means a person, other than a federal, state, or local government entity, engaged in any business and who enters into a contract with the City.

Whistle-blower Official means the City Auditor or designee. For the purposes of this division, and pursuant to state law, the City Auditor shall be the designated appropriate local official.

All other words or terms used in this section shall have the same meaning as such words and terms have under the state Whistle-blower's Act.

(Ord. No. 474-H, § 2, 8-19-2021)

Sec. 22-52. Actions prohibited.

- (a) The City shall not dismiss, discipline, or take any other adverse personnel action against an employee for disclosing information pursuant to the provisions of this division.
- (b) The City shall not take any adverse action that affects the rights or interests of an employee in retaliation for the employee's disclosure of information under this division.
- (c) The provisions of this division shall not be applicable when an employee discloses information known by the employee to be false.

(Ord. No. 474-H, § 2, 8-19-2021)

Sec. 22-53. Disclosure of information.

- (a) The information disclosed under this division must include:
- (1) Any violation or suspected violation of any federal, state, or local law, rule or regulation committed by an employee or agent of the City or independent contractor which creates and presents a substantial and specific danger to the public's health, safety, or welfare; or
 - (2) Any act or suspected act of gross mismanagement, malfeasance, misfeasance, gross waste of public funds, or gross neglect of duty committed by an employee or agent of the City or an independent contractor.
- (b) *Confidentiality of individuals disclosing information.* The City intends for the protections of state law to be afforded to any individual who discloses information in compliance with this division to the Whistle-Blower Official. The identity of such individuals shall be confidential and exempt from the provisions of the public records laws to the fullest extent permitted by, and in accordance with, law including, but not limited to, the confidentiality requirements and exemptions set forth in F.S. §§ 119.0713 and 112.3188. The name and identity of the designated whistle-blower shall remain confidential unless the whistle-blower waives this confidentiality. The Whistle-Blower Official shall establish procedures to safeguard the identities of designated whistle-blowers.
- (c) *Investigation by Whistle-Blower Official.*
- (1) The information disclosed in writing under this section must be disclosed to the Whistle-Blower Official. An employee who discloses such information and is officially designated as a whistle-blower, pursuant to F.S. § 112.3187 and 112.3189 as amended, shall be entitled to the full protection of this division and to the remedies and awards it provides.
 - (2) Upon receipt of the written complaint, the Whistle-Blower Official shall determine whether the employee is a whistle-blower pursuant to F.S. § 112.3189, as amended.
 - (3) The Whistle-Blower Official shall establish an investigative plan considering the factors found in F.S. § 112.3189, as amended. The information may be forwarded to the State Attorney's Office, the appropriate human resources personnel, an ethics commission, if applicable, or any other appropriate agency. Prior to forwarding the information, the name and identity of the whistle-blower shall be redacted.
 - (4) When the investigation is complete and the complaint deemed compliant with state law and this division, the report shall be forwarded to the complainant who shall be officially designated as a whistle-blower for any comments. The report is then a public record, but the identity of the whistle-blower shall always remain confidential, per F.S. § 112.3188.
 - (5) If the Whistle-Blower Official does not designate a complainant as a whistle-blower, copies of all documents shall be returned to the complainant with a statement as to why the complainant was not so designated and with an explanation that the complainant is not designated as a whistle-blower and cannot rely on the provisions of this division.

(Ord. No. 474-H, § 2, 8-19-2021)

Sec. 22-54. Employees and persons protected.

- (a) This division protects employees and persons designated official whistle-blowers, who disclose information on their own initiative in a written and signed complaint; who are requested to participate in an investigation, hearing or other inquiry conducted by the City, or by any state agency or federal government

entity having the authority to investigate, police, manage, or otherwise remedy the violation or act; who refuse to participate in any adverse action prohibited by this division; or who are otherwise protected by the Whistle-Blower's Act. The provisions of this division may not be used by persons while they are under the care, custody or control of the state or county correctional system, or after their release from the care, custody or control of the state or county correctional system, with respect to circumstances that occurred during any period of incarceration.

- (b) No remedy or other protection under this division applies to any person who has committed or intentionally participated in committing a violation or suspected violation for which protection under this section is being sought.
- (c) An employee who provides false information pursuant to this section may be investigated and prosecuted pursuant to state law, including, but not limited to, F.S. §§ 837.06, False Official Statements; 838.022, Official Misconduct, 837.05, False Reports.
- (d) It shall be an affirmative defense to any complaint brought pursuant to this division that the adverse personnel action was predicated upon grounds other than, and would have been taken absent, the employee's exercise of rights protected by this division.

(Ord. No. 474-H, § 2, 8-19-2021)

Sec. 22-55. Hearings, remedies, and relief.

- (a) If a disclosure under this section results in alleged adverse personnel action by an employer the whistle-blower may file a written complaint within 60 days after the adverse personnel action prohibited by this division is alleged to have occurred. The complaint shall be filed with the Whistle-Blower Official who shall then acknowledge its receipt within five business days.
- (b) The Whistle-Blower Official shall forward the adverse personnel action complaint to the Civil Service Board to determine whether any retaliatory action has taken place. The Civil Service Board shall make findings of fact, conclusions of law and recommendations.
- (c) In the event a complaint is timely filed, the Board will meet within a reasonable period of time, conduct a hearing, and continue until both parties have rested their respective cases and made their respective closing arguments. This shall not prevent the Board from continuing a hearing or conducting a hearing on more than one day.
- (d) Within seven calendar days of the conclusion of the hearing, the Board shall forward its finding of facts, conclusion of law and recommendations to the Mayor for a final decision. Alternatively, if the complaint involves the Mayor's Office, the recommendations will be forwarded to City Council for final decision. A copy shall be forwarded to the whistle-blower who placed the complaint and the department about which the complaint was made, if applicable.
- (e) The Board shall not have the authority or power to award damages, costs and/or attorney's fees. In any case brought under this division the recommendations must consider all relief pursuant to F.S. § 112.3187(9).
- (f) Within 180 days after the entry of a final decision and after exhausting all available contractual or administrative remedies, the employee who filed the complaint may bring a civil action in any court of competent jurisdiction.
- (g) This division shall not be construed to diminish the rights, privileges, or remedies of any employee under any other law or rule or under any collective bargaining agreement that may exist.

(Ord. No. 474-H, § 2, 8-19-2021)

Sec. 22-56. Outreach to employees and mandatory training.

The Human Resources Department or designee may provide training regarding this division as part of the initial City orientation to all new City employees hired after the effective date of the ordinance from which this division is created. The Human Resources Department or designee shall also provide training regarding this section to all City employees from time to time.

(Ord. No. 474-H, § 2, 8-19-2021)

Secs. 22-57—22-79. Reserved.