

**Personnel Rules and Regulations
for Caroline County, Maryland**

The Caroline County Personnel Rules and Regulations were originally completed in August 2000 with the assistance of Nan Booth and Victor Tervalá then of the

**Institute for Governmental Service
4511 Knox Road, Suite 205
College Park, Maryland 20740**

The Rules and Regulations have been amended from time to time, including this November 11, 2009 revision, by the County Commissioners of Caroline County, Maryland

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Chapter 1
The Caroline County Personnel System

Article 1. Creation

Section 1-101. Creation of These Rules and Regulations.

In furtherance of the provisions of Chapter 49 of the Code of Public Local Laws of Caroline County, Maryland, these Personnel Rules and Regulations, which constitute the Caroline County Personnel System, are hereby established.

Article 2. The Nature of the Personnel System

Section 1-201. No Property Interest or Contractual Rights Created by the System.

These Personnel Rules and Regulations do not create any property interest in County employment or continued County employment. They do not create any contractual rights and are not intended to be contractual in nature. They establish procedures and guidelines pursuant to which the County and its Employees can be expected to interact, subject to amendment or modification at the sole option and discretion of the County Commissioners. Nothing in these Personnel Rules and Regulations shall prohibit the County Commissioners and/or the Office of Human Resources from instituting processes, forms, procedures, and/or administrative directives to implement or carry out these Personnel Rules and Regulations. Nothing in these Personnel Rules and Regulations shall be interpreted to limit in any way the power and authority of the County Commissioners by motion or resolution, to adjust rates of pay, work schedules, days and hours of employment, methods of scheduling work hours, methods of determining overtime eligibility, or otherwise manage, change, or alter any term or condition of employment, all of which power and authority rests in and may be exercised by the County Commissioners, in their discretion, to meet the County's obligation to operate under law within a balanced budget.

Section 1-202. No Right to Continued Employment.

- A. These Rules and Regulations do not create a continued right to employment.
- B. Employees may be dismissed without cause and at the discretion of the County Commissioners and the County Administrator whenever there are insufficient funds to cover all of the County positions currently filled. When positions are being eliminated for fiscal reasons, no special consideration need be given to Employees on the basis of tenure or years of service with the County.¹

¹ Pursuant to the Age Discrimination and Employment Act, a senior Employee with a good performance record may not be eliminated in favor of a junior Employee merely because the senior Employee is paid more. See Section 12-104, *infra*.

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- C. The County Administrator may recommend a restructuring or reorganization of departments, agencies, and working units, and may recommend the reallocation or elimination of position functions, and the County Commissioners may restructure or reorganize departments, agencies and working units, reallocate or eliminate position functions, and may eliminate positions that are no longer deemed necessary to delivering any service or work product of the County at any time and at their sole discretion and pleasure. (*See* Section 12-104).

Section 1-203. Freedom to Amend Rules and Regulations at Any Time.

Employer reserves the right to amend, supplement, rescind or otherwise revise any and every provision of these Rules and Regulations, in whole or in part, at any time.

Article 3. Construction of Provisions

Section 1-301. Definitions.

- A. “Anniversary date” means the month and the day an Employee was hired.
- B. “At-Will Employee” shall mean and include those At-Will Employees who serve at the pleasure of the County Commissioners. (*See* Section 2-102). At-Will Employees also are exempt from the overtime pay provisions of the Fair Labor Standards Act (“FLSA”). (*See* 29 U.S.C § 213 and 29 C.F.R Part 541).
- C. “Class” shall mean and refer to the Employee or Employees who are described by and work within a Class Specification.
- D. “Classified Employee” is a Full-Time Employee or a Part-Time Employee who has successfully completed any applicable probation period (*see* Chapter 7) and may only be fired for cause. (*See* Section 2-104). If a Classified Employee also is exempt from the overtime pay provisions of the Fair Labor Standards Act, the Class Specification for such Employee’s position shall so state.
- E. “Class Specification” shall mean and refer to the document that describes the minimum qualifications and the duties and responsibilities of each position in the County’s Compensation Plan. The Class Specification shall state whether the position is At-Will, in the Classified Service, or has some other designation and, if a person filling the position is an FLSA-Exempt Employee (*i.e.*, is exempt from the overtime pay provisions of the Fair Labor Standards Act) or is a Non-FLSA Exempt Employee (*i.e.*, is entitled to overtime pay for overtime hours worked) (*see* Section 13-102).
- F. “Classified Service” consists of all of the positions filled by Classified Employees. (*See* Section 2-104).

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- G. “Compensation Plan” means the plan prepared pursuant to Chapter 13 of these Personnel Rules and Regulations that determines the grade/level and steps (*i.e.*, the range of pay) for each Class Specification within the Personnel System.
- H. “Contractual Employee” means an Employee hired under a written contract that establishes the terms of employment and is signed by the Employee and the Personnel Administrator with the consent of the County Commissioners. (*See* Section 2-105).
- I. “County Commissioners” means the County Commissioners of Caroline County, Maryland, a body corporate and politic and a political subdivision of the State of Maryland. In these Personnel Rules and Regulations, “County Commissioners,” “County,” and “Employer” may be used interchangeably.
- J. “County” means the “County Commissioners” or the “Employer.”
- K. “Department Head” means the person who is responsible for the overall management and administration of a County department or agency and who reports to no one other than the County Administrator or the County Commissioners.
- L. “Employee” means a person hired to serve the Employer in an employment relationship. Such term excludes persons appointed to serve on a County board, commission, task force or special committee, in such capacity, independent contractors, and similar arrangements. Employees in the Sheriff’s Office, the Office of the State’s Attorney, the Circuit Court, or any other agency or unit of State government are not Employees of Employer and are not included within the meaning of the term “Employee” as defined in this subsection.
- M. “Employer” means the “County Commissioners” or the “County.”
- N. “Equipment” shall mean and refer to any personal property that is owned, purchased, leased or borrowed by the County and used for County business including, but not limited to, any analog, digital or electronic communication systems, cellular phones, computer equipment, electronic mail (e-mail), the internet, the telephone system, intellectual property, and electronic and digitized information and systems.
- O. “Essential Employee” means an Employee who fills a position that is fundamental to the public service mission in the following departments: Emergency Management, Public Works, Emergency Medical Services, and Corrections. (*See* Section 4-104.B).
- P. “Exempt Employee” shall mean an Employee who is paid a salary and who, pursuant to the Fair Labor Standards Act (“FLSA”) including the exemptions for executive, administrative, professional, computer/technological employees, and other exempt

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classes of employees has been determined to be exempt from the overtime pay requirements of the FLSA and, therefore, is not entitled to overtime pay or compensatory time off.

- Q. “Full-Time Employee” means an Employee who is regularly scheduled to work at least 40 hours each week, or other such other schedule permitted to be treated as a comparable, normal full-time work period under the FLSA.
- R. “Furlough” means when an Employee is placed on leave without pay for budgetary reasons pursuant to Section 8-113 of these Personnel Rules and Regulations.
- S. “Liberal Leave Policy” means a policy allowing Employees who are not designated as Essential Employees to report for work within one hour after their normal arrival time or, if they have accumulated unused vacation or personnel leave, to take vacation or personal leave without pre-approval or prior notice to the Employer when the County Administrator, or his/her designee, has effected a Liberal Leave Policy. (*See* Section 4-104).
- T. “Non-Exempt Employee” means an Employee who, pursuant to the FLSA, is entitled to overtime pay for overtime hours worked and who is eligible to earn compensatory time off.
- U. “Part-Time Employee” means an Employee who is regularly scheduled to work less than 40 hours each week.
- V. “Permanent Employee” means a Full-Time or a Part-Time, Classified or At-Will, Employee who is not a Probationary Employee. Contractual and Temporary Employees are not Permanent Employees.
- W. “Personnel Administrator” means that At-Will Employee appointed by the County Commissioners to be responsible for managing the human resources functions of the County. The Director of the Office of Human Resources, unless otherwise determined by the County Commissioners, serves as the Personnel Administrator.
- X. “Personnel and Benefits Coordinator” means that Employee designated and tasked by the Personnel Administrator to assist him/her in the daily management of human resources functions. The Assistant Director of Human Resources, unless otherwise determined by the Director of Human Resources, serves as the Personnel and Benefits Coordinator.
- Y. “Personnel System” means the Caroline County Personnel System. (*See* § 1-101.)
- Z. “Probationary Employee” means an Employee who is serving a probationary period as provided in Chapter 7 of these Personnel Rules and Regulations.

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- AA. “Safety Sensitive Employee” means an Employee that occupies a position that frequently requires such Employee to operate a vehicle or operate equipment that may pose a danger to Employee or others working with Employee. A more complete definition is contained in Section 4-103G.5. The Personnel Administrator shall maintain a list of the Safety Sensitive positions that have been developed by the Personnel Administrator and the Department Heads.
- BB. “Service” means the act of being employed by the Employer as an Employee and fulfilling the duties and obligations inherent in and attendant to the Class Specification for the position being filled by Employee.
- CC. “Temporary Employee” means an Employee who is hired as an at-will Employee under the condition that employment with the Employer shall not be permanent while in this status. Temporary Employees include seasonal workers and persons hired for a special or limited function, a summer Employee or someone hired for a special function of limited duration. (See Section 2-106).
- DD. “Prohibited Offense” means, as to an applicant for employment or the application to volunteer for any County managed or related activity, (1) conviction of a Crime of Violence, (2) conviction of a Sexual Offense, (3) determination of Sex Offender status, or (4) registration, or a requirement to register, on the Sex Offender Registry or the Child Abuse or Neglect Central Registry.
- EE. “Crime of Violence” means a crime any crime described in § 14-101 of the Criminal Law Article of the Annotated Code of Maryland.
- FF. “Sexual Offense” means any offense or conduct described in §§ 3-303 through 3-315 of the Criminal Law Article of the Annotated Code of Maryland.
- GG. “Sex Offender” means a person described in § 11-701 of the Criminal Procedure Article of the Annotated Code of Maryland.
- HH. “Sex Offender Registry” means the registry described in Subtitle 7 of Title 11 of the Criminal Procedure Article of the Annotated Code of Maryland.
- II. “Child Abuse or Neglect Central Registry” means the registry described in § 5-714 of the Family Law Article of the Annotated Code of Maryland.
- JJ. “Criminal Background Check” means a thorough check and review of the criminal background or history of an applicant of volunteer, including the NCIC, CJIS, and other related federal and state systems, as well as a check against the Sex Offender Registry and the Child Abuse or Neglect Central Registry.

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- KK. “Abbreviated Criminal Background Check” means a criminal background report obtained through an acceptable third party reporting system as determined by the Director of the Office of Human Resources and the County Attorney, together with a check against the Sex Offender Registry and the Child Abuse and Neglect Central Registry.
- LL. “Covered Volunteer” means, for the purposes of Section 3-107, any person retained, accepted, or designated, by the County, to participate as a volunteer in any County operated or managed (in whole or in part) program on a regular or recurring basis, or for a singular purpose or program where the person is expected to have regular, recurring contact with children. Volunteers provided by other organizations are not covered by these provisions (but are expected to take all precautions required by applicable law).
- MM. “Exempt Volunteer” means any person requested or volunteering to perform a volunteer service on a contemporaneous, situational basis (1) (a) where such volunteer activity will not place the person in unsupervised or more than minimal contact with children, or (b) where time or other circumstances do not permit an Abbreviated Criminal Background Check, and (2) where the person is not otherwise known to have committed a Prohibited Offense. Notwithstanding the foregoing, the term “Exempt Volunteer” includes (1) individuals otherwise not permitted to volunteer or be employed hereunder, when volunteering or otherwise providing services for bona fide law enforcement or correctional purposes, including, but not limited to, inmate therapy and education programs, where persons who have Prohibited Offense are a necessary or appropriate part of such programs and (2) persons appointed to County boards or commissioners by the official action of the County Commissioners.

Section 1-302. Severability.

If any provision, section, or chapter of these Personnel Rules and Regulations is held by a court of law to be invalid, all other provisions, sections, and chapters that are not held invalid shall continue in full force and effect.

Section 1-303. Time.

- A. Presumption that reference to days means calendar days. Unless otherwise specified in these Personnel Rules and Regulations, where an action is required within a certain number of days, the reference to days means calendar days.
- B. Counting. In computing any period of time prescribed by these rules, the day of the act or event after which the designated period of time begins to run is not included.

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- C. Saturdays, Sundays and County holidays. If the due date for an act or event falls on a Saturday, Sunday or County holiday, then the due date shall be extended to the next day that is not a Saturday, Sunday or County holiday.

Article 4. Personnel Administration

Section 1-401. Personnel Administrator.

- A. The “Personnel Administrator” shall administer the Personnel System. The duties of the Personnel Administrator shall include, but not be limited to:
1. Developing and maintaining Class Specifications;
 2. Developing and administering the Compensation Plan;
 3. Developing and maintaining the program by which persons are recruited and selected for employment;
 4. Establishing and maintaining personnel records that shall include: a roster of all Employees; Employee Class Specifications, Employee compensation, and Employee status (*e.g.*, performance evaluations, counseling and discipline and performance improvement plans); and other information that may be useful in managing personnel and Employer’s finances;
 5. Establishing and maintaining a performance evaluation system; and
 6. Establishing and maintaining a personnel file on each Employee.
- B. The Personnel Administrator may appoint a Permanent Employee to serve as the Personnel and Benefits Coordinator, who will share in the Personnel Administrator’s human resources responsibilities. The Personnel Administrator may appoint other Employees for purposes of assisting the Personnel Administrator with the performance of his/her responsibilities.

Section 1-402. Department Heads.

- A. Each Department Head shall have primary responsibility for:
1. Managing and recommending the hiring and the separation of Employees who work in the respective department or agency of each Department Head.

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2. Implementing the performance evaluation system and the progressive discipline guidelines established by the Personnel Administrator and these Personnel Rules and Regulations.
- B. Each Department Head may share his/her personnel responsibilities set forth in Subsection 1-402A with those supervisors that work for such Department Head.

Section 1-403. Creation of the Employee Advisory Board.

- A. There is an Employee Advisory Board, which shall be composed of six (6) members; one of whom shall be a non-voting member from the Department of Human Resources.
- B. The Employee Advisory Board will be composed of the following:
1. Three (3) members shall be Classified Employees elected by a vote of the Classified Employees by secret ballot. The three Classified Employees (in good standing) elected to the Employee Advisory Board can not be from the same department and shall serve two-year terms, beginning on the first day of January. The terms shall be staggered so that in each even numbered year, in the month of December, the Classified Employees shall elect (or re-elect) two members of the Employee Advisory Board and in each odd numbered year the Classified Employees shall elect (or re-elect) one member of the Employee Advisory Board. In the year 2010, three (3) members shall be elected, with two serving one year terms and the third serving a two year term.
 2. Two (2) members shall be Classified Employees appointed by the County Commissioners. The two Classified Employees appointed to the Employee Advisory Board can not be from the same department and shall serve two-year terms, beginning on the first day of January. The terms shall be staggered so that each year, in the month of December, the County Commissioners shall appoint (or re-appoint) a member to the Employee Advisory Board. In December, 2009, the Commissioners shall appoint two members, one of which shall have a one year term.
 3. One (1) member shall be the Personnel & Benefits Coordinator or another employee from the Department of Human Resources, as determined by the Personnel Administrator. This member shall be a non-voting member.
 4. In the event that no classified employees run for election, The County Commissioners would appoint Classified Employees to the Employee Advisory Board.
- C. At-Will Employees are not eligible to serve on the Employee Advisory Board.

