

SECTION 36. DEMOTION

(As amended June 30, 2015)

36-1. Voluntary demotion.

- (a) A department director may demote an employee who requests a demotion or consents in writing to a demotion.
- (b) An employee may request or accept a voluntary demotion:
 - (1) to avoid termination in a RIF;
 - (2) to remain employed if the employee is unable to perform the essential functions of the employee's job because of a physical or mental impairment; or
 - (3) for other personal reasons.
- (c) A voluntary demotion must not adversely reflect on the employee's work record or affect the employee's opportunity for promotion to a position for which the employee is qualified.

36-2. Involuntary demotion.

- (a) A department director may involuntarily demote an employee if:
 - (1) the employee is not able to perform the duties assigned to the employee's position because of a physical or mental incapacity;
 - (2) the employee receives a less than satisfactory performance evaluation following a written warning, counseling, and at least 3 months opportunity to improve;
 - (3) the employee is not able to perform the duties assigned to the employee's position for a reason unrelated to a physical or mental incapacity, such as failing to maintain a license or certification that is required for the employee's position; or
 - (4) the demotion is for disciplinary reasons under Section 33 of these Regulations.
- (b) A department director must not demote an employee with a physical or mental disability under Section 36-2(a)(1) above unless efforts at reasonable accommodation within the employee's position as described in Section 8 of these Regulations are unsuccessful and the employee is not transferred to another position.

- (c) The director must give a written notice of the demotion to the employee at least 5 working days prior to the effective date of the demotion and must state in the notice:
 - (1) the reason for the demotion;
 - (2) the effective date; and
 - (3) if the employee may appeal the demotion and the time limit for filing an appeal.

36-3. Salary after a demotion. A department director must compensate an employee after a demotion as described in Section 10-5(d).

36-4. Appeal of involuntary demotion.

- (a) An employee with merit system status may appeal an involuntary demotion and the amount of the salary reduction associated with the demotion by filing a grievance under Section 34 of these Regulations or by filing a direct appeal with the MSPB under Section 35.
- (b) A temporary or probationary employee may appeal a disciplinary demotion and the salary reduction by filing a grievance under Section 34.