

ERIE COUNTY WATER AUTHORITY
HR Policies/Procedures

Re:	TERMINATION AND SEVERANCE PAY POLICY	Policy No.:	12.0
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Application:	At-Will Employees	Adopted:	12/30/03
		Amended:	04/26/12
			04/30/20

POLICY

The Erie County Water Authority (the “Authority”) has adopted this policy, ensuring fairness and uniformity in the process by which an at-will employee ceases to be a part of the Authority’s workforce. The policy sets forth events leading to the employee’s termination or separation and the circumstances under which such an at-will employee would be entitled to severance pay.

The Authority intends for its employment termination/separation process to be as clear as possible so misunderstandings and distrust between the Authority and its at-will employees can be avoided. The Authority shall handle all cases of termination or separation in a manner dictated by applicable law and with sensitivity and professionalism. The Secretary of the Authority will be responsible for properly documenting the events leading to termination and/or separation.

PROCEDURE

Section 1: Scope

- (a) This policy is not applicable to any employee holding:
 - (1) A permanent civil service position and whose termination, separation, or removal is subject to Article 75 of the Civil Service Law or subject to the terms and conditions of a collective bargaining agreement; or
 - (2) A civil service position on a temporary, probationary or provisional basis.
- (b) This policy is limited to full-time salaried employees serving at the will of the Authority. An employee serves at the will of the Authority if the employee holds a job title:
 - (1) Classified by the Erie County Personnel Department as exempt;

- (2) Classified by the Erie County Personnel Department as non-competitive and denoted by an asterisk as confidential and policymaking on Appendix B of the Rules for the Classified Civil Service of the County of Erie; or
- (3) Pending jurisdictional classification by the Erie County Personnel Department.

(c) This policy shall be subject to the termination provisions contained in Policy No. 92.0, Employment Policy and Procedures.

Section 3. Terminology

(a) The term “separation” has a broad interpretation and means any circumstance by which an individual shall cease to be employed by the Authority. Separation may be voluntary or involuntary and may apply to an individual or group of individuals.

(b) The term “termination” has a narrower meaning and applies to an individual who ceases to be employed by the Authority. Termination may be voluntary or involuntary.

Section 4. Types of Separation.

(a) *Voluntary Termination:* A voluntary termination occurs when the employee initiates the separation. The following are examples of voluntary terminations:

- (1) Written or oral resignation initiated by the employee;
- (2) Absence from work for fifteen (15) consecutive workdays without notifying the employee’s supervisor;
- (3) Failure to report for work upon recall from any paid or unpaid leave of absence on a report date designated by the Authority;
- (4) Failure to return from an approved leave of absence at the expiration of the leave;
- (5) Retirement; or
- (6) Other such objective circumstance demonstrating the employee’s intent to cease employment with the Authority.

(b) *Involuntary Separation:* Involuntary separation occurs when the employee does not initiate the separation. The following are examples of involuntary terminations:

- (1) Layoffs due to lack of work or when the Authority reduces its workforce for economic or other reasons;

- (2) Release by the Authority of an employee, through no fault on the part of the employee under circumstances when the employee is unsuitable for, or incapable of, performing assigned work and no appropriate change of assignment is available;
- (3) Termination without cause;
- (4) Written or oral resignation first initiated by the Authority's Human Resource Department;
- (5) Discharge based on cause under circumstances when the employee who is suitable for, and capable of, performing the assigned work, but is terminated for such reasons including, but not limited to, inefficiency, absenteeism, work rules violations, insubordination, habitual carelessness or recklessness; falsification of records, theft, or any other inappropriate or prohibited conduct in the workplace; or
- (6) Separation due to the disability or death of the employee.

Section 5. Severance Eligibility

- (a) The Authority will not provide severance pay:
 - (1) To a seasonal, temporary, provisional or part-time employee;
 - (2) To an employee who has less than one year of continuous service with the Authority;
 - (3) When an employee voluntarily leaves under circumstances described in section 4, paragraph (a) of this policy;
 - (4) When an employee has been terminated for cause under circumstances described in section 4, paragraph (b), subparagraph (5) of this policy; or
 - (5) Upon the disability or death of the employee.
- (b) Subject to the provisions within section 6 of this policy, the Authority's Board of Commissioners may exercise discretion to grant severance pay under the following circumstances:
 - (1) When an employee is terminated without cause, as described in section 4, paragraph (b), subparagraph (3) of this policy; or
 - (2) When an employee resigns under circumstances described in section 4, paragraph (b), subparagraph (4) of this policy.

(c) Subject to the provisions within section 6 of this policy, the Authority shall provide severance pay under the following circumstances:

- (1) When an employee has been laid off under circumstances described in section 4, paragraph (b), subparagraph (1) of this policy, or
- (2) When an employee has been released without fault under circumstances described section 4, paragraph (b), subparagraph (2) of this policy.

Section 6. Severance Payments

(a) The Authority will provide severance pay under circumstances described in paragraphs (b) and (c) of section 5 of this policy.

(b) Employees having at least one year of continuous service with the Authority will be eligible for two weeks of severance pay for every year of service, in an amount not to exceed twelve weeks.

(c) *General Release*

- (1) Before an employee is eligible for severance pay, the employee must sign a general release, releasing the Authority from any and all liability, claims (known and unknown, existing and contingent), demands, actions, causes of action, suits, grievances, debts, sums of money, controversies, agreements, promises, damages, costs, expenses, interest, attorneys' fees, and remedies of any type, by reason of any matter, cause, act or omission occurring on or before the employee's separation of employment with the Authority;
- (2) The general release must be in a form acceptable to the Authority's General Counsel and shall release the Authority of all liability permitted under law.
- (3) If an employee refuses to sign a general release, in a form approved by the General Counsel and as otherwise permitted under law, the employee shall not be entitled to any severance payment.

(d) Severance shall be based on the weekly gross income of the employee at the time of separation subject to applicable statutory deductions including, but not limited to, federal, state and FICA withholdings.