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- D. In all cases, vacancies shall be filled for the remainder of an unexpired term in the same manner as provided in Subsection 1-403B of this Section, except that a special election may be held in the case of a vacancy of a Classified Employee member.
- E. Annually, the members shall select a chair and a vice chair from the membership.

Section 1-404. Powers and Duties of the Employee Advisory Board.

- A. The Employee Advisory Board shall provide advice, counsel, and suggestions to the County Administrator and the Director of Human Resources regarding personnel issues and employee concerns. The board can share ideas and initiatives that affect the County's workforce.
- B. The Employee Advisory Board can receive and voice employee human resources issues that may be anonymous but cannot include confidential personnel matters including, but not limited to, specific disciplinary and performance cases.

Chapter 2 **County Employment**

Section 2-101. Equal Employment Opportunity Employer.

The County is an Equal Opportunity Employer and will not discriminate on the basis of ancestry, national origin, race, color, religion, age, disability, marital status, genetics, sex, sexual or gender preference, or any basis prohibited by law.

Section 2-102. The At-Will Service.

- A. Members. The At-Will Service consists of those Employees who serve at the pleasure of the County Commissioners. The Employees who fill At-Will Service positions will be known as At-Will Employees and are subject to separation from County employment without cause. The following positions are part of the At-Will Service:
 - 1. County Administrator²
 - 2. Executive Assistant to the County Commissioners
 - 3. Director of Public Works

² The County Administrator currently holds the additional position of Purchasing Agent (*i.e.*, Director of Procurement). If such position were to be held by an individual other than the County Administrator, such individual would be At-Will Employees of the County.

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4. Roads Superintendent
5. Director of Emergency Services
6. Director of Planning & Codes
7. Director of Recreation and Parks
8. Warden, Department of Corrections
9. Corrections Office VI – Caption, Department of Corrections
10. Comptroller
10. County Attorney

B. Purpose. The At-Will Service consists of those Employees who help to formulate, and are important to the implementation of, the policies and directives that the County Commissioners and the County Administrator establish. They hold positions that, should they not be dedicated to assisting the County Commissioners directly, or through the County Administrator, in the development and implementations of policies and directives, could frustrate or undermine the implementation of such policies and directives established for the County. It is imperative that the County Commissioners and the County Administrator implicitly trust and retain the utmost confidence in the members of the At-Will Service.

C. At-Will Employees.

1. An At-Will Employee may be terminated without cause.
2. An At-Will Employee may be terminated for publicly criticizing the County Commissioners or other At-Will Employees because such actions serve to undermine and frustrate the cohesive functioning of the County Commissioners and the core management team, or the obtaining of the objectives thereof.
3. An At-Will Employee may not be terminated for:
 - a. Failure or refusal to support, financially or otherwise, any member of the County Commissioners or any candidate for such office.
 - b. Failure or refusal to attend or work on fundraisers or other campaign activities of any County Commissioner.

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- c. Any private opinions or thoughts relative to the County Commissioners, the policies and practices of the County, or other At-Will Employees that are expressed in a non-public forum to the County Commissioners, other At-Will Employees, or other federal or state officials responsible for enforcing laws or regulations applicable to the County; except that an At-Will Employee may be terminated if any such stated opinions or thoughts have the effect of undermining or frustrating the cohesive functioning of the County Commissioners and/or the core management team, or obtaining the objectives thereof.

Section 2-103. At-Will Employee Contracts.

- A. Subject to the approval of the County Commissioners, the County Administrator and/or the Personnel Administrator may:
 1. Develop employment contracts for At-Will Employees and require At-Will Employees for whom an employment contract has been developed to execute said employment contract.
 2. Provide up to six (6) months of severance pay and benefits to an At-Will Employee that is separated from County Employment without cause. No severance pay or benefits shall be provided as a matter of right or entitlement to any At-Will Employee who is terminated for cause.
 3. Alter the vacation and benefits provided to an At-Will Employee from those otherwise provided to County Employees pursuant to Chapters 8 and 9 of these Personnel Rules and Regulations. In the event an At-Will Employee with an employment contract that alters vacation benefits expires, and the At-Will Employee is retained but not provided with a new employment contract, such At-Will Employee shall accrue benefits pursuant to Chapters 8 and 9 of these Personnel Rules and Regulations based on the total years of service of such At-Will Employee with the County.
 4. Every At-Will Employee employment contract shall be able to be terminated by the newly elected County Commissioners when they take office after a general election, although such contracts can require that the At-Will Employee receive up to six (6) months of continuing pay and benefits if the newly elected County Commissioners decide to exercise such termination option.

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Section 2-104. The Classified Service.

- A. Each Employee who is not an At-Will Employee, a Contract Employee or a Temporary Employee shall, unless otherwise provided, be a Classified Employee and the positions filled by Classified Employees shall constitute the Classified Service.
- B. A Classified Employee may only be dismissed from employment for cause.
 - 1. A Full-Time Classified Employee shall accrue leave and enjoy the benefits set forth in Chapters 8 and 9.
 - 2. A Part-Time Classified Employee shall accrue leave and accumulate benefits on the same basis as a Full-Time Classified Employee, except such leave and benefits shall accrue on a pro-rata basis, based on the average number of hours worked per week divided by 40 hours per week.
 - 3. Notwithstanding the foregoing, Classified Employees may discharged or furloughed without cause as provided in Chapter 12 hereof.

Section 2-105. Contractual Employees.

- A. A Contractual Employee is a non-Permanent Employee who is not in the Compensation Plan and is hired pursuant to a written contract that specifies the terms of employment and the right to leave or benefits, if any. Often a Contractual Employee is hired pursuant to a grant to perform a specific task or project in accordance with the terms of such grant.
- B. A Contractual Employee shall not accrue leave or benefits pursuant to Chapters 8 and 9 of these Personnel Rules and Regulations, unless required under the terms of the grant providing the support the position. A Contractual Employee shall only be entitled to leave or benefits as specified in a written contract.
- C. A Contractual Employee is an at-will employee and may be dismissed at the pleasure of the County Administrator, unless contract terms specifically provide otherwise.
 - 1. The Department Head for whom any Contractual Employee is working shall be responsible for monitoring the performance of, and disciplining, such Contractual Employee.
 - 2. A Contractual Employee shall be subject to the Work Rules of Chapter 4 of these Personnel Rules and Regulations.
 - 3. Any supervisor with knowledge that a Contractual Employee has violated or breached any of the Work Rules of Chapter 4 of these Personnel Rules and

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Regulations, or otherwise is failing to perform the duties and responsibilities assigned to such Contractual Employee, shall promptly notify the Department Head, the County Administrator and/or the Personnel and Benefits Coordinator of such deficiency, so that the appropriate disciplinary action may be initiated.

- D. A Contractual Employee is not entitled to any of the Grievance Procedures set forth in Chapters 6 and 11 of these Personnel Rules and Regulations.

Section 2-106. Temporary Employees.

- A. A Temporary Employee is an At-Will Employee who serves at the pleasure of the County Administrator in a position that is not in the Compensation Plan for a service that is not needed on a regular, continuous basis. Often, a Temporary Employee provides services pursuant to a recreational program or some unusual or short term need.
- B. A Temporary Employee is entitled only to worker's compensation benefits. A Temporary Employee shall not accrue any leave or benefits pursuant to Chapters 8 and 9 of these Personnel Rules and Regulations.
- C. A Temporary Employee may, but need not be, hired pursuant to a written contract. The only person authorized to execute a written contract with a Temporary Employee that is binding on the County is the Personnel Administrator, or in the absence of the Personnel Administrator and with the approval of the Personnel Administrator, the Personnel and Benefits Coordinator.
1. The Department Head for whom a Temporary Employee is working is responsible for monitoring the performance of and disciplining such Temporary Employee.
 2. A Temporary Employee is subject to the Work Rules of Chapter 4 of these Personnel Rules and Regulations.
 3. Any supervisor with knowledge that a Temporary Employee has violated or breached any of the Work Rules of Chapter 4 of these Personnel Rules and Regulations, or otherwise is failing to perform the duties and responsibilities assigned to such Temporary Employee shall promptly notify the Department Head, the Personnel Administrator and/or the Personnel and Benefits Coordinator of such deficiency, so that the appropriate disciplinary action may be initiated.
- D. A Temporary Employee is not entitled to any of the Grievance Procedures set for in Chapters 6 and 11 of these Personnel Rules and Regulations.

Chapter 3
Recruitment and Selection

Section 3-101. Vacancies.

- A. When a vacancy occurs in any job or position authorized by the annual budget, the Department Head in whose department or agency the vacancy occurs shall notify the Personnel Administrator, in writing, through the completion of the Request to Advertise form, of the vacancy. In conjunction with completion of the Request to Advertise form, the Department Head shall review and, if necessary, request any appropriate revisions to such position's Class Specification. The Department Head shall provide any other information deemed pertinent or appropriate for consideration in filling the vacancy.
- B. The Personnel Administrator shall determine whether the vacancy may be filled.

Section 3-102. Position Vacancy Announcements.

- A. Each vacancy the Personnel Administrator allows to be filled shall be announced and advertised at least once internally and if no qualified candidate is selected, at least once externally and in either case no less than 15 calendar days prior to the closing date for submittal of an application to the Personnel and Benefits Coordinator.
 - 1. Internal Posting. The Personnel and Benefits Coordinator shall provide each Department Head with a notice of vacancy that shall be promptly posted on all employee bulletin boards within each department. Additionally, the Personnel and Benefits Coordinator may provide email notice to Employees and post vacancies on the County's website. Employees are responsible for regularly reviewing the employee bulletin board and web site and timely responding to position vacancies.
 - 2. External Announcement. Position vacancies shall be advertised in at least one paper of local circulation, and in any other manner deemed appropriate by the Personnel Administrator. External announcement may occur simultaneously with internal posting.
- B. Contents of Announcement. A position vacancy announcement shall contain:
 - 1. The title of the position.
 - 2. The type of the position (*e.g.*, At-Will, Full-Time, Contractual, etc).
 - 3. A summary of the Class Specification and whether the position is Exempt or Non-Exempt.

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4. The deadline for submitting an application.
5. Contact information that explains how an application may be requested and/or obtained.
6. A statement that Caroline County is an Equal Opportunity Employer.

Section 3-103. Employment Applications.

- A. Employer shall create and maintain employment application forms that must be completed by every job applicant seeking to fill a vacancy. The Personnel and Benefits Coordinator shall make employment applications available to the public during regular business hours.
- B. The Personnel and Benefits Coordinator shall establish reasonable deadlines not less than 15 calendar days after publication of notice to the public and transmission of notice for internal posting for the receipt of employment applications for every employment opportunity.
- C. The Personnel and Benefits Coordinator shall maintain all applications and documents relative to the investigation, review, consideration and selection of an applicant for a period of not less than three (3) years (*see also* Section 3-109) following the hiring for a vacancy.

Section 3-104. Preliminary Rejection of Applicants.

- A. Employer, including the Personnel and Benefits Coordinator, may preliminarily reject any applicant for the following reasons:
 1. Failure to complete all material portions of the application.
 2. Failure to meet the minimum qualifications set forth in the Class Specification for the position being filled.
 3. Falsification or material misrepresentation of information in the application.
 4. Conviction of a crime that renders the applicant unfit to hold the position of public trust being filled.
 5. Any matter or reason which, in the reasonable discretion of the Personnel and Benefits Coordinator, would create an impediment to the applicant's satisfactory fulfillment of the position's requirements or place the applicant and or other

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members of the workforce in jeopardy. This provision is not intended to and shall not be interpreted to, affect or interfere with any rights of an applicant or any obligations of the Employer pursuant to the Americans with Disabilities Act or any other right or obligation mandated by federal or State law.

Section 3-105. Review of Applicants for At-Will Service.

- A. The applications of all qualified applicants for an At-Will position (*i.e.*, those persons whose applications are not preliminarily rejected pursuant to Section 3-104) shall be forwarded for review by the County Commissioners or the At-Will Employee (*i.e.*, County Administrator and/or Department Head) who will supervise the applicant hired to fill the position.
- B. If applications for more than 10 qualified applicants are received, the person(s) designated in Section 3-105A, in conjunction with the Personnel Administrator, may review the applications and any written materials submitted in conjunction with the application and eliminate all but 10 applicants.
- C. The person(s) designated in Section 3-105A shall interview up to 10 applicants for a vacancy.
 - 1. Each applicant shall be asked a series of the same basic questions.
 - 2. The interviewers shall submit a copy of the basic questions asked of all applicants to the Personnel and Benefits Coordinator, who shall maintain a copy of such questions with the application records maintained pursuant to Section 3-103C.
 - 3. Subject to approval by the County Commissioners, the interviewers shall have broad discretion to recommend the award of the position to the applicant of the interviewer's choice, because such At-Will positions are critical to the development and implementation of County directives and policy. The interviewers must submit a written rating of the top three applicants for the position to the Personnel and Benefits Coordinator that explains the basis for the ratings. The Personnel and Benefits Coordinator shall maintain such ratings with the application records maintained pursuant to Section 3-103C.

Section 3-106. Review of Applicants for Classified Service.

- A. A review team shall be formed to select a qualified applicant for any vacancy in the Classified Service filled by advertisement and application. The Department Head shall appoint three members to the review team and shall strive for diversity of membership in light of the position and the persons in the chain of command that will be responsible for the work product of the person filling the vacant position.

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- B. All qualified applicants for a Classified Employee position (*i.e.*, those persons whose application is not preliminarily rejected pursuant to Section 3-104) shall be forwarded to the review team.
- C. If there are greater than 10 qualified applicants for a vacant position, the review team may review the applications and any written materials submitted in conjunction with the applications and may, in consultation with the Personnel Administrator, eliminate all but 10 applicants.
- D. The review team shall interview up to 10 applicants for a vacancy.
 - 1. Each applicant shall be asked a series of the same basic questions.
 - 2. The members of the review team shall submit a copy of the basic questions asked of all applicants to the Personnel and Benefits Coordinator, who shall maintain a copy of such questions with the application records maintained pursuant to Section 3-103C.
 - 3. The review team shall rate each applicant interviewed from 1 to 10, with 1 being the best applicant and 10 being the least qualified applicant. Ratings may be weighted based on criteria such as qualifications, past experience and interview results. The Department Head shall establish the rating system when the vacancy is advertised, or the Department Head may delegate that task to the review team. The rating system shall be established prior to distribution of applications and written materials to the members of the review team. The rating team shall score each applicant in all categories being rated (*e.g.*, qualifications, experience and interview) and the score sheets for each applicant shall be submitted to and maintained by the Personnel and Benefits Coordinator pursuant to Section 3-103C.
 - 4. The rating of each applicant prepared by each member of the rating team shall be averaged to determine the highest rated applicant. The position shall be awarded to the highest rated applicant. The members of the review team shall submit their rating sheets to the Personnel and Benefits Coordinator, who shall maintain a copy of such records pursuant to Section 3-103C.

Section 3-107. Criminal Background Investigation of Applicants.

- A. A Criminal Background Check shall be requested prior to the hiring of any person for employment in the County, including temporary, part-time, or contractual positions. The Criminal Background Check shall be performed only if the Applicant has been preliminarily selected for hiring. The applicant may commence employment prior to the return of the information from the Criminal Background Check, provided that the

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registry checks have been completed prior to the commencement of employment. If the results of the Criminal Background Check, when completed, indicated that a Prohibited Offense has occurred, the employee's employment shall be immediately terminated.

