

# LAST CHANCE AGREEMENT

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The Parties to this Agreement are **Mr. Allen Poythress** and the **Richard L. Roudebush VA Medical Center, United States Department of Veterans Affairs**.

Mr. Allen Poythress has been employed as a Police Officer since January 25, 2015. On July 7, 2016, the Agency provided Mr. ALLEN POYTHRESS with a notice of proposed removal, in which the Agency proposed to remove Mr. ALLEN POYTHRESS from his position and from the Federal service. This proposal letter advised Mr. ALLEN POYTHRESS that the Agency proposed his removal on the basis of the failure to disclose information on his OF-306, and a pattern of unemployability. The July 7, 2016, notice also advised Mr. ALLEN POYTHRESS of his opportunity to respond to these charges. Mr. ALLEN POYTHRESS, who has been assisted by his union representatives from SEIU Local 551, fully availed himself of the opportunity to respond.

After carefully considering Mr. ALLEN POYTHRESS's response, the evidence supporting the charges, and the Douglas Factors, the deciding official, Dr. J. Brian Hancock, Director, sustained the proposed removal. Mr. ALLEN POYTHRESS and Mr. ALLEN POYTHRESS's union representative were notified of this decision and advised Mr. ALLEN POYTHRESS has a right to appeal this decision to a third party, including filing an appeal with the Merit Systems Protection Board (MSPB).

The Agency has agreed to offer Mr. ALLEN POYTHRESS one final opportunity to conform his conduct to the Agency's standards. Mr. ALLEN POYTHRESS has agreed to enter into this Last Chance Agreement, which he understands will provide him with the opportunity to retain his position but will require a knowing waiver of his right to appeal his removal should he violate this Last Chance Agreement.

The Agency and Mr. ALLEN POYTHRESS hereby mutually agree to the following terms and conditions of this Last Chance Agreement:

1. Provided that Mr. ALLEN POYTHRESS complies with each and every term of this Agreement, the Agency will hold the effective date of the decision to remove Mr. ALLEN POYTHRESS from Federal service in abeyance, for a period not to exceed one (1) year from the date of this Agreement.
2. If Mr. ALLEN POYTHRESS has satisfactorily complied with each and every term of this Agreement, the Agency will expunge the removal decision after one (1) year. This removal will occur automatically without further action on the part of the Agency. Until that date, the Agency will prepare an SF-52 for Mr. ALLEN POYTHRESS's removal. A copy of the SF-52 indicating removal, a copy of the removal, and a copy of this agreement will be placed on the temporary side of Mr. ALLEN POYTHRESS's Official Personnel Folder while this Agreement is in force. Once the terms of this Agreement are met, the Agency agrees to destroy the removal SF-52.
3. Mr. ALLEN POYTHRESS acknowledges his understanding that, prior to entering into this Agreement; he had the right to challenge his removal. His right to challenge his removal included, but was not limited to, the right of appeal to the MSPB, the right to pursue a grievance through the negotiated grievance procedure and to file a complaint of discrimination under the Equal Employment Opportunity Commission (EEOC).
4. Mr. ALLEN POYTHRESS agrees that the Agency possessed sufficient evidence supporting its removal action to lead the Agency's management to form a reasonable belief that the removal action would be sustained by any adjudicative body, including the MSPB.

