

COURT ORDER

ORDER NO. 2010 1153

16

DATE: July 13, 2010

STATE OF TEXAS §

COUNTY OF DALLAS §

BE IT REMEMBERED, at a regular meeting of the Commissioners' Court of Dallas County, Texas,

held on the 13th day of July, 2010 on motion made by John Wiley Price, Commissioner of District No. 3 and seconded by Kenneth A. Mayfield, Commissioner of District No. 4 the following Order was adopted:

WHEREAS, the Commissioners Court was briefed on May 25, 2010 regarding a recommendation made by Human Resources/Civil Service to develop a policy regarding leave of absence with pay for employee investigative purposes; the policy was sent out for a 30-day comment period and rebriefed on July 6, 2010; and

WHEREAS, the policy provides guidelines should an elected official/department head deem it necessary to conduct an administrative investigation of an employee suspected of an alleged violation of a county policy, or federal and/or state law, the elected official/department head may place the employee on a leave of absence with pay for investigative purposes; and

WHEREAS, the elected official/department head shall request a leave of absence with pay from commissioners court through the director of human resources; and

WHEREAS, the policy recommendation supports Vision 1, Strategy 1.5: Dallas County should maintain a strong, motivated workforce; it is necessary that a capable workforce be maintained which may require flexibility in application of policy guidelines.

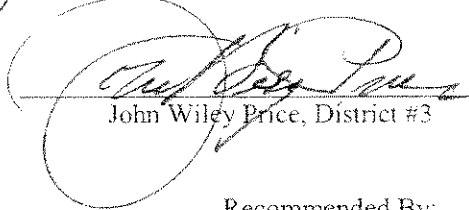
IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Dallas County Commissioners Court does hereby approve leave of absence with pay for employee investigative purposes policy as shown in the attachment and the incorporation of such policy into the Dallas County Code.

DONE IN OPEN COURT this the 13th day of July, 2010.

  
Jim Foster, County Judge

  
Maurine Dickey, District #1

  
Mike Cantrell, District #2

  
John Wiley Price, District #3

  
Kenneth A. Mayfield, District #4

Recommended By:   
Darryl Martin, Court Administrator

## Section – 86-978. Employee Investigations

### I. Administrative

- A. If an elected official/department head deems it necessary to conduct an administrative investigation of an employee suspected of an alleged violation of a county policy, or federal and/or state law, the elected official/department head may place the employee on a leave of absence with pay for investigative purposes. Such leave, however, is granted under strict guidelines which the department must comply. They include:
- (1) The employee's temporary removal from the workplace is necessary or in the best interest of the county;
  - (2) The outcome of the investigation may in all probability result in disciplinary action more severe than *a written warning*;
  - (3) The department has determined it is necessary to temporarily move the employee out of his/her current position and it is not feasible to allow the employee to temporarily work in another capacity within the department during the investigation; and
  - (4) The director of human resources concurs with the department's assessment of the situation and the director is not able to temporarily place the employee in *another* county department during the investigation.
- B. When these guidelines have been met, the elected official/department head shall request a leave of absence with pay from commissioners court through the director of human resources. This request must be submitted immediately upon making the decision to remove the employee from the workplace.
- C. If during the leave of absence with pay, but before the completion of the investigation, the elected official/department head determines the finding of a violation of county policy, federal and/or state law is *probable*, the elected official/department head may then place the employee on leave of absence without pay. Prior to taking such action, the department shall consult with the director of human resources.
- D. Reasons for Immediate Removal for Administrative Investigations. The County may immediately remove an employee from the workplace without prior notice when it is deemed to be in the best interest of the county and/or the employee. Immediate removal may occur if the employee's continued presence:
- (1) May be harmful to the employee and others;
  - (2) Creates a problem with an internal investigation;
  - (3) May hamper an investigation being conducted by law enforcement;
  - (4) May hamper the department's ability to do its job;
  - (5) May create negligence in regards to the county's duties to the public and/or other employees; and
  - (6) May involve an investigation for alleged criminal conduct that is related to the nature of the employee's ability to perform his/her assigned job responsibilities or to the county's mission.

*\*These are general guidelines and may not include all circumstances. Each instance will be reviewed on a case-by-case basis.*

### II. Alleged Criminal Conduct

- A. An elected official/department head may also immediately remove an employee from the workplace

without providing advance notification when the alleged criminal conduct impacts the employee's ability to do his/her job or represents a risk to the county.

- B. The process for placing such an employee on leave is the same as outlined under the Administrative Section (I). The department must immediately submit a request for a leave of absence with pay for investigative purposes to commissioners court through the human resources/civil service department.
- C. Regardless of the status of any criminal investigation *or legal action* in process, Dallas County may determine at any time to take disciplinary action against the employee under county policies, e.g., Standards of Conduct, up to and including termination. Such action is based on the facts or evidence of conduct that prompted the criminal investigation or legal action/process. Prior to taking such action, each elected official/department head shall review such action with the director of human resources and/or the civil section of the district attorney's office.

### **III. Conducting an Investigation**

With the numerous county policies and state/federal statutes related to employees, it is recommended that when a department begins an investigation of an employee that may result in disciplinary action being taken that is beyond a written warning, the department should contact the human resources/civil service department for assistance or go to the following website: (<http://www.dallascounty.org/department/HR/employeerelations.html>) to review the most recent general guidelines and procedures for conducting an investigation. Law enforcement personnel should consult their department's general orders, code of conduct, or other administrative document(s) related to rules/guidelines applicable to law enforcement personnel.

### **IV. Employee's Responsibility during an Investigation**

When an employee is being paid while on a leave of absence with pay for investigative purposes, the employee will:

- (1) Be available to the department during normal business hours or as designated by the department;
- (2) Be cooperative with the county during the investigation;
- (3) Maintain confidentiality as instructed; and
- (4) Not work another job during regularly assigned work hours as designated by the department. Law enforcement personnel may have additional restrictions regarding outside employment and should check with their department.