- B. A Criminal Background Check shall be requested prior to the commencement of volunteer activity as to any person serving or expected to serve as a Covered Volunteer; except that in the judgment of the Director of Human Resources in conjunction with a requesting department head, an Abbreviated Criminal Background Check may be performed. In either case, the volunteer may commence activities prior to the return of the information from the Criminal Background Check, provided that the registry checks have been completed prior to the commencement of activities. If the results of the Criminal Background Check, when completed, indicated that a Prohibited Offense has occurred, the volunteer's services shall be immediately terminated.
- C. No Criminal Background Check or Abbreviated Criminal Background Check is required for an Exempt Volunteer.
- D. No person shall be hired, employed, retained, or permitted to serve as an employee or a Covered Volunteer of or for the County, in any capacity, who is determined to have committed a Prohibited Offense.
- E. In the event a Criminal Background Check or an Abbreviated Criminal Background Check reflects that a person has had a charge the would otherwise constitute a Prohibited Offense result in a nol pros, stet, or probation before verdict or judgment, the Director of Human Resources and the County Administrator, with the advice of the County Attorney, may make a determination that the circumstances warrant acceptance of a person as an employee or a Covered Volunteer.

Section 3-108. Notification to Applicants.

- A. The Personnel and Benefits Coordinator shall notify each unqualified applicant that their application for employment was rejected.
- B. After the selection process is complete, the Personnel Administrator, or the designee of the Personnel Administrator, shall notify each qualified applicant of the results of the selection process.

Section 3-109. Selection of Alternative Applicants.

- A. If the highest rated applicant for a position does not accept the offer of employment, the County may offer the position to the next highest rated applicant, and so on.

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- B. If a successful applicant resigns or quits during the first year of employment, the County may offer the position to the next highest rated applicant, and so on.
- C. If a successful applicant is eliminated during the probationary period (*see* Chapter 7), the County may offer the position to the next highest rated applicant, and so on.
- D. If a position becomes vacant more than one (1) year after it was last advertised, the position will be re-advertised, not filled from a prior list of applicants.

Section 3-110. Creation of Personnel File.

- A. The Personnel Administrator shall cause a personnel file to be created for each applicant who is hired as a County Employee.
- B. All personnel records, including the application, any written materials submitted in conjunction with the application, and any written materials relative to the investigation and selection of the applicant, shall be placed in the personnel file.

Section 3-111. County Assistance to State Agencies, Units of State Government and State Employees.

- A. By law, the County is required to fund all or portions of the budgets, including office supplies and equipment, positions and other agency expenditures, for agencies or units of the State of Maryland, such as the Sheriff's Department, the State's Attorney's Office, the Circuit Court for Caroline County, the Cooperative Extension or the Soil Conservation District, etc. Instead of hiring, or contracting for the services of separate human resources professionals, procurement officers or other administrative support staff for such agencies and units of State government, in the spirit of intergovernmental cooperation and the prudent utilization of limited taxpayer and public resources, the County's human resources, procurement and other administrative Employees and representatives may, from time to time, assist and perform human resources, procurement and related functions for such State agencies, employees and units of State government. In providing such services and assistance, the County is not in any way assuming any liability or responsibility for such State agencies or employees and is not acting as a joint or dual employer of the employees who work for such State agencies and units of State government. Employees that work for such State agencies or units of State government shall remain State officials, agents or employees and shall not be entitled to any rights provided by these Personnel Rules and Regulations for Employees.
- B. Any person who has a question about such person's status as a County Employee versus as an employee of an agency or unit of State government should contact the Personnel and Benefits Coordinator. Regardless of what such person is told by anyone regarding

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such person's status as an Employee of the County or an employee of the State, the law of the State of Maryland shall be final and dispositive with respect to the employment status of such person.

Chapter 4 **Work Rules**

Section 4-101. Respectful, Professional and Non-Discriminatory Workplace.

- A. The County is committed to maintaining a mutually respectful work environment in which all individuals are treated with respect and dignity. Each individual has a right to work in a professional atmosphere that promotes equal opportunities and prohibits discriminatory practices.
- B. Any Employee who fails to maintain a mutually respectful work environment and to treat individuals with respect and dignity shall be subject to discipline, up to and including termination.

Section 4-102. Sexual Harassment.

- A. Policy. Sexual harassment, whether verbal, written, physical, or arising out of the work environment and whether in the office, at work assignments out of the office, at County-sponsored social functions, or elsewhere, is unacceptable and will not be tolerated. It is also illegal.
- B. Individuals covered. The policy and rules relating to sexual harassment shall apply to all County officials (including the County Commissioners), Employees (whether Full-Time, Contractual, Temporary, At-Will, or otherwise), consultants, and volunteers.
- C. Definition of Sexual Harassment. The term "sexual harassment" means unwelcome sexual advances, requests for sexual favors, and other verbal, written, communicated or physical conduct of a sexual nature, when one of the following occurs:
 - 1. Submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment; or
 - 2. Submission to or rejection of such conduct is used as a basis for employment decisions affecting such individual; or
 - 3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

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Examples of sexual harassment include, but are not limited to, unwanted sexual advances; demands for sexual favors in exchange for favorable treatment or continued employment; repeated sexual jokes, flirtations, advances or propositions; verbal abuse of a sexual nature; graphic, verbal commentary about an individual's body, sexual prowess or sexual deficiencies; leering; whistling; touching; pinching; assault; coerced sexual acts; suggestive, insulting, obscene comments or gestures; and display of items and material of a sexual nature.

D. Prohibition. Sexual harassment is hereby prohibited.

E. Reporting a Complaint.

1. Any Employee who believes he or she has been subject to sexual harassment or intimidation or a hostile sexual environment shall immediately report such conduct to his/her immediate supervisor. In the event the Employee is uncomfortable reporting the incident to his/her immediate supervisor or his/her immediate supervisor initiated or participated in the conduct, the incident shall be promptly reported to the Personnel Administrator or the Personnel and Benefits Coordinator. In the event the Personnel Administrator or the Personnel and Benefits Coordinator initiated or participated in the incident, the incident shall be promptly reported to the County Administrator or the County Attorney. (*See* Subsection 4-102G.4).
2. Any Employee subject to sexual harassment or intimidation should promptly notify the offender that the behavior is unwelcome.
3. Any supervisor receiving a complaint of sexual harassment, intimidation and/or subjection to a hostile sexual environment shall promptly report such conduct to the Personnel Administrator.
4. Any supervisor who observes any form of sexual harassment shall take immediate action to stop it and shall report the incident to the next level of supervision, if any, and to the Personnel Administrator.
5. An Employee may file with any Department Head or the Personnel Administrator a written complaint of sexual harassment within 90 days of an incident of sexual harassment. The written complaint shall name the alleged offender or offenders, the dates that are relevant to the incident or incidents, and describe in detail the incident or incidents. Department Heads in receipt of a written complaint shall transmit the written complaint to the Personnel Administrator and/or the Personnel and Benefits Coordinator, unless the complaint arises from conduct involving the Personnel Administrator or the Personnel and Benefits Coordinator,

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in which event the supervisor shall promptly report the complaint to the County Administrator or the County Attorney.

- F. Retaliation Prohibited. No retaliation shall be taken against an Employee who makes a report of sexual harassment. If there is clear and convincing evidence that a report of sexual harassment made by an Employee was fabricated and untrue, such Employee may be subject to discipline. An Employee who retaliates against an Employee who brings a complaint of sexual harassment shall be subject to discipline up to and including termination.
- G. Investigation of Complaint.
1. All complaints of sexual harassment filed within 90 days of the events giving rise to the complaint shall be investigated. A supervisor is remiss in failing to report and take action on a report of sexual harassment, even if the person making the report stated that he/she does not want the conduct investigated or does not want the alleged offender to get in trouble. Confidentiality shall be maintained throughout the investigative process to the extent practical and appropriate under the circumstances, just as all personnel matters should be handled with appropriate confidentiality and discretion.
 2. Investigations shall be initiated as follows:
 - a. Within seven (7) calendar days of receiving a written complaint of sexual harassment, the Personnel Administrator shall appoint an ad hoc committee composed of three persons who have no material or personal interest in the complaint or in the outcome of an investigation. The ad hoc committee shall investigate the facts of the written complaint and submit a written report to the Personnel Administrator within 20 calendar days of the ad hoc committee's appointment. The report shall include findings of fact and recommendations for resolving the complaint, including disciplinary measures that appear appropriate in light of the facts.
 - b. The Personnel Administrator or his/her designee shall promptly investigate an oral complaint or notification if there is any colorable basis to the oral complaint or notification utilizing the process set forth in Subsection 4-102G.2.a.
 3. The investigative process may include any or all of the following:
 - a. Confirm name and position of the reporting individual.
 - b. Identify the alleged harasser.

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- c. Thoroughly ascertain all facts in connection with the alleged harassment, beginning by interviewing the reporting individual and the alleged harasser. (When interviewing the alleged harasser that person should be reminded of the prohibition against retaliation and the need to refrain from communications with the reporting individual other than essential, work-related conversations, pending the outcome of the investigation. The interviewer should recommend to the alleged harasser that any communications between the alleged harasser and the victim should be accomplished in the presence of a witness).
 - d. Determine frequency/type of alleged harassment and, if possible, the dates and locations where alleged harassment occurred.
 - e. Interview potential witnesses to see if anyone observed the alleged harassment or facts surrounding the alleged harassment.
 - f. Interview Employees or persons similarly situated to the reporting Employee to determine whether others have had inappropriate experiences with the alleged harasser or otherwise perceive the alleged harasser to have engaged in inappropriate conduct.
 - g. Ask how the reporting Employee responded to the alleged harassment and determine what efforts, if any, at informal resolution of the matter were made.
 - h. Determine whether the reporting Employee consulted anyone else about the alleged harassment and, if so, note such person's response to the disclosure.
 - i. Develop a thorough understanding of the professional relationship, degree of control and amount of interaction between the alleged harasser and the reporting Employee.
 - j. Determine whether the reporting Employee knows of or suspects that there are other individuals who have been harassed by the alleged harasser.
 - k. Determine whether the reporting Employee informed other principals or supervisors of the situation and what response, if any, the reporting Employee received from such principals or supervisors.
4. If an incident involving a County Commissioner, the Personnel Administrator, the Benefits Coordinator, or the County Attorney is reported,, the County

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Administrator shall be contacted and an appropriate plan shall be implemented to resolve the incident. If an incident concerning the County Administrator is reported, the County Attorney and/or the Personnel Administrator shall be contacted and an appropriate plan shall be implemented to resolve the incident.

H. Resolution of a Complaint.

1. Any Employee found to have engaged in sexual harassment or retaliation against an Employee filing a report of sexual harassment shall be disciplined. The Personnel Administrator may accept, reject or modify the recommendations of the ad hoc committee with respect to any incident an ad hoc committee was convened to investigate. The Personnel Administrator shall record in writing at the time of his or her decision the reasons for any actions that the Personnel Administrator may take regarding the matter. If the Personnel Administrator decides that dismissal is the appropriate sanction, the Personnel Administrator shall seek approval for the action from the County Administrator. The Personnel Administrator shall, within five working days of his or her decision, notify in writing the Employee who filed the complaint of sexual harassment as to the Personnel Administrator's disposition of the matter, including disciplinary actions, if any, that may have been taken.
 2. If an investigation results in a finding that the person who filed the complaint of sexual harassment falsely and wantonly and recklessly accused another of sexual harassment, the person shall be subject to appropriate sanctions as determined by the Personnel Administrator. If the Personnel Administrator decides that termination is the appropriate sanction, the Personnel Administrator shall seek approval for the action from the County Administrator.
- I. Appeals Process. If a person disciplined pursuant to this Section 4-102 is dissatisfied with the final actions taken under this section, the person may file a grievance with the County Administrator in the manner provided in Chapter 6 of these Rules and Regulations.
- J. If the person filing the grievance/appeal pursuant to Section 4-102.I is dissatisfied with the resolution of the matter by the County Administrator, and that resolution involves a determination of dismissal or suspension without pay for more than five (5) days, that person may appeal the decision of the County Administrator to the Grievance Appeal Panel pursuant to Chapter 6 hereof.

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Section 4-103. Substance Abuse

A. Policy.

1. The County is committed to providing a safe, efficient, and productive work environment through a substance free workplace. The purpose of this policy is to prevent the risks and negative effects that are brought about by substance abuse while respecting the dignity and privacy of Employees. Illegal or irresponsible drug or alcohol use by Employees is not consistent with the County's goal to operate in a safe and efficient manner.
2. Violation of any portion of this policy will subject Employee to appropriate disciplinary measures, up to and including termination. Although this policy has been written to address as many of the pertinent issues in this sensitive area as possible, Employer reserves the right to modify or amend it. Any Employee who has questions or concerns about this policy should contact the Personnel Administrator.

B. Pre-Employment Testing. Employer shall test each successful applicant for drugs and alcohol prior to awarding applicant a position. If an applicant tests positive for drugs or alcohol, Employer shall send applicant a notice of the applicant's right to an independent test. Employer shall not hire anyone who has a positive result from a pre-employment drug and alcohol test. Employer also shall not consider for hire anyone who refuses to take a pre-employment drug and alcohol test.

C. Prohibitions.

1. Entry upon or into County premises or property, or presence at work, under the influence of illegal or abused drugs or alcohol, or any combination thereof, is strictly prohibited. No Employee shall possess, conceal, promote, sell or bring alcohol, illegal substances, which term includes any related paraphernalia, onto County property. County property includes, but is not limited to, County premises, including leased premises, and/or County property (including County vehicles) and/or any place where Employee is conducting business for or on behalf of the County, or where the County conducts business. If the County has reasonable grounds to believe that an Employee possesses, is concealing, or has brought substances onto County property, Employer reserves the right to conduct a reasonable search for those substances, including but not limited to, a search of the Employee's office, desk, locker, or County vehicle.
2. An exception is made for Employees who take prescription medicines according to instructions given by a licensed physician or medical provider. However, an Employee who is taking prescription medications that may impair his or her

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ability to perform his or her job has an affirmative duty to report the usage of such medications to his or her supervisor. This reporting is required to assess the Employee's ability to conduct County business, drive a vehicle, or operate machinery. If Employee does not report the usage of prescription drugs and causes an accident upon, with, or while operating County property, Employee will be subject to disciplinary action, up to and including termination.

- D. Reporting. An Employee who receives either an alcohol driving conviction (defined below) or a drug conviction (defined below) has an affirmative duty to report that conviction within five (5) working days to the Personnel Administrator. Generally, the first alcohol driving or drug conviction will subject Employee, at a minimum, to mandatory participation in a sanctioned alcohol and/or substance abuse treatment program. A second alcohol driving or drug conviction may result in termination of employment. Nothing in these Personnel Rules and Regulations shall be interpreted to prohibit the termination of an Employee on a first offense for a drug or alcohol related incident if the Personnel Administrator or the County Administrator deems the offense to be of a magnitude or severity that may reasonable be believed to place the County, its Employees, and/or the public at large at risk. If Employer learns of an alcohol driving or drug conviction that was not reported by Employee, such failure constitutes grounds for termination, and Employee shall be subject to mandatory participation in a sanctioned alcohol and/or substance abuse treatment program if not terminated. Safety Sensitive Employees who have prior alcohol driving or drug convictions, or plea or resolution of criminal charges other than an acquittal, may be tested as a continuing condition of employment for up to a total of three years after their last conviction, or plea or resolution of criminal charges other than an acquittal.

E. Alcohol and Drug Testing.

1. All Safety Sensitive Employees shall be subject to drug or alcohol testing: (1) on a yearly basis, (2) prior to being transferred or promoted to a Safety Sensitive position, or (3) prior to returning to duty after failing a previous test. Moreover, any Employee (whether in a safety sensitive position or not) whose conduct, appearance or behavior provides reasonable suspicion that the Employee is using drugs or alcohol at work or any Employee whose job performance inexplicably deteriorates, or whose demeanor becomes erratic, may be required to submit to testing for drugs and alcohol. Reasonable suspicion is a belief that Employee has violated the alcohol or drug prohibitions of this policy based on specific, contemporaneous, describable observations concerning such factors as appearance, behavior, speech or body odors of Employee.
2. The first confirmed positive test result of any Employee will, at a minimum, require Employee to undergo and successfully complete a sanctioned alcohol and/or substance abuse treatment program. A second confirmed positive test

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result might subject Employee to termination. After any positive result, Employee shall be furnished with a notice that will indicate the test results, a copy of this policy, Employer's intent to take disciplinary action, and a statement that permits Employee to request independent testing of the same sample. (*See* Appendix; Notice Following A Positive Drugs and Alcohol Test.) Refusing to submit to testing, or tampering with a specimen for testing, shall subject Employee to termination. All testing will be conducted by a laboratory that holds a license under Section 17-205 of the Health General Article of the Code of Maryland and in a manner that respects and recognizes the dignity and privacy of the Employee. Therefore, Employer will endeavor, to the greatest extent possible, to protect the confidentiality of information regarding individual test results.

- F. Treatment and Continued Employment. Employer realizes that alcoholism and drug addiction can be illnesses for which there is effective treatment and rehabilitation. Prior to reaching a point where an Employee's judgment, performance or behavior leads to disciplinary action, it is Employee's responsibility to seek assistance from a sanctioned alcohol and/or substance abuse treatment program. Please note that participation in a sanctioned alcohol and/or substance abuse treatment program may be covered, in part, under Employer's health benefits. Employees will not be terminated for voluntarily seeking assistance for a substance abuse problem. An Employee who continues to work and who is participating in a sanctioned alcohol and/or substance abuse treatment program will be expected to meet existing job performance standards and established work rules. Continued performance, attendance or behavior problems may result in termination. Employer will attempt to make reasonable accommodations for an Employee who voluntarily initiates participation in and adheres to a sanctioned alcohol and/or substance abuse treatment program.
- G. Definitions as used in this policy.
1. Alcohol – means ethyl alcohol or ethanol.
 2. Alcohol Driving Conviction – means a violation of the laws of Maryland or any other jurisdiction involving driving or attempting to drive while intoxicated or under the influence of alcohol, for which the Employee pleads guilty, pleads nolo contendere (“no contest”), is found guilty, is given probation before judgment or verdict, or otherwise receives a disposition other than not guilty or a complete dismissal of charges.
 3. Drug – means any substance taken into the body, other than alcohol, which may impair one's mental faculties and/or physical performance. This definition includes controlled dangerous substances as defined in Maryland's criminal statutes, prescription drugs, glue, paint thinner or any other item that when abused

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or improperly administered, may impair one's mental faculties and/or physical performance.

4. Drug Conviction – means a conviction for violation of any controlled dangerous substance law or illegal substance law, whether a violation of the controlled dangerous substance laws of Maryland or the illegal/improper drug use laws of federal or state jurisdiction, or involving driving or attempting to drive while under the influence of a substance, for which the Employee pleads guilty, pleads nolo contendere (“no contest”), is found guilty, is given probation before judgment or verdict, or otherwise receives a disposition other than not guilty or a complete dismissal of charges.
5. Safety Sensitive Employee – means (1) all Employees whose job duties require the Employee to drive a motor vehicle during normal working hours or operate Equipment that may pose a danger to Employee or others working with Employee; (2) all Employees who have been convicted of an alcohol driving offense or drug offense (as defined in Section 4-103, above); and (3) all Employees that occupy positions determined to be Safety Sensitive by the Personnel Administrator and the Department Heads.
6. Substance – means and includes Alcohol and Drugs and related drug paraphernalia.
7. Substance Abuse – means the use, sale, distribution, possession and manufacture of alcohol or drugs in a manner prohibited by law or in such a way that the user-Employee's performance of his or her job is affected negatively.

Section 4-104. Inclement Weather.

- A. The Employer's facilities will be open during normal business hours, regardless of weather, except as provided in Subsection F of this section.
- B. The County Administrator, Warden and the Department Heads for the Emergency Services and Public Works Departments will designate those Employees deemed to be Essential Employees. Essential Employees shall be required to work during inclement weather and will be subject to discipline for failure to report on time due to inclement weather.
- C. Department Heads will report office openings and staffing to the Office of Emergency Management by 8:00 a.m. on days in which the County is affected by inclement weather.
- D. During inclement weather, the County will announce whether a Liberal Leave Policy is in effect or whether the County courthouse will be closed in a recorded message available

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no later than 7:15 a.m. that may be accessed by calling 410-479-4107, as well as by listening to broadcasts on Public Safety Radio frequency at 154.100 and other local radio and television broadcasts.

- E. No special compensation shall be paid to Employees working during periods of inclement weather, except as approved by the County Commissioners upon recommendation of the County Administrator.
- F. Early release of Employees due to inclement weather will be coordinated through Department Heads. Employees taking early release shall be required to use vacation or personal leave, unless the County Administrator or his/her designee closes County offices.
- G. During a period of extreme inclement weather, the County Administrator may close the County offices and declare that Employees will receive paid administrative leave . (See Section 8-107C).

Section 4-105. General Policies Governing Employee Conduct.

- A. Violations of the following rules of conduct may result in immediate termination:
 - 1. Employee shall not fight or use abusive or physically threatening language while on duty or on County premises.
 - 2. Employee shall not possess any unauthorized firearms or weapons while on duty or on County premises.
 - 3. Employee shall follow all safety regulations, including wearing safety clothing and using protective equipment.
 - 4. Equipment and personal property.
 - a. Employee shall be responsible for and shall not misuse or remove from the workplace, without prior written permission, any Equipment or personal property of the County.
 - b. A violation of this policy shall be considered misappropriation or theft of County property.
 - c. This policy applies to all Equipment and other personal property procured (*i.e.*, purchased, leased, borrowed or otherwise obtained by the County) by the County including but not limited to documents and public records and identification cards in the care, custody, and control of any Employee. An

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Employee shall immediately report any lost Equipment or property to his/her supervisor.

5. Employee shall not destroy or damage Equipment or County property. Malicious or wanton and reckless destruction of Equipment or County property shall subject an Employee to discipline up to and including termination.
6. Employee shall address and deal with the public, co-workers and other officials, Employees and agents of Employer in a courteous and professional manner.
7. Employee shall not gamble, including but not limited to selling raffle tickets or engaging in sports pools, or wager while on duty or on County premises.
8. Employee shall not bribe, blackmail, extort or otherwise offer, give or promise to give money, sexual favors or something of value to a County official, agent or representative, or to another Employee that may cause such County official, agent or representative, or other Employee to act in conflict with the interest of, and/or the duty of loyalty owed to, the County.
9. Employee shall not make false reports or otherwise falsify or alter public records.
10. An Employee assigned to a position that requires the operation of County-owned vehicles shall maintain a favorable driving record. An Employee having four or more cumulative points on his/her driving record shall immediately report this information to his/her supervisor and the Personnel and Benefits Coordinator. Employer may revoke permission for an Employee with a deficient driving record to drive any County vehicle or to drive any vehicle on behalf of the County. If driving is an essential function of an Employee's job and such Employee has five or more points, such Employee may be terminated.
11. Employee shall immediately report any citation for or charge of "driving while intoxicated" (DWI), "driving under the influence" (DUI), motor vehicle citation arising out of an accident and driver's license suspension to his/her department head, the Risk Management Coordinator, and the Personnel and Benefits Coordinator. Employee shall cooperate in any investigation by Employer into such charges for purposes of determining whether Employee's authority to drive a County vehicle or to drive on behalf of the County should be suspended or revoked. Employer may suspend or revoke permission for an Employee to drive a County vehicle or to drive on behalf of the County as the result of such citation or charges. If driving is an essential function of Employee's job, the County may suspend without pay or terminate such Employee.

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12. Employee shall not violate any federal State or local laws, ordinances or regulations and shall report, within two business days, any arrest for a felony, any indictment for commission of a crime or any conviction for a crime.
- B. Repeated (or grievous) violations of the following rules of conduct may result in termination:
1. An Employee must perform and fulfill the required duties and obligations of Employee's position in a timely and efficient manner on a continuous basis. An Employee must consistently and regularly perform at a satisfactory level that meets expectations of the position held by Employee.
 2. Employee must be at his/her designated work area on time and ready to work and shall continue to work in that location unless permission to leave is granted by the supervisor.
 3. Where operations are continuous, Employee shall not leave his/her post until replaced by the next shift Employee or until relieved by Employee's supervisor.
 4. Employee shall not conduct private or personal business or a trade on Employer's premises during working hours without express authorization.
 5. Except in an emergency, Employee shall not use Employer's property, including telephones and computers, for personal business or matters. An Employee may use Employer's phones to make local personal calls or may use other technology Equipment in a reasonable manner that does not incur additional expense during an approved break or lunch period. (*See Section 4-106C*).
 6. Employee shall immediately report to his/her supervisor all accidents/incidents/injuries occurring within the course of employment. If the immediate supervisor is unavailable the accident/incident/injury must be reported to the Risk Management Office within 24-hours and, preferably, on the same day of the accident/incident/injury. An accident, incident or injury not reported in compliance with this provision may be handled as a questionable accident, incident or injury, and an Employee may be disciplined for failure to report and notify as required herein. In addition, Employee may be left personally responsible for defending or resolving any claim arising from any accident, incident or injury not reported as required herein.
 7. Employee shall be responsible for reporting, in writing, any inoperable vehicle restraint device (safety belt) or other essential safety equipment for repair.
 8. Employee shall not litter the work area.

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9. Employee shall not park in prohibited areas or areas designated for others on County premises.
10. Employee shall notify his/her supervisor whenever there is a change in Employee's personal data, such as changes in Employee's address, phone number, emergency contact, or number of dependents.
11. Employee shall not restrict, interrupt or interfere with the work of other Employees or agents of Employer.
12. Employee shall not post notices on County premises without prior written approval from the appropriate authority and may only post in approved, designated areas.
13. In addition to the foregoing general rules of conduct that are applicable to all Employees, a Department Head, may promulgate special rules applicable to all of the Employees in the department, or equally applicable to all Employees in a subgroup of the department, provided that such rules, policies or procedures are first reviewed and approved by the Personnel Administrator.

Section 4-106. Technology, Cellular Phone, E-Mail, Internet, and Telephone Policy.

- A. This section sets forth Employer's policy for proper use of any technology or technological equipment owned, leased, borrowed, or paid for by the County, including but not limited to any analogue, digital, or electronic communication systems, cellular phone, computer equipment, electronic mail (e-mail), the internet and the telephone system (hereinafter "Technology Equipment"). The policy applies to anyone who may use Technology Equipment of Employer. Violation of this policy will be grounds for disciplinary action up to and including dismissal.
- B. Employer can limit or deny access to Technology Equipment at any time.
- C. Technology Equipment of Employer shall be used solely for business purposes. Limited personal use will be allowed, however, misuse, abuse, use that causes the County to incur additional expense, or use for personal business venture or profit will be cause for disciplinary action, up to and including dismissal when the use is disruptive of job performance or Technology Equipment is otherwise used in violation of this policy. (*See* Section 4-105B.5).
- D. The use of Technology Equipment shall act as consent by the Employee to Employer to monitor, review and retain any and all data and information on or relative to the Technology Equipment. There shall be no expectation of privacy regarding any data or information on or relative to the Technology Equipment. Employer reserves the right to

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access, maintain, and disclose all data, information, transmissions, messages, and files generated or maintained by the Technology Equipment.

- E. All data, information, records, files, messages, transmissions and software utilized, maintained or processed by anyone using Technology Equipment of Employer shall be considered the property and a resource of Employer.
- F. All users of Technology Equipment shall use it in accordance with all applicable laws and regulations, and in accordance with all instructions and manuals showing the correct means of operation.
- G. The following uses of Technology Equipment are expressly prohibited:
 - 1. Sending or receiving sexual or racial content or content that is inconsistent with the Employer's policies involving equal employment opportunity and sexual harassment.
 - 2. Any form of harassment, whether through inappropriate language, frequency of messages, or size or tone of messages.
 - 3. Sending unsolicited messages, advertising materials, political material, or other non-work related information or materials to or through any Technology Equipment of Employer, including but not limited to:
 - a. "SPAM" (*i.e.*, unauthorized or unsolicited mass mailings or communications) or junk email or messages;
 - b. "Chain letters", "Ponzi" or other "pyramid" scheme type mail, messages or information.
 - 4. Violation of the legal rights protected by copyright, patent or other similar laws, including but not limited to:
 - a. The installation or distribution of "pirated" software or products that are not appropriately licensed by the County;
 - b. Copying or retransmitting copyrighted information or materials including distribution of digitized photographs from magazines or journals; and
 - c. The public playing or presentation of radio stations or non-County sources of information or materials on Technology Equipment.

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5. The introduction of malicious, disruptive or injurious programs to any Technology Equipment, including but not limited to viruses, worms, Trojan horses, e-mail bombs, etc.
 6. Imposing, transmitting, circulating, or responding to political or religious messages or materials.
 7. Unauthorized interception of communications between Employees or other persons or improperly accessing, misappropriating, or misusing the information and files of others.
 8. Sending, displaying or publishing personal or unofficial opinions or similar non-business related messages to large numbers of users of any Technology Equipment.
 9. Displaying or publishing content regarding Employer that has not received prior approval for dissemination to the public.
 10. Intentionally or wantonly and recklessly causing the disruption of the normal functioning of Employer's Equipment.
 11. Advertising items for sale or announcing sales.
 12. Revealing accounts, passwords or other information designed to preserve the privacy of and limit access to Technology Equipment and/or the work product or information of users of Technology Equipment.
 13. Violating any other County policies, rules, or regulations through the use of or with the assistance of Technology Equipment.
- H. The County's Office of Technology or information systems department may, from time to time, publish policies and guidelines on the proper use and protection of Equipment. Employees shall be responsible for reviewing such policies and guidelines and complying therewith.

Section 4-107. Code of Ethics.

Employees shall comply with any code of ethics adopted by the County Commissioners. A copy of the code of ethics is distributed to all new Employees, is available on the County website under the Code of Public Local Laws icon, and is available in hard copy from the Office of Human Resources.

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Section 4-108. Smoking on County Property.