5. Mr. ALLEN POYTHRESS affirms that he has not been subjected to duress or coerced into entering into this Agreement, and that his decision to enter into this Agreement is completely voluntary. Mr. ALLEN POYTHRESS also affirms that he fully understands the nature of the waivers contained in this Agreement.
6. If Mr. ALLEN POYTHRESS fails to comply with any term of this Agreement on even one occasion during the period of one (1) calendar year from the date of this Agreement, then the Agency may effect the previously proposed removal without prior notice. A decision by the Agency not to effect the removal on any occasion will not constitute a waiver of its right to enforce of this Agreement, and the Agency will be entitled to effect the proposed removal should Mr. ALLEN POYTHRESS fail to comply with the Agreement during the one-year period.
7. If Mr. ALLEN POYTHRESS commits any violation of MCM Number 05-01, "Absence and Leave" or any other act of misconduct warranting at least a written admonishment or during the period of one (1) calendar year from the date of this Agreement, then the Agency may effect the previously proposed removal.
8. Mr. ALLEN POYTHRESS hereby waives his right to challenge his removal in the event that the Agency effects the previously proposed removal, pursuant to Items 6 and 7 above. This waiver specifically includes, but is not limited to, a waiver of Mr. ALLEN POYTHRESS's right to appeal his removal to the MSPB, to pursue a grievance or arbitration under the collective bargaining agreement, to pursue any action or charge before the Federal Labor Relations Authority (FLRA) and to bring an action against the Agency, its employees or its agents in any forum and before any administrative or judicial body involving issues related to his removal.
9. Without prospectively waiving the right to file a claim of discrimination concerning future events, Mr. ALLEN POYTHRESS does hereby waive, forfeit and forever

discharge any right he may have to enter into a complaint, grievance or other action against the Agency, its employees or its agents in any forum and before any administrative or judicial body involving a claim of discrimination involving any issue(s) related to his employment about which he has knowledge or reason to have knowledge as of the date of this Agreement. (In particular, this waiver includes, but is not limited to, a knowing waiver of the right to file a formal complaint related to the proposed removal, the decision sustaining the removal, the negotiation over this Last Chance Agreement, and all other matters related to his employment.) In addition, Mr. ALLEN POYTHRESS hereby withdraws with prejudice any pending complaints of discrimination, any pending grievances, and all other actions of any sort against the Agency, its employees, or its agents.

10. The Parties agree that the Agency will not pay any damages, back-pay, attorney's fees, or other relief.
11. The Parties agree that this Agreement will not establish a precedent in any subsequent matter involving Complainant or any other employee except to the extent this Agreement is needed to implement the terms of this Agreement.
12. The Parties agree that this Agreement will be solely and exclusively enforceable under the jurisdiction of the MSPB. Mr. ALLEN POYTHRESS also specifically agrees to waive any right to a review of this Agreement, or the Agency's removal of Mr. ALLEN POYTHRESS pursuant to this Agreement, through the negotiated grievance procedure, by an arbitrator or by the FLRA.
13. Mr. ALLEN POYTHRESS affirms that he has read this entire Agreement, that he has consulted with an attorney or has freely decided not to consult with an attorney, that he has not been induced to enter into this Agreement by any promises or representations other than those expressly stated in this Agreement, that he

understands all terms of this Agreement, and that he has not been coerced into entering into this Agreement.

14. The Parties agree that there are no terms or conditions to this Agreement other than those terms and conditions expressly stated in writing herein. This Agreement may be modified only by a written agreement signed by Mr. ALLEN POYTHRESS and an authorized representative of the Agency.
15. If any section, paragraph, sentence, clause, phrase, or any part of this Agreement is declared void, or if for any reason is declared to be invalid or of no effect, the remaining sections, paragraphs, sentences, clauses, phrases, or parts thereof shall be in no manner affected thereby but shall remain in full force and effect.

**THE PARTIES TO THIS AGREEMENT HEREBY SIGNIFY THEIR VOLUNTARY,  
KNOWING AND UNCONDITIONAL ACCEPTANCE OF EACH AND EVERY TERM  
OF THIS AGREEMENT, WITHOUT RESERVATION, BY SIGNING THIS  
AGREEMENT ON THE FOLLOWING SIGNATURE LINES:**

\_\_\_\_\_  
**Allen Poythress**  
Police Officer

\_\_\_\_\_  
Date

  
\_\_\_\_\_  
J. Brian Hancock, M.D., FACEP, FACHE, VHA-CM  
Director  
Richard L. Roudebush VA Medical Center

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11/28/16  
Date