

## RELEVANT LINKS:

[Separation Checklist](#)

See Minnesota A.G. Op. 359-A-20  
(Aug. 17, 1983).

## II. RESIGNATION

Overview: This section of the manual discusses several types of resignations and some key considerations associated with each of them. It also discusses steps the city should take in case of the death of an employee. For a more detailed listing of items the city should consider in any type of separation from employment, see the “Separation Checklists” section in this chapter.

### A. Accepting / Documenting a Resignation

Unless a specific statutory or charter requirement specifies otherwise, an employee’s resignation takes effect as soon as it reaches the appointing authority. The employee may not later withdraw the resignation unless the city agrees to allow her to do so. A supervisor of a city employee may accept a resignation of an employee he supervises without further action of the city council. It is a good practice, however, to have the city council confirm the decision in cities where only the city council has the authority to hire and fire employees.

### B. Resignation in Good Standing

It is common for cities to have a resignation or termination policy stating that employees must provide a written resignation and a certain period of notice (e.g., two weeks, one month) in order to leave the city in good standing. By not providing a notice in accordance with city policy, the employee may forfeit certain benefits. For example, accrued vacation or sick leave hours might not be paid out or the employee’s personnel file might be noted so that the city would not likely rehire the individual, etc.

### C. Resignation in Lieu of Discharge

In certain situations, a city may provide an employee who would otherwise be terminated with the opportunity to resign his or her position with the city.

The key advantage of a resignation is that the Minnesota Government Data Practices Act protects most of the information surrounding a **resignation** as private data (not available to the public). Much of the information related to a **discharge** or an involuntary termination, however, is available to the public, and, therefore, available to any potential future employer. This makes it logical to assume that an employee who has been discharged from a position would have a harder time finding another job than an employee who has resigned from a position.

Some of the reasons that a city might offer “resignation in lieu of discharge” include:

## RELEVANT LINKS:

- The city and the employee don't really have a bad relationship, but the requirements of the position and the skills and abilities of the employee are not a good match.
- The employee has been a solid employee but has done something for which the city's policy indicates he or she must be terminated from employment.
- The city wishes to negotiate a termination agreement with the employee.
- Performance indicates that the employee should be terminated, but the city does not wish to leave future employers with the impression that the discharge was for reasons of misconduct.

## **D. Constructive Discharge**

A constructive discharge is a situation in which an employer knowingly permitted conditions in the workplace that are so intolerable a reasonable person subject to them would resign.

Situations resulting in a charge of constructive discharge may come about in a variety of ways. One example occurs when an employee experiences harassment, whether general or sexual, in the workplace. The employee may or may not have reported said harassment to anyone, but believes that the city knew or should have known about these events. The employee alleges that the city has done little or nothing to address this situation. The city's inaction allows the harassment to continue resulting in an intolerable work environment and the employee resigns.

## **E. Death of an Employee**

### **1. Notifying Coworkers**

Notifying employees of the death of a co-worker can be one of the toughest jobs an employer ever has to do. While it is important that employees be notified promptly, it is also important that whomever provides the information carefully plans what to say.

It is likely that employees who worked with the deceased will be unable to complete their work the day of the announcement. As much as possible, this reaction should be anticipated and arrangements should be made to allow those who need time off to receive it. Management will need to make decisions about how any time off will be counted and compensated.

### **2. Appoint a Contact Person / Spokesperson**

Tragedy in the workplace creates a great deal of emotion and confusion. Appointing a contact person is a good idea. Coworkers are likely to have a number of questions. Having all information come from one source reduces confusion because all coworkers will receive the same information. The grieving family is likely to have information that they need to get to the city as well as many questions about benefits, etc. Having one point of contact will ease their burden at this time.

## RELEVANT LINKS:

### 3. Assisting Employees

If an employee assistance program is available, the city should be sure to mention it to employees in the days following their co-worker's death. Because co-workers may have known the deceased on a personal level, their grief may affect behavior and work performance. In the event that an employee assistance program is not available, some other form of counseling may be available through the city's group health insurance. If appropriate, the city may want to bring a grief counselor on-site for a few days.

In most situations, the employee will have personal belongings at work. It may be difficult for co-workers to see these items removed. Make arrangements for a member of the employee's family to collect those items after a respectable amount of time has passed. It is sometimes easiest for family members if the materials are boxed and ready to go ahead of time or if the city has arranged to have boxes and packing materials available for family members to use.