- A. Policy. Scientific evidence has established that smoke from tobacco products is harmful to the health and welfare of users and individuals exposed thereto, because it causes and contributes to cancer and can aggravate cardiac, respiratory and allergic conditions. The County Commissioners, pursuant to Resolution #2004-011, which expands upon Resolution #92-022, have exercised their responsibility to promote a healthy and safe environment for all Employees and individuals who conduct business at and visit County buildings and facilities by banning lighted tobacco products at such buildings and facilities.
- B. Ban. Smoking or carrying any lighted tobacco product is prohibited without exception as to person or space at all of the following County properties and facilities:
1. In the Caroline County Courthouse, Market Street, Denton in all interior spaces of the building, including the attic, basement and vestibule, and the outside of the Courthouse on the front portico.
 2. In the Caroline County Department of Public Works buildings, Wilmuth Street, Denton, and outside and in front of the main building to the Public Works fenced perimeter.
 3. On the premises of Caroline County Government landfills and waste transfer stations.
 4. In the Caroline County Health and Public Services (“HAPS”) building, South 7th Street, Denton – all interior spaces and outside of the HAPS building within 100 feet of any building entrance or exit.
 5. In the Caroline County Detention Center, and the Caroline County Sheriff’s Department building, 101 Gay Street, Denton, and outside and in front of this building to Gay Street; and as the Superintendent of Corrections may further restrict.
 6. In the County-owned Goldsborough House, 103 Gay Street, Denton, and outside and in front of this building to Gay Street;
 7. In the leased building occupied by the Caroline County Department of Emergency Management, 7 North First Street, Denton, and outside and in front of this building to First Street, and to the north side of this building to Gay Street.
 8. In all spaces leased by the Caroline County Department of Emergency Medical Services.

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9. On the premises of the County-owned Caroline County 4-H and Youth Park, Detour Road.
 10. In the County-owned block building at the intersection of Franklin and 5th Streets, Denton, and outside and in front of this building to Franklin Street, and to the east of this building to 5th Street.
 11. In any other County-owned or leased buildings.
 12. In all vehicles owned or leased by Caroline County.
- C. Enforcement. The Department Heads are responsible for enforcing this policy and training and educating the Employees in their departments of this policy, the places where smoking is banned, and the consequences for violating this policy. All County supervisory Employees ultimately are responsible for enforcing this policy.

Section 4-109. Criminal Background Investigation of Employees.

The Personnel Administrator may request, initiate, or authorize a criminal background investigation of an Employee if there is a reasonable basis for suspecting that an Employee may have engaged in illegal criminal conduct.

Section 4-110. Relatives Policy.

- A. No Employee may appoint, employ, promote, or advance, or advocate for the appointment, employment, promotion, or advancement, to a County employment position over which the Employee exercises jurisdiction, supervision, or control, any individual who is related to the Employee by blood, marriage, or adoption, or other close personal relationship, including a domestic partnership, romantic or sexual relationship, or cohabitation.
- B. No individual shall otherwise be appointed, employed, promoted, or advanced to a position within the jurisdiction, supervision, or control of any individual who is related to such individual by blood, marriage, or adoption, or other close personal relationship, including a domestic partnership, romantic or sexual relationship, or cohabitation, except on the written approval of the County Administrator; provided, however, that if such individual is related the County Administrator by blood, marriage, or adoption, or other close personal relationship, including a domestic partnership, romantic or sexual relationship, or cohabitation, the written approval shall be made by action of the County Commissioners.
- C. No Employee shall be employed in any position which employment shall create, or give

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the appearance of creating, a conflict of interest as to such Employee or any other Employee of the County or compromise, or give the appearance of compromising, the objectivity of the County or any Employee thereof. Resolution of issues arising under this Section 4-110.D, shall be resolved by advisory opinion from the Ethics Commission at the request of the County Administrator, in accordance with the procedures of the Ethics Commission.

- D. All individuals who currently are employed in positions under the jurisdiction, supervision, or control of any individual who is related to such employee by blood, marriage, or adoption, or other close personal relationship, including a domestic partnership, romantic or sexual relationship, or cohabitation, may continue to serve in such position without further action required; provided, however, that any subsequent appointment, advancement, or promotion of such individual shall be subject to Section 4-110 A, and B, above, and provided that such employment does not create an actual conflict of interest. All relationships governed by this Section 4-110, including grandfathered relationships, shall be disclosed to the County Administrator or to the Director of Human Resources within ninety (90) days of the effective date of this Section or, if later, with thirty (30) days from when the relationship is created or becomes known. These disclosures shall not be disclosed except for valid, specific cause, such as the need to investigate an allegation of a violation of this regulation or to determine whether a conflict or potential conflict exists.

Chapter 5 **Discipline of Employees**

Section 5-101. Policy.

Disciplinary action against a Classified Employee shall be initiated with reasonable promptness. Except for serious violations of policies, procedures, or acceptable standards of workplace conduct, disciplinary actions shall be progressive in severity. The severity of the action shall be determined after consideration of the nature and gravity of the offense, its relationship to the Employee's assigned duties and responsibilities, the Employee's work record, and other relevant factors.

Section 5-102. Causes for Disciplinary Action.

- A. The following, while not inclusive, are serious violations of policies and procedures that may be cause for immediate disciplinary action up to and including termination:
1. Violation of the Principles of Section 4-101 of these Personnel Rules and Regulations;
 2. Violation of the Sexual Harassment Policy (*see* Section 4-102);

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3. Violation of the Substance Abuse Policy (*see* Section 4-103);
 4. Violation of the General Rules Governing Employee Conduct set forth in Section 4-105A;
 5. Violation of the Technology, Cellular Phone, E-Mail, Internet and Telephone Policy (*see* Section 4-106); or
 6. Falsifying material information on an employment application, submissions concerning promotion or leave of absence, or County records.
- B. The following, while not inclusive, are cause for disciplinary action, and, in severe or repeated cases, may result in termination:
1. Violation of the General Rules Governing Employee Conduct set forth in Sections 4-105B, including but not limited to:
 - a. Failing to perform duties in a competent or acceptable manner, including the negligent performance of duties or insubordinate behavior, and
 - b. Unauthorized absence (including leave that is not pre-approved) or chronic tardiness;
 2. Physical ailment that prevents an Employee from performing the essential functions of Employee's position, subject to the constraints of the Family and Medical Leave Act, the Americans with Disabilities Act, the Maryland Workers' Compensation Act or any other applicable federal or State law;
 3. Failing to report to work without permission or proper excuse, subject to the constraints of the Family and Medical Leave Act, the Americans with Disabilities Act, the Maryland Workers' Compensation Act or any other applicable federal or State law;
 4. Soliciting endorsements for employment or promotions from persons who are or may be engaged in doing business with or for Employer; or
 5. Violation of the ban on smoking at County facilities and premises (*see* Section 4-108).
- C. The appropriate discipline for violation of the Caroline County Code of Ethics (*see* Section 4-107) will depend on the nature of the violation. Engaging in patently wrongful conduct or acting in ways that clearly conflict with an Employee's duty of loyalty and

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fidelity to the County will be grounds for immediate discipline up to and including termination, while lesser violations, particularly if a first time offense, may warrant less severe disciplinary action.

Section 5-103. Types of Disciplinary Measures.

- A. Employer, in the exercise of its discretion and consistent with the policy set forth in Section 5-101, shall utilize the following disciplinary procedures:
1. Counseling. Counseling is a personal meeting between supervisor and Employee to alleviate minor problems or errors of judgment. Counseling should be quickly employed to address any performance issue or problem that arises. A supervisor should make a note of each counseling of an Employee, which the supervisor should keep in a file on such supervisor's Employees, but which should not be placed in Employee's personnel file. If repeat counseling on the same matters becomes necessary, such notes can be used to prepare documented counseling or a performance evaluation that then will become part of an Employee's personnel file and may be grieved pursuant to the applicable procedures in Chapter 6 or Chapter 11.
 2. Documented Counseling. Documented counseling is a verbal discussion that is documented by placement of an Employee Contact Plan Form in Employee's personnel file. Documented counseling should be used by a supervisor to document a repeat violation of a relatively minor infraction, a minor violation of a policy or procedure, or to alert an Employee of unsatisfactory job performance that could result in a poor performance evaluation and/or further disciplinary action. A copy of any Employee Contact Plan Form completed by a supervisor should be sent to the Personnel and Benefits Coordinator for inclusion in Employee's personnel file.
 3. Written Reprimand. A written reprimand is a written statement of dissatisfaction with an Employee's conduct that is documented by placement of a Written Reprimand Employee Contact Plan Form in the Employee's personnel file. This form of disciplinary action shall be used for matters rising above those where documented counseling is appropriate but that do not warrant more serious disciplinary action. An Employee who receives a written reprimand may not receive an annual merit increase or bonus during the fiscal year immediately following the receipt of the written reprimand.
 4. Suspension. Suspension is the barring of an Employee from work for a period of time and the withholding the wages of the Employee. An Employee who receives a suspension shall not receive an annual merit increase or bonus during the fiscal year immediately following imposition of the suspension. No suspension shall be

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imposed without the approval of the Personnel Administrator, or, in the absence of the Personnel Administrator, the County Administrator.³ A suspension may be issued for any of the following:

- a. A serious infraction of the rules or policies of the Employer;
 - b. Two or more offenses for which written reprimands are received in a six-month period may be cause for suspension for a period not to exceed five working days; or
 - c. Three or more offenses during a 12-month period for which written reprimands are received may be cause for suspension for a period not to exceed five working days.
5. In-Grade Reduction. An in-grade reduction is a demotion in the form of a reduction in the step (*i.e.*, the current salary level) within the limits of the pay grade or classification to which the Employee's position is assigned in the Compensation Plan. An in-grade reduction may be the disciplinary action taken for an Employee who has not mastered all of the skills required in his/her position, although such Employee possesses the minimum qualifications of the Class Specification. An Employee who receives an in-grade reduction shall not receive an annual merit increase or bonus during the fiscal year immediately following imposition of the in-grade reduction.⁴
6. Demotion. A demotion is the movement of an Employee from a position with a higher pay grade/ classification within the Compensation Plan to a position with a lower step and/or pay grade/classification within the Compensation Plan that results in a reduction in current salary. A demotion may be the disciplinary action taken for an Employee who repeatedly fails to perform the work assigned and/or who lacks the skills requisite for such Employee's Class Specification.
7. Suspension, Pending Resolution of Criminal Charges. An Employee who is charged with committing an indictable offense while in the execution of his or her office may be suspended without pay at the discretion of the County Commissioners until such time as the case has been resolved by the appropriate court. The salary such employee otherwise would earn shall continue to accrue and shall be held in escrow pending resolution of the criminal charges. The employee shall continue to receive health benefits and the cost for such health benefits ordinarily payable by such employee shall be deducted from the amount of salary escrowed. An Employee who is acquitted on the merits after a trial shall have any amounts of salary that have been held in escrow paid to him/her, along

³ A suspension may have FLSA implications; therefore the County Attorney should be consulted.

⁴ An in-grade reduction may have FLSA implications.

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with the accrued interest at the prevailing savings account rate. If such Employee is found guilty or negotiates a plea bargain indicative of guilt, such Employee shall be considered as being terminated effective as of the date of suspension without pay. Such Employee shall receive any payments to which such Employee was entitled effective as of the date of suspension without pay less the cost of the health benefits provided to such Employee, and Employer shall keep all remaining sums. In cases where charges are disposed of by non-prosecution, or dismissed on a basis than the merits, the Personnel Administrator may make an independent determination of the matter and determine whether the event merits discipline or termination; such termination to be decided by the County Administrator. An Employee terminated under such circumstances may be denied the payment of escrowed salary.

8. Dismissal. Dismissal is the removal of Employee from Employer's service.

B. The order in which the types of disciplinary measures are listed in Subsection A does not dictate or equate to the order in which discipline must be applied to an Employee.

Section 5-104. Who May Discipline Employees

A. At-Will Employees.

1. Counseling and documented counseling may be provided by the County Administrator or the County Commissioners acting as a committee of the whole.
2. Written reprimands may be provided by the County Administrator or the County Commissioners acting as a committee of the whole.
3. Suspensions, in-grade reductions, demotions, suspensions pending resolution of criminal charges, and dismissals shall be decided and acted upon by the County Commissioners.

B. Classified Employees.

Subject to any right of appeal (*see* Chapter 6):

1. Counseling and documented counseling may be provided by any supervisor.
2. Written reprimands may be provided by a Department Head or the County Administrator, although any supervisor may request a written reprimand be provided to an Employee.

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3. Suspensions, in-grade reductions, demotions, suspensions pending trial, and dismissals may be decided and acted upon by the County Administrator, although any Department Head or supervisor may request a suspension, in-grade reduction, demotion, suspension pending resolution of criminal charges or dismissal. Following such action, the County Administrator shall inform the County Commissioners.

C. Contract Employees.

1. Any Department Head for whom a Contract Employee works, or the County Administrator, may initiate any kind of counseling, documented counseling, written reprimand or similar discipline of such Contract Employee.
2. The Personnel Administrator with the advice of the County Attorney shall determine any breach of contract and issue any notice or declaration of breach, although a Department Head may recommend such action.
3. The County Administrator may declare any Contract Employee to be in default of the employment contract or may dismiss or discharge such Contract Employee. Following such action, the County Administrator shall inform the County Commissioners.

D. Temporary Employees.

1. Any Department Head, and/or the immediate supervisor for whom a Temporary Employee works, if the Department Head so designates, and/or the County Administrator, may counsel, reprimand or discipline a Temporary Employee.
2. The County Administrator, upon the advice and recommendation of the Department Head for whom a Temporary Employee works, may suspend, demote or dismiss a Temporary Employee.

Section 5-105. Suspension, In-Grade Reduction, Demotion and Dismissal Procedures

A. At-Will Employees.

1. Suspension, In-Grade Reduction or Demotion. The suspension, in-grade reduction, or demotion of an At-Will Employee will be coordinated among the County Attorney, the County Commissioners or the County Administrator, and the Personnel Administrator. Such At-Will Employee shall be given written notice, by delivery in person or by registered mail, return receipt requested, of such personnel action and a copy of such written notice shall be placed in such

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At-Will Employee's personnel file. Any documentation supporting such personnel action also shall be included in the At-Will Employee's personnel file.

2. Dismissal. An At-Will Employee is an at-will Employee who may be dismissed without Cause.
 - a. In the event an At-Will Employee does not have a contract that differentiates between the compensation due such At-Will Employee if dismissed without cause as opposed to being dismissed for cause, or such At-Will Employee has a contract that so differentiates and he/she is dismissed without cause, the County Attorney, the County Commissioners or the County Administrator, and the Personnel Administrator shall coordinate the preparation of a written notice, which shall be delivered in person or by registered mail, return receipt requested, advising of the dismissal. A copy of such written notice shall be placed in such At-Will Employee's personnel file. Documentation, if any, supporting such personnel action also shall be included in the Employee's personnel file. Any Compensation due such At-Will Employee upon dismissal shall be provided to him/her within 30 days.
 - b. In the event an At-Will Employee has a contract that differentiates between the compensation due such At-Will Employee if dismissed without cause as opposed to being dismissed for cause and such At-Will Employee is being dismissed for cause:
 - i. Such At-Will Employee shall be provided with written charges indicating the cause or causes for dismissal prepared by the County Administrator or the County Commissioners along with an explanation of why disciplinary action other than dismissal is inappropriate.
 - ii. After deliberation on the written charges, the County Commissioners, if they wish to proceed with the matter, shall forward to such At-Will Employee the written statement that sets forth the reasons for the dismissal. The written statement shall include a notification that such At-Will Employee has ten (10) calendar days from the date of receipt of the notification in which to request a termination hearing. Such request for a termination hearing shall include a statement by such At-Will Employee of the reasons why there is no just cause for dismissal. Such request and statement of reasons shall be delivered to the Personnel Administrator within the ten (10) day period allowed.

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- iii. If such At-Will Employee does not respond within the time limits provided in Subsection (ii), the County Commissioners may consider such At-Will Employee to be dismissed for cause. If such At-Will Employee requests a termination hearing within the time limits provided in Subsection (ii) and provides a written justification of the reasons why there is no cause for dismissal, the Personnel Administrator shall provide a copy of the written charges and the response to the County Commissioners, which shall promptly set the matter for review to determine whether the dismissal was for cause or without sufficient cause.
 - a) The County shall have the burden of establishing cause for dismissal.
 - b) After the termination hearing is completed, the County Commissioners shall make a written determination of whether the dismissal was for cause or without cause, which shall include a written statement of the facts and findings. The County shall compensate such At-Will Employee pursuant to the terms of the employment contract based on the findings.
 - iv. The final decision of the County Commissioners on the “for cause” issue may be petitioned to the Circuit Court of Caroline County pursuant to Title 7, Chapter 200 of the Maryland Rules.
- B. Classified Employees. The suspensions, in-grade reduction, demotion or dismissal shall be in writing and shall be delivered to the Classified Employee in person or by certified mail, return receipt requested. Such written notification shall outline, with reasonable specificity, the reasons for the adverse employment action, and may reference supporting documentation. A copy of the written statement shall be placed in the personnel file of the Employee. A Classified Employee shall have an opportunity to grieve such employment action pursuant to the provisions of Chapter 6 of these Personnel Rules and Regulations.
- C. Contractual or Temporary Employees. The suspension, in-grade reduction, demotion or dismissal of a Contractual or Temporary Employee will be coordinated between the County Attorney, the County Commissioners or the County Administrator, and the Personnel Administrator. Such Employee shall be given written notice, by delivery in person or by certified mail, return receipt requested, of such personnel action and a copy of such written notice shall be placed in such Employee’s personnel file. Any documentation supporting such personnel action also shall be included in such Employee’s personnel file.

Chapter 6
Grievance Procedures

Section 6-101. Employees Covered.

Unless otherwise specified, the provisions of this Chapter shall apply only to Classified Employees. Recently hired probationary employees have no rights under the County's grievance procedure system and may not file a grievance.

Section 6-102. Grievance Defined.

A "grievance" is a formal complaint filed on the "Grievance Form" prepared by the Personnel Administrator, which may be obtained from the Personnel and Benefits Coordinator or the office of a Department Head. A grievance may be filed with respect to the matters listed in Section 6-103, provided an Employee has suffered or incurred an adverse employment impact or effect as a result of the matter grieved.

Section 6-103. Matters That May Be Grieved.

A. The following matters may be grieved:

1. Any disciplinary action against a Classified Employee described in Sections 5-103A.3 to 5-103A.8 of these Personnel Rules and Regulations;
2. A violation, misinterpretation or improper application to a Classified Employee of any laws or regulations governing or applicable to the Employer/Employee relationship, except those actions described in Sections 5-103A.1 and 2;
3. An allegedly improper or unreasonable act directed at a Classified Employee by a supervisor, Employee, or other person, including an act of coercion, restraint, reprisal, harassment, or intimidation;
4. An improper, inequitable, or unreasonable application of compensation policies or Employee benefits, which may include salary, pay differentials, awards, overtime pay, leave, insurance, retirement, and holidays.

Section 6-104. Filing a Grievance.

A. Before filing a grievance, a Classified Employee should try to resolve the problem or issue with the Employee allegedly precipitating such problem or issue, and/or with the immediate supervisor of such Employee.

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- B. If a problem or issue is not or cannot be settled informally through oral discussion, within fifteen (15) calendar days after the date of the event causing the problem or issue, the Classified Employee may file a written grievance on an Employee Grievance Form with:
1. The Department Head in such Classified Employee's chain of command;
 2. The Personnel Administrator, if the problem or issue directly results from a decision or action of the Department Head;
 3. The County Administrator, if the problem or issue directly results from a decision or action of the Personnel Administrator.

Section 6-105. Grievance Procedures.

- A. Upon receipt of a grievance filed pursuant to Section 6-104B.1 of this Chapter, the Department Head shall:
1. Determine if the matter may be grieved pursuant to Sections 6-102 and 6-103. If the Department Head concludes that the matter may not be grieved, within seven (7) calendar days after the grievance is filed, the Department Head shall so advise grievant by written determination, hand delivered to the grievant or mailed by certified mail, return receipt requested, to the address provided by grievant on the Employee Grievance Form.
 2. If the matter may be grieved, the Department head shall investigate the grievance, including:
 - a. Interview the grievant;
 - b. Interview others believed to have personal knowledge of the problem or issue; and
 - c. Review and copy relevant documentation.

The Department Head may designate a supervisor and/or any other person to help him/her investigate the matter, provided such supervisor and/or other person does not have any direct involvement in, or personal knowledge of, the matter.

3. If the Department Head investigates the grievance, within twenty (20) calendar days after Department Head's receipt of the grievance, Department Head shall submit a signed and dated written report, which shall be hand delivered to the Personnel Administrator and hand delivered, or mailed at the address provided by grievant on the Employee Grievance Form by certified mail, return receipt

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requested, to grievant, of Department Head's recommended resolution and explanation of the basis for the resolution (*e.g.*, the report will affirm the decision of the immediate supervisor, specify the modifications to the decision of the immediate supervisor, and/or specify the plan of action to address the grievance and set forth any factual determinations of Department Head). Relevant documentation shall also be attached to the written report.

4. Grievant shall have seven (7) calendar days after delivery or mailing of Department Head's decision (whether made pursuant to Section 6-105A.1 or 6-105A.3) to hand deliver a written appeal of Department Head's decision to the Office of Human Resources. If an appeal is not timely taken, grievant shall abide by Department Head's decision.⁵
- B. Upon receipt of a grievance filed pursuant to Section 6-104B.2 or appealed pursuant to 6-105A.4, the County Administrator shall:
1. Determine if the matter may be grieved pursuant to Sections 6-102 and 6-103. If the County Administrator concludes the matter may not be grieved, within seven (7) calendar days after the grievance is filed, the County Administrator shall have such written determination hand delivered to grievant or mailed by certified mail, return receipt requested, to the address provided by grievant on the Employee Grievance Form.
 2. Review any material supplied by Grievant and Department Head pursuant to Section 6-105A and/or investigate the grievance, including:
 - a. Interview the grievant;
 - b. Interview others believed to have personal knowledge of the problem or issue; and
 - c. Review and copy relevant documentation.

The County Administrator may designate a supervisor to help him/her investigate the matter, provided such supervisor has had no direct involvement in the matter.
 3. Within twenty (20) calendar days after the County Administrator's receipt of the grievance, the County Administrator shall submit a signed and dated written report, which shall be hand delivered to Department Head and hand delivered, or mailed at the address provided by grievant on the Employee Grievance Form by certified mail, return receipt requested, to grievant, of the County Administrator's

⁵ Grievant, *see* Section 6-105E and, if you have any questions about the time for filing an appeal to obtain the next level or review, consult with the Personnel Administrator or the Personnel and Benefits Coordinator.

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recommended resolution and explanation of the basis for the resolution (*e.g.*, the report shall affirm the decision of the Department Head, specify the modifications to the decision of the Department Head, and/or specify the plan of action to address the grievance and shall set forth any factual determinations of the County Administrator). Relevant documentation shall also be attached to the written report.

4. In matters of dismissal or suspension for a period in excess of five (5) work days, Grievant shall have seven (7) calendar days to appeal the decision made pursuant to Subsection 6-105B.1 or 6-105B.3 by delivering a written notice requesting an appeal to the County Attorney for scheduling with the Grievance Appeal Panel and notification to the Personnel Administrator. If an appeal is not timely taken, grievant shall abide by the County Administrator decision.⁶
- C. A grievance filed pursuant to Section 6-104B.3 and a grievance appeal filed pursuant to Subsection 6-105B.4 shall proceed as an appeal to the Grievance Appeal Panel under this Section 6-105C and Section 6-108. The County Attorney shall notify the Personnel Administrator of receipt of the grievance or appeal, as the case may be, and shall coordinate with the selected member of the Grievance Appeal Panel for the scheduling of a hearing of the appeal. The designated member of the Grievance Appeal Panel shall make a final determination of the matter within twenty-one (21) days after the conclusion of the hearing. The decision of the member of the Grievance Appeal Panel shall be in writing, dated and promptly delivered to the County Administrator, Personnel Administrator and the Employee by hand delivery and/or certified mail, return receipt requested. The written decision of the member of the Grievance Appeal Panel shall be the final decision of the County.
- D. The times set forth in this Section may be extended, provided grievant and the Personnel Administrator mutually agree to such an extension of time in writing.
- E. If a Department Head or the County Administrator shall fail to make a determination whether a matter is grievable, as prescribed in Subsections 6-105A.1 and 6-105B.1 or shall fail to issue a report/decision within the time prescribed in Subsections 6-105A.3 or 6-105B.3, grievant shall assume that his/her grievance has been denied and may proceed to the next level of review, as otherwise permitted, only by filing a timely written appeal as required under Subsections 6-105A.4 or 6-105B.4. For example, if Department Head does nothing (*i.e.*, Department Head neither denies the grievance pursuant to Section 6-105A.1 nor issues a written report/decision pursuant to Section 6-105A.3), on the 21st day after the grievance was filed, grievant may assume that it was denied by Department Head. Grievant may appeal, pursuant to Section 6-105A.4, to the County Administrator,

⁶ Grievant, *see* Section 6-105E and, if you have any questions about the time for filing an appeal to obtain the next level or review, consult with the Personnel Administrator or the Personnel and Benefits Coordinator.

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by delivering a written appeal to the County Administrator no earlier than the 21st day and no later than the 27th day (inclusive) after grievant filed the grievance. If grievant fails to file a written appeal with the County Administrator no earlier than the 21st day and no later than the 27th day (inclusive) after grievant filed the grievance, grievant shall abide by the decision of the Department Head. A timely noted appeal will proceed before the County Administrator pursuant to Section 6-105B. If the County Administrator does not deny the grievance pursuant to Section 6-105B.1 or submit a written report/decision within 20 working days after grievant filed a timely grievance/appeal, on the 21st day after the grievance/appeal was filed, grievant may assume that the County Administrator denied the grievance/appeal. Where otherwise permitted, Grievant may appeal to the Grievance Appeal Panel pursuant to Section 6-105B.4 by filing a written appeal with the County Attorney for scheduling with the Grievance Appeal Panel no earlier than the 21st day and no later than the 27th day (inclusive) after grievant filed the grievance/appeal. If grievant fails to file a written appeal pursuant to Section 6-105C no earlier than the 21st day and no later than the 27th day (inclusive) after grievant filed the grievance/appeal, grievant shall abide by the decision of the County Administrator.

Section 6-106. Representation.

Grievant, at grievant's sole expense, may have an attorney at law, or a representative who is not an Employee, assist grievant in preparing any written submission required of grievant pursuant to Sections 6-104 and 6-105. Grievant is not entitled or permitted to have a representative at any inquiry or interview of grievant conducted pursuant to Section 6-105, except in matters heard by a member of the Grievance Appeal Panel. Grievant may decline to make any statement during any interview or hearing conducted pursuant to Section 6-105, but in so declining, all reasonable adverse inferences may be drawn against grievant.

Section 6-107. Appeal to Circuit Court.

The final decision of the Grievance Appeal Panel member may be appealed within 30 days of the date of the decision by filing a petition with the Circuit Court for Caroline County pursuant to Title 7 Chapter 200 of the Maryland Rules.

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6-108. Grievance Appeal Panel.

- A. There is a Personal Grievance Panel.
- B. Within 45 days of the approval by the County Commissioners of these Personnel Rules and Regulations, the County Commissioners shall appoint seven individuals to the Grievance Appeal Panel. The appointments shall be made without regard to political party, provided, however, the no more than four (4) members of the Grievance Appeal Panel shall be members of the same political party. Members shall be selected for their recognized general intelligence and reputation for integrity. Familiarity with labor, employment, or personnel matters is beneficial but not necessarily required. No person in an employment relationship with the County shall serve on the Grievance Appeal Panel. All members of the Grievance Appeal Panel shall be citizens and residents of Caroline County.
- C. Membership on the Grievance Appeal Panel shall be for a term of three years. A member may be reappointed for an unlimited number of terms.
- D. The County Attorney shall prepare a list of members of the Grievance Appeal Panel by blind draw.
- E. Upon receiving a notice of an appeal to the Grievance Appeal Panel, the County Attorney shall notify the first available member on the list to hear the appeal. Should that member be unable to conduct the hearing, the County Attorney shall notify the next member on the list, and so forth until a member is selected to conduct the hearing. No member shall conduct another hearing until each members has conducted a hearing, unless no such member is available.

Chapter 7 **Probation**

Section 7-101. Probation

- A. **Probation Defined.** Probation is the period of time specified in Section 7-102 when the work of a recently hired Employee or a newly promoted Employee is closely observed for compliance with the Employee's Class Specification and performance standards. The probationary period allows the Employee to make needed adjustments in his or her work performance and it allows the Employer to determine whether the Employee fits into the position.
 - 1. If a Contract Employee or a Temporary Employee is awarded a position in the Classified Service, such Employee shall be considered a recently hired Probationary Employee.

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2. If a Classified Employee in good standing is promoted, such Employee shall be considered a newly promoted Probationary Employee.
3. If a Classified Employee in good standing is promoted to an At-Will position (*see* Section 2-102), such Employee shall be an At-Will Employee, not a newly promoted Probationary Employee.
4. If a Classified Employee was not in good standing (*e.g.*, such Employee had poor performance evaluations, had received written warnings or other more serious disciplinary admonishments (*see* Sections 5-103A.3 through 5-103A.7) during the year prior to transfer to a new position, and instead of pursuing dismissal or other employment sanctions against such Employee, Employer and such Employee agreed to try such Employee in a new position, such Employee shall be considered a recently hired Probationary Employee when transferred or moved to the new position.

B. Dismissal of Recently Hired Probationary Employee.

1. A recently hired Probationary Employee is an “at-will” employee and may be separated from County employment with or without cause.
2. A recently hired Probationary Employee may be dismissed upon being provided with written notification of the date of dismissal.
3. The immediate supervisor may request the dismissal of a recently hired Probationary Employee, but the Department Head and the Personnel Administrator must concur in the recommendation before the dismissal is effected. All records concerning the Employee’s performance prior to dismissal and the reasons for dismissal shall be maintained in the Probationary Employee’s Personnel file.
4. The decision to dismiss a recently hired Probationary Employee is final and may not be grieved or appealed.

C. Demotion of a Newly Promoted Probationary Employee Who Formerly Was a Classified Employee in Good Standing. When the work performance of a newly promoted Probationary Employee fails to meet the established standards for the new position or such newly promoted Probationary Employee determines he/she is not suited to the new position, such Employee, anytime during the first six (6) months of probation, will be reemployed in the position held prior to promotion at the rate of pay earned prior to promotion or in an available position with equivalent pay and benefits to the position held prior to promotion. (Note: a newly promoted Probationary Employee promoted to a

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position with a one year period of probation will not be granted the opportunity to return to his/her former position after the first six (6) months).

D. Benefits.

1. A recently hired Probationary Employee shall not be a Permanent Employee and shall not enjoy all the job protections and job benefits provided to a Permanent Employee under these Personnel Rules and Regulations.
2. A newly promoted Probationary Employee, who previously was a Classified Employee in good standing, shall retain (if promoted to a position in the Classified Service) or shall carry over (if promoted to an At-Will position) the same job benefits he or she had in the former Classified position.

E. The probationary status of an Employee shall end if:

1. The Employee serves the probationary period provided in Section 7-102 and receives an overall rating of “meets expectation” or higher on the Employee’s most recent performance evaluation; or
2. If the Employee is separated from service.

F. When an Employee’s probationary status terminates, the Personnel Administrator shall notify the Employee by mail, which may include county interoffice mail or e-mail, of the change in status.

Section 7-102. Probationary Periods.

- A. Recently hired and newly promoted Employees in clerical, technical, and hourly wage positions shall each serve a six-month probation.
- B. Recently hired and newly promoted Employees in management and administrative positions that are not clerical positions or At-Will positions (*see* Section 2-102A) shall each serve a one-year probation.
- C. A recently hired or a newly promoted correctional officer shall serve a one-year probation. Successful completion of probation for correctional officers shall require the Employee to pass state-required training classes during probation.
- D. A recently hired or a newly promoted public safety dispatcher, EMT-B, EMT-I, and EMT-P shall serve a nine month probation.
- E. An Employee’s Department Head, with the approval of the Personnel Administrator, may extend the probationary periods provided under Subsections 7-102A through 7-102D

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upon request. The extension shall not exceed one-half of the period initially provided for probation. A newly promoted Probationary Employee whose probationary period is extended pursuant to this Subsection shall not be entitled to placement in the same or an equivalent position previously held by such Employee in the event Employer decides not to retain such Employee in the newly promoted position. The newly promoted Probationary Employee therefore shall be afforded an opportunity to accept demotion pursuant to Section 7-101C in lieu of an extension of the probationary period pursuant to this Subsection.

Section 7-103. Evaluations During Probation.

- A. An Employee serving probation shall, at a minimum, be evaluated by his/her immediate supervisor at least once during the probationary period, if such Employee is not dismissed prior to the midpoint of the probationary period. (*See* Section 11-103A).
- B. In addition to the evaluation required under Subsection (A) of this section, performance evaluations may be conducted at other times during probation when the Employee's supervisor believes an evaluation would be useful.
- C. A copy of any completed evaluation made pursuant to this section shall be forwarded to the Personnel Administrator within seven (7) working days after the date on which the evaluation was completed and shall be placed in the Employee's personnel file.

Chapter 8 **Leave and County Employees**

Section 8-101. Leave Records.

The Personnel Administrator shall be responsible for establishing and maintaining accurate records of leave earned and taken by Employees.

Section 8-102. At-Will Employees.

The leave to which an At-Will Employee is entitled may be altered by written contract or agreement. If an At-Will Employee does not have a written employment contract, or such contract does not modify or alter the leave provided pursuant to this Chapter, the leave benefits afforded such At-Will Employee shall be in accordance with this Chapter.

Section 8-103. Temporary and Contractual Employees.

Temporary and Contractual Employees shall not be entitled to any of the leave benefits of this Chapter, with the exception that if a Temporary or Contractual Employee qualifies for Family and Medical Leave Act ("FMLA") leave pursuant to the eligibility requirements of the FMLA

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(see Section 8-108C), such Employee shall be entitled to FMLA leave on a leave without pay basis.

Section 8-104. Annual (Vacation) Leave.

- A. A Permanent Employee and a Probationary Employee shall accrue annual leave.
- B. A Permanent Employee may use accrued annual leave. Each Permanent Employee shall use at least five days of accrued annual leave each year. An Employee may carry forward unused, accrued, annual leave, up to a maximum carry-over of 55 days (i.e., 440 hours). Amounts of accrued annual leave exceeding 55 days shall be forfeited at the end of the calendar year
- C. A recently hired Probationary Employee shall not use any accrued annual leave during the first six (6) months of employment. For a recently hired Probationary Employee who must serve a one-year probation period, if such Probationary Employee has a good performance record and has not had any absentee or late arrival problems, the Department Head, in his/her sole discretion, may allow such Probationary Employee to use accrued annual leave after the first six (6) months of the probation period.
- D. The Department Head, in his/her sole discretion, may allow a newly promoted Probationary Employee to use accrued annual leave provided such newly promoted Probationary Employee has a good performance record in the new position.
- E. In the absence of an unusual or extraordinary circumstance, an Employee may not use annual leave without obtaining the prior approval of the Department Head. Each Department Head may establish procedures or a system for scheduling annual leave that assures the least interruption to the efficient operation of the department. In the absence of an unusual or extraordinary circumstances, at a minimum, fourteen (14) working days advance notice shall be required before annual leave may be taken, and consideration may be given to whether other Employees previously requested and had leave approved, which could affect coverage, in determining whether to approve a request for annual leave.
- F. Subject to any written employment agreement and the requirements of Chapter 12 of these Personnel Rules and Regulations, an Employee who separates from service with Employer may be paid for any amounts of accrued and unused annual leave, up to a maximum of 55 days of unused annual leave, at his or her highest level of pay under the Compensation Plan. Upon the death of an Employee, the Employee's designated beneficiary or Employee's estate (if no beneficiary) shall receive payment of up to 55 days of accrued and unused annual leave at the highest level of pay under the Compensation Plan held by the decedent.

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- G. Using an Employee’s anniversary date to compute years of service with Employer, a Full-Time Employee shall accrue annual leave as follows:

<u>Years of Service</u>	<u>Annual Accumulation</u>
0 through 5	10 days
6 through 10	15 days
11 through 20	20 days
More than 20	25 days

- H. A Part-Time Employee shall accrue annual leave as provided in Subsection 8-104G, except that the rate of accrual shall be prorated to be commensurate with the amount of hours the Employee is scheduled to work, using a 40-hour work week as a basis for the computation.

Section 8-105. Sick Leave.

- A. Policy. Sick leave is provided so that a Permanent or Probationary Employee may obtain necessary medical care and treatment and assist in providing necessary medical care and treatment to such Employee’s immediate family. Sick leave should be used only for health care purposes. Sick leave is not to be used as additional time off. An Employee who develops a pattern of using sick leave on Mondays or Fridays, or before or after holidays or other types of leave, in order to extend time off from work, may lose the privilege of taking sick leave other than unpaid sick leave for FMLA qualifying health conditions. Employees are encouraged to accumulate sick leave so that it may be used in the event of a short-term disability incurred as the result of a planned event or an unplanned and unanticipated accident.
- B. Who May Accrue Sick Leave. A Permanent Employee and a Probationary Employee shall accrue sick leave.
- C. Rate of Accrual. A Full-Time Employee shall accrue one (1) day of sick leave for each month employed. A Part-Time Employee shall accrue sick leave in the same manner as a Full-Time Employee, except that the rate of accrual shall be prorated to be commensurate with the amount of hours such Part-Time Employee is scheduled to work, using a 40-hour workweek as a basis for the computation.
- D. Use of Sick Leave. Accrued sick leave must be used:
1. For any leave that qualifies as Family and Medical Leave Act (“FMLA”) leave (*see* 8-108 *infra*), unless an Employee elects to use some other type of paid leave for FMLA leave.

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2. Accrued sick leave also may be used for the below listed events, which may not qualify as FMLA leave:
 - a. To treat a personal illness or injury;
 - b. For medical, dental or optical treatments or examinations;
 - c. For a medical quarantine;
 - d. For any temporary disability, including any temporary disability caused or contributed to by pregnancy, miscarriage, or childbirth; or
 - e. To treat the illness or injury of a member of Employee's immediate family who is a minor or child.
- E. FMLA/Sick Leave Interface. FMLA leave is a type of leave that an Employer who employs more than fifty (50) Employees is required to provide pursuant to federal law.
1. When accrued sick leave is used for leave that qualifies as FMLA leave, an Employee shall comply with the requirements for the utilization of FMLA leave found in Section 8-108.
 2. Leave that is taken for more than three (3) consecutive days may qualify and be counted as FMLA Leave, and sick leave that is taken for more than three (3) consecutive days normally will qualify and be counted as FMLA leave. When Employee is off of work for more than three days on sick leave or is off of work for more than three days and sick leave was used for all days of work that Employee missed, an Employee generally will be required to complete the Department of Labor approved FMLA health care provider certification form, which explains the nature of the illness suffered and answers other questions relative to a determination of whether such leave qualifies as FMLA leave.
 3. For sick leave absences, including absences of three days or less, a Department Head may require an Employee to produce a physician's certificate explaining the period of absence.
- F. Notice Requirement for Use of Non-FMLA Sick Leave. Employees shall provide the following notice for non-FMLA sick leave:⁷
1. An Employee shall contact his or her immediate supervisor and Department Head as soon after the Employee realizes that sick leave will be utilized as is reasonably possible, in order to allow the rescheduling of work and Employees so that

⁷Notice for FMLA sick leave is required pursuant to Section 8-108E.1.

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Employer may try to minimize the impact of the loss of such Employee. Generally, sick leave will be denied for routine medical, dental or optical treatments or examinations when it is not requested at least seven (7) days before a scheduled appointment. In the event of an unexpected illness, Employee shall contact his or her immediate supervisor and Department Head within 30 minutes of the normal starting time on the first day of sick leave or sick leave may be denied.

2. An Employee who becomes ill or incapacitated while at work shall inform his or her supervisor (or the next person up the chain of command in the absence of the immediate supervisor) prior to departing the workplace. Employee's supervisor shall ask Employee directly, or shall otherwise ascertain, whether the event that requires Employee to discontinue work qualifies as a workers' compensation claim. Employee's supervisor shall require Employee to see a physician if a workers' compensation claim is likely, in the supervisor's judgment.

G. Cash-In Benefit Upon Separation. An Employee will be entitled to the following sick leave cash-in benefits, which are provided to encourage an Employee to accumulate sick leave and to reward an Employee who does so and is fortunate enough not to have to use sick leave for a short-term disability.

1. Subject to any written employment agreement and Chapter 12 of these Personnel Rules and Regulations, upon separation, an Employee with at least five years of service may be paid for a percentage of his/her unused sick leave at Employee's highest level of pay under the Compensation Plan as follows:

<u>Years of Service</u>	<u>Percentage of Paid Unused Sick Leave</u>
5 – 9 years	12 percent
10 – 14 years	25 percent
15 – 19 years	40 percent
20 years and over	50 percent

2. Upon the death of an Employee, Employee's designated beneficiary or Employee's estate (if no beneficiary) will be paid for any unused sick leave at decedent's highest level of pay under the Compensation Plan in accordance with Section 8-105G.1.

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H. Sick Leave Bank Program.

1. Policy.

The Sick Leave Bank serves as a depository into which participating employees may donate accrued sick leave time for allocation to the other participating employees. The purpose of this bank is to alleviate the hardship caused if catastrophic illness, injury, or quarantine forces the employee to exhaust all sick leave time earned by that employee and thereby lose compensation.

2. Eligibility and Limitations

- a. Catastrophic injury, illness, or quarantine is defined as a severe condition or combination of conditions affecting the mental or physical health of an individual and which are not likely to permanently disable the individual. The catastrophic illness or injury must require the continuing services of a physician, psychologist, or psychiatrist.
- b. Membership in the Sick Leave Bank shall be limited to permanent, Full-Time Employees.
- c. This Sick Leave Bank is available to those employees who have completely exhausted all sick, vacation, and personal leave time and who are not receiving temporary disability benefits under workers' compensation.
- d. Eligibility for participation in the bank for the current calendar year begins upon the employee's original donation of at least one day accrued sick leave to the bank. Eligibility will continue from year to year, provided the employee donates at least one day of accrued sick leave each subsequent calendar year during the prescribed donation period. Required donation levels may be reset or changed by the Department of Human Resources based upon contribution and usage rates and related information.
- e. Eligibility for participation in the bank will discontinue upon termination of employment, death of the employee, or failure to donate the required minimum yearly rate noted above.
- f. Benefits from the bank are not available retroactively.
- g. Use of benefits from the Sick Leave Bank is considered under the provisions of the Family and Medical Leave Act (FMLA) and any use is included in the twelve weeks of leave provided under this Act, if applicable.
- h. When the balance of the bank falls to 30 days, a special donation period may be opened.
- i. Days remaining in the Sick Leave Bank at the end of a fiscal year will be carried over to the next calendar year.

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3. Donations.

Any employee who wishes to transfer a portion of his/her sick leave must sign a statement indicating the number of days to be transferred. Employees will be given an annual opportunity to donate accrued sick leave to the bank during the donation period. Donations made during the donation period qualify the donor for the following calendar year.

- a. The minimum amount of sick leave an employee may contribute is one day. Donations to the bank must be in one day increments (8 hours). The donating employee must retain a minimum of five (5) days of sick in their sick leave balance. Once sick leave has been donated to the bank, it cannot be restored to the donating employee.
- b. Donations are to be taken from the sick leave balance and will be transferred on the ration of 1/1. No transfer of funds occur, but the contributing employee's sick leave balance is reduced by the number of days donated.
- c. Employees may not designate a particular employee to receive their donated time.

4. Withdrawals.

- a. An employee or his/her designee must request Sick Leave from the bank in writing to the Director of Human Resources or the Personnel and Benefits Coordinator. Request for sick leave may be for the use of an employee with a family member (spouse, child, or parent) having a serious health condition as stipulated under The Family Medical Leave Act.
- b. All requests must be accompanied by a physician's statement that includes the beginning date of the condition, a description of the illness or injury, and a prognosis for recovery. All requests should also indicate the estimated number of sick leave days required and information related to any pending disability claims.
- c. Requests for withdrawal must be made by the employee or his/her designee no later than five (5) working days after all accrued sick, vacation, and personal leave time has been exhausted.
- d. The Office of Human Resources will render a decision to the employee within five (5) working days after receipt of the request.
- e. The Amount, if any, of Sick Leave granted for each request will be determined by the Director of Human Resources but cannot exceed one-third of the balance in the Bank or a maximum of thirty (30) working days, whichever is less. No employee may receive more than thirty (30) working days in one calendar year.
- f. If the recipient returns to work before the received hours have been expended, the hours shall be redesignated to the Sick Leave Bank.

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5. The County Administrator shall have the right to make exceptions to this Sick Leave Bank program. In addition to the eligibility requirements, donations, and withdraws to this Sick Leave Bank program.
6. The Department of Human Resources shall develop forms, material, and a system for contributing time, requesting benefits from the Sick Leave Bank, and the recordkeeping generally for the Sick Leave Bank.

Section 8-106. Personal Leave.

- A. Defined. Personal leave is paid leave that may be taken for any reason by an eligible Employee. Personal leave developed from a contraction of paid holidays, so that Employees of differing traditions and faiths could have a day off that accommodated their individualized needs.
- B. Accrual Rate.
 1. A Full-Time Permanent Employee shall accrue personal leave at a rate of 1.25 days per calendar quarter for a total of five days annually.
 2. A Part-Time Permanent Employee shall accrue personal leave in the same manner as a Full-Time Permanent Employee, except that the rate of accrual shall be prorated to be commensurate with the amount of hours such Part-Time Employee is scheduled to work, using a 40-hour workweek as a basis for the computation.
- C. Probationary Employee Ineligible. A newly hired Probationary Employee shall not begin to accrue personal leave until successful completion of the probationary period.
- D. Notice. An Employee shall notify his or her immediate supervisor and Department Head in advance of the date or dates Employee intends to use personal leave. A Department Head shall accommodate an Employee's request for personal leave whenever the normal operation of the department is not adversely affected by the use of personal leave.
- E. Use. Personal leave must be used within the calendar year in which it accrues. It cannot be carried over from year to year.

Section 8-107. Paid Holidays.

- A. Permanent and Probationary Employees shall be paid for all holidays observed by Employer. Part-Time Employees shall be paid for holidays in an amount that is prorated in accordance with the number of hours worked each week, using a 40-hour week as the basis for the computation.