### 4. Services

It is important that those who desire to attend services held in honor of the deceased be allowed to do so. This may require that a city hall shut down for a morning or afternoon. Again, this should be anticipated and arrangements should be made to facilitate it. A spokesperson for the city should find out when the services will be held and what type of remembrances (flowers, charitable donations, funds for surviving dependents, etc.) are preferred by the family.

### 5. Process Checklist

#### a. First Steps if Death Occurs at Work

- Call 911.
- Call the person that the employee designated as an emergency contact, if the information is available, or another known family member to advise of the employee's removal to hospital.
- Have a spokesperson travel to the hospital to meet family.
- Contact OSHA at 1-800-321-OSHA if death/accident is work-related.
- Notify employees/executives with most critical need to know first, including HR.
- Upon death, notify remaining employees indicating details will be forthcoming.
- Follow existing internal procedures regarding contact with the media as needed
- Be sensitive to family – ask them for the name of a contact person who can provide funeral details that can be shared with city staff once they are known, answer co-worker questions about the family's wishes, and arrange for benefits paperwork to be completed and processed when appropriate.
- Designate a city staff member to answer questions for employees in order to avoid numerous calls from employees trying to contact the family.

## RELEVANT LINKS:

**b. First Steps if Death Occurs Outside of Work**

- Notify employees/executives with most critical need to know first, including HR.
- Notify remaining employees indicating details will be forthcoming as available.
- Be sensitive to family – ask them for the name of a contact person who can provide funeral details that can be shared with city staff once they are known, answer co-worker questions about the family’s wishes, and arrange for benefits paperwork to be completed and processed when appropriate.
- Designate a city staff member to answer questions for employees to avoid numerous calls from employees trying to contact the family.
- Follow existing internal procedures regarding contact with the media as needed.

**c. Special Arrangements & Ongoing City Business**

- Notify customers/clients with direct relationship and reassign work, as appropriate.
- Arrange to intercept and redirect phone, voicemail, email, and mail communications.
- Plan for counseling for employees through EAP or local hospice, appropriate to the circumstances surrounding the death.
- Provide grieving employees with time off as needed (immediately if they witnessed the death) preferably on a paid basis.
- Begin termination processing following normal procedures (see “Wages and Benefits” section below).
- Have designated contact person keep track of all notes, flowers, etc., that arrive following the death so they can be responded to and collected for the family. Photographing flower arrangements received is an option when the family has suggested donations in lieu of flowers.

**d. Wages & Benefits**

It is easy to forget about an employee’s final paycheck at a time like this. Wages, vacation, sick leave, paid time off, etc., should be carefully calculated and included on the final paycheck. Human resources or another appropriate party should review the employee’s file to determine what benefits the employee had through the city and what needs to be done to cancel, continue or expedite a payout of benefits.

RELEVANT LINKS:

[Minnesota Statutes 299A.44](#)

[Separation Checklist](#)

[MN and COBRA Continuation Coverage](#)

- Determine final wages and process benefits.
- Schedule time to meet with beneficiaries if possible.
- Locate beneficiary designations for all benefits.
- Treat accrued but unused vacation, sick leave, paid time off, etc., in accordance with city policy.
- Be sure to review the actions that should be taken by the city as well as what the survivors/beneficiaries should do for all city-provided benefits. Such benefits may include (but are not necessarily limited to):
  - Life insurance (accidental death and dismemberment, if applicable).
  - Long-term care and long-term disability (may have survivor or refund-of-premium benefits).
  - Retirement – PERA, deferred compensation, other.
  - Workers’ compensation death benefits.
  - Special police death benefit payable by the Department of Public Safety.
  - Terminate health insurance according to policy as of date of death.
  - Handle COBRA paperwork for dependents.
  - Determine balance of health care flexible spending account – for health care expenses prior to date of death – notify family of procedure (including COBRA notice, if needed).

**e. Other Considerations**

- Follow normal termination checklist to ensure all equipment, keys, credit cards, etc., are returned and security issues are addressed.
- Arrange for packing and delivery of personal belongings – ask family how they want this handled; offer to do it for them if preferred. A close colleague or supervisor is the best choice if the family prefers not to be involved.
- Be aware that employees may have a hard time using the deceased employee’s desk or office – consider other uses for space, if possible.
- Keep in touch with family as appropriate, especially with regard to benefits issues.