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B. The following holidays are observed by Employer:

New Year's Day
Martin Luther King Day
Presidents Day
Good Friday
Memorial Day
Independence Day
Labor Day
Veterans Day
Thanksgiving Day
Friday after Thanksgiving
Christmas Day
Presidential Election Day

C. Employer may designate additional holidays.

D. Any holiday falling on Saturday shall be honored on the Friday preceding the Saturday on which the holiday falls. Any holiday falling on Sunday shall be honored on Monday immediately following the Sunday on which the holiday falls.

E. Holiday Work. A Permanent Employee who is required to work on a holiday shall receive their total annual allowance of holiday leave hours (*i.e.*, the number of County holidays times eight hours per holiday) off sometime within the same calendar year.

Section 8-108. Family and Medical Leave.

A. Purpose. The purpose of this policy is to provide family and medical leave to eligible Employees in accordance with the Family and Medical Leave Act of 1993 (FMLA).

B. Leave Provided.

1. Eligible Employees may, with appropriate notice, take up to 12 weeks of family and medical leave during a rolling 12-month period for one or more of the following reasons:

- a. The birth of Employee's child;
- b. The placement of a child with Employee for adoption or foster care;
- c. To care for a child, spouse, or parent of an Employee if such family member has a serious health condition;

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- d. Employee is unable to perform the essential functions of the Employee's position because of the Employee's own serious health condition.
2. The 12-month period is calculated on a "rolling" 12-month basis, measured backward from the date leave begins.

C. Eligibility.

1. To be eligible for Family and Medical Leave, Employee must have continuously worked for Employer at least 12 months before the request for leave and at least 1,250 hours during the 12 months preceding the leave. All paid leave and holiday hours are excluded in this calculation.
2. Leave due to the birth or placement of a child must be completed within the 12-month period beginning on the date of conception, birth or placement. In addition, if a husband and wife both are employed by Employer and both request leave due to the birth or placement of a child or to care for an ill parent, both spouses together may take only a combined total of 12 weeks during any rolling 12-month period.

D. Definitions.

1. Child

Any person who is under 18 years old or any person 18 years old, or older, who is incapable of self-care because of a mental or physical disability, if the person's relationship to Employee is that of:

- a. A biological, adopted, or foster child;
- b. A stepchild;
- c. A legal ward; or
- d. A child of an Employee that provides day-to-day care for and financially supports the child.

2. Health care provider

A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State in which the doctor practices or any other person authorized to diagnose and treat physical or mental conditions in the state in which the person practices without supervision by a doctor or other health care provider and performing within the scope of their practice as defined under state law. Examples of health care providers are listed below:

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- a. Physician;
- b. Physical therapist;
- c. Clinical psychologist;
- d. Dentist;
- e. Oral surgeon;
- f. Chiropractor,
- g. Podiatrist;
- h. Certified nurse practitioner;
- i. Certified nurse-midwife;
- j. Licensed certified clinical social worker, or
- k. Accredited Christian Science practitioner listed with the First Church of Christ, Scientist in Boston, Massachusetts. (If the Employee or family member is receiving treatment from a Christian Science practitioner, Employer may require the Employee or family member to submit to examination to obtain a second or third certification from a health care provider other than a Christian Science practitioner.)

3. Parent

The biological parent of Employee or an individual who had day-to-day responsibility to care for and financially support Employee when Employee was a child.

4. Spouse

A husband or wife as defined or recognized under State law for purposes of marriage in the State where Employee resides.

5. Serious health condition

An illness, injury, impairment, or physical or mental condition that involves one or more of the following:

- a. An incapacity or treatment in connection with inpatient care in a hospital, hospice, or residential medical care facility;
- b. An incapacity requiring absence of more than three consecutive calendar days and continuing treatment (two or more times) by a health care provider;
- c. Continuing treatment by a health care provider of a chronic or long-term condition which if left untreated will likely result in incapacity of more than three consecutive calendar days;

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- d. Incapacity due to pregnancy, including prenatal care.

E. Procedures.

1. Notice of Leave

- a. Employees who are considering applying for FMLA leave should contact the Benefits Coordinator to obtain the necessary forms and to discuss the process.
- b. Employee should complete the *Request for Family and Medical Leave* form and submit it to the Benefits Coordinator.
- c. If the need for FMLA leave is foreseeable, Employee must give Employer 30 days prior written notice by completing the *Request for Family and Medical Leave* form as indicated above. Failure to provide such notice may be grounds for delay of leave. Additionally, an Employee who requests leave for planned medical treatment must consult with his/her immediate supervisor and make a reasonable effort to schedule the leave so as not to disrupt unduly the operations of Employer.
- d. Where the need for leave is not foreseeable, notice must be given as soon as practicable, usually within one or two business days of learning of the need for leave, except in extraordinary circumstances.
- e. When absent without prior approval, an Employee is expected to contact his immediate supervisor or the Personnel and Benefits Coordinator, in the absence of the immediate supervisor, to explain the reason for his/her absence and to indicate the date when Employee expects to return to work. If Employee will be out for a reason that may qualify as FMLA job protected leave, Employee should inform his/her immediate supervisor or the Personnel and Benefits Coordinator, in the absence of the immediate supervisor, to request the appropriate forms to apply for FMLA leave.
- f. If an Employee does not request FMLA leave, but is out on sick leave or leave that is not pre-approved for a period of over 3 consecutive calendar days (including weekends and holidays) and/or for repeated absences for a reason that may be FMLA qualified, Employee's immediate supervisor or the Personnel and Benefits Coordinator may forward Employee an FMLA packet in order to determine if the leave should be designated as FMLA leave. Employee shall complete the packet and, where appropriate, have Employee's health care provider complete the appropriate forms.

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- g. Whenever Employer has sufficient information to determine that an Employee is absent for an FMLA qualifying reasons, Employer reserves the right to designate the leave as FMLA leave and count it toward Employee's 12-week entitlement.

2. Medical Certification

- a. If the reason for leave is for Employee's own or a covered family member's serious health condition, Employee and Employee's health care provider or the health care provider for the qualifying relation (e.g., child or parent) may be required to provide appropriate medical certification, unless Employer determines that such certification is not required.
- b. Medical certification is due within 15 days after Employee requests leave or Employer provides Employee with FMLA forms pursuant to Subsection 8-108E.1.f. Failure to provide requested medical certification in a timely manner might result in denial of leave until such information is provided, which could result in leave without pay and an unexcused absence on Employee's record.
- c. Employer, at its expense, may require an examination by a second health care provider designated by Employer. If the second health care provider's opinion conflicts with the original medical certification, Employer, at its expense, may require a third, mutually agreeable, health care provider to conduct an examination and provide a final binding opinion.
- d. Employee may be requested to provide re-certification on a monthly basis to verify the need for Employee to remain on FMLA leave.
- e. Falsification of medical certification records or other false information supplied by Employee to obtain approval for leave will result in disciplinary action up to and including termination.

3. Length of Leave

- a. Eligible Employees may take up to 12 weeks of leave in a rolling 12-month period. For approved FMLA leave, the 12-month period is calculated on a "rolling" 12-month basis, measured backward from the date leave begins. For instance, if Employee requests an 8-week leave beginning August 1, 2004, and Employee was on FMLA leave from October 3, 2003 to November 11, 2003 (6 weeks), Employee would only

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- be able to take 6 additional weeks under FMLA. (Thereafter, the County is not required to hold Employee's position (or an equivalent position) open for Employee, and if Employee does not have accrued and unused leave and does not obtain approval to use such leave, Employee may be separated from Employment).
- b. Employee's entitlement to FMLA leave for birth or placement of a child expires 12 months after the birth or placement. (Note, if the child develops a serious health condition and Employee has FMLA Leave available, it could be used – this applies to “bonding” leave).
 - c. FMLA leave may be taken intermittently (in separate blocks of time) where medically necessary because of a serious health condition of Employee or a covered family member. Time taken intermittently for FMLA purposes will be tracked and deducted from Employee's 12-week entitlement. If the need for the leave is foreseeable, Employee must try to schedule the leave so as to not unduly disrupt Employer's flow of work. Employer reserves the right to transfer Employee to a position with equivalent pay and benefits that better accommodates Employee's intermittent leave. Leave to care for a newly born child or a child placed with Employee for adoption or foster care may not be taken intermittently.
 - d. An Employee who fails to return to work immediately following expiration of the authorized leave period is subject to termination. All leave taken under this policy and leave for any other reason which would qualify under FMLA will be counted against Employee's 12 week leave entitlement under FMLA.
4. Reporting While on Leave. Employees on approved FMLA leave are required to contact the Personnel and Benefits Coordinator on the first Monday of each month regarding their status and intention to return to work.
 5. Use of Benefit Accruals
 - a. FMLA leave will run concurrently with Employee's paid leave. All paid leave will be exhausted before Employee may begin taking leave without pay. If all accrued paid leave (*i.e.*, annual, sick and personal leave) is exhausted while Employee is on FMLA leave, any approved balance of the FMLA leave is unpaid. An Employee will not accrue benefits during unpaid FMLA leave. (*See* Section 8-112B).
 - b. After 12 workweeks of paid and/or unpaid FMLA leave has been taken in a rolling 12-month period, Employee may be dismissed from County

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Employment and his/her position will no longer be protected. An employee is entitled only to twelve (12) work weeks of FMLA leave in a rolling twelve (12) month period before being subject to dismissal for failure to come to work and perform Employee's duties and obligations.

6. Health and Other Benefits

- a. During an approved FMLA leave, Employer will maintain Employee's health benefits, as if Employee continued to be actively employed.
- b. Employees using benefit accruals (sick, vacation and/or personal leave) while on leave will continue to have the contributory portion of their health benefits deducted from their paycheck.
- c. Premiums paid by Employer are continued as a condition of Employee's expected return to work. If Employee elects not to return to work at the end of the leave period, Employee will be required to reimburse Employer for the cost of premiums paid for maintaining coverage during the leave, unless Employee cannot return to work because of a serious health condition or other circumstances beyond his/her control. Employer may deduct the amount due from any sums owed the non-returning Employee (such as final paycheck, and leave accruals).
- d. An Employee on FMLA leave is not eligible for COBRA (*i.e.*, the Comprehensive Omnibus Budget and Reconciliation Act of 1985) coverage unless he/she does not return from leave.

7. Outside Employment. An Employee who accepts outside employment while on FMLA leave will have the leave revoked and will be subject to disciplinary action up to and including termination.

8. Returning from Leave

- a. An Employee returning from leave due to a serious health condition will be required to provide medical certification from his/her health care provider to the Personnel and Benefits Coordinator that he/she is able to resume work and perform all of the essential functions of Employee's position.
- b. An eligible Employee returning from FMLA leave shall be restored to the same position that Employee held when the leave started, or to an equivalent position. An equivalent position is one with equivalent benefits, pay and other terms and conditions of employment.

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- c. Any increase in pay or changes in benefits that occurred during the time when Employee was on FMLA leave will be made effective upon Employee's return to work.
- 9. Failure to Return to Work. Failure to return to work on the originally scheduled return date from FMLA leave will be considered a voluntary termination by Employee, unless:
 - a. The failure to return was caused by legitimate medical reasons or circumstances beyond the control of the Employee and Employee promptly notified Employer of the circumstances;
 - b. Employee obtained prior approval from the Personnel Administrator (*i.e.*, the County Administrator) to continue leave beyond the 12 week period;
 - c. Employee obtained approved leave without pay pursuant to Section 8-112A.2.
- F. Resource: If you anticipate the possibility of taking FMLA leave, or if you have any questions about the application of this policy to your particular situation, please contact the Personnel and Benefits Coordinator.

Section 8-109. Military Leave.

- A. In accordance with Article 65, Section 42 of the Annotated Code of Maryland, an Employee who serves in the organized militia or in the Army, Navy, Air, Marine, Coast Guard or National Guard Reserve is entitled to up to fifteen (15) additional days of leave to engage in such service. The County, accordingly, will provide an Employee who is an active member of Maryland's organized militia or the Army, Navy, Air, Marine, Coast Guard or National Guard Reserve up to fifteen (15) days of leave per year solely for the purpose of engaging in or other mandated military service.
- B. Requests for military leave shall be made in writing, accompanied by paperwork verifying the orders, training or assignment pursuant to which the leave is being requested, and delivered to the Department Head at least two weeks prior to the first day of requested leave. The Department Head shall forward a copy of Employee's request to the Personnel Administrator.
- C. The County will comply with any federal or Maryland law regarding leave for military service.

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Section 8-110. Jury Duty Leave.

A Permanent Employee or a Probationary Employee on jury duty shall be paid at his or her usual rate of pay minus any per diem received for jury service. Such Employee shall notify his or her supervisor immediately upon receipt of a request for jury duty. An Employee serving jury duty shall return to work immediately if the Employee is excused from jury duty prior to the end of his/her scheduled work day/shift. An employee who fails to promptly return to work upon release from jury duty shall be subject to the disciplinary sanctions set forth in Section 5-105.

Section 8-111. Educational Leave.

Employer may provide educational leave pursuant to Chapter 10 of these Personnel Rules and Regulations.

Section 8-112. Voluntary Leave Without Pay.

A. When Granted.

1. Leave without pay may be granted for up to one year to a Permanent Employee who wishes to attend school or to engage in other approved activities that will enhance skills pertinent to Employee's Service. Employee shall submit a written request for such leave to the Department Head. The Department Head shall forward the request and a recommendation to accept or deny the leave to the Personnel Administrator. The Personnel Administrator may grant the leave with the consent of the County Commissioners, and with or without conditions.
 2. Leave without pay shall be granted to an Employee entitled to FMLA leave who has exhausted all of his/her paid leave but is still entitled to additional FMLA leave before the County no longer needs to protect such Employee's position with the County. (See Section 8-108E.5.a).
- B. An Employee on leave without pay may remain in the retirement and insurance systems, provided the Employee pays both the Employee and Employer share of the costs.
- C. Prior to accepting other employment during a leave without pay, Employee shall make a written request to the Department Head, who will forward the request to the Personnel Administrator. The Personnel Administrator will submit the request, along with his or her recommendation, to the County Commissioners, which may deny or grant the request. If the request is denied, Employee shall not accept the employment, or, if Employee accepts the employment, that shall constitute a resignation of his/her position with the County.

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Section 8-113. Furlough.

- A. An Employee may be furloughed under any of the following circumstances:
1. A revenue shortfall during the fiscal year that requires a reduction in expenditures for a department, agency, or office; or
 2. A budgeted reduction in salaries, wages, and fringe benefits for a department, agency, or office.
- B. When a furlough is considered, the County Administrator shall submit a plan for furloughing Employees to the County Commissioners. The County Commissioners may modify and revise the proposed plan and, ultimately, may adopt a furlough plan by resolution. An adopted furlough plan shall, at the minimum, set forth the following:
1. The circumstances necessitating the furlough;
 2. The methods or rationale used to identify or determine the persons or groups to be furloughed;
 3. The Employees or groups of Employees to be furloughed and those who will not be furloughed;
 4. The number of days and hours such Employees will be furloughed and the specific dates furloughs will occur;
 5. The estimated dollar amount of savings anticipated from the furlough plan.
- C. Generally, a furlough plan will not require any Employee to take more than one furlough day or eight (8) furlough hours of regularly scheduled work time, whichever is greater, in any given two-week period. The furlough plan may require an Employee to take more than one furlough day or eight furlough hours in a two-week period only if the County Commissioners determine that closing offices will be the most efficient method of resolving the fiscal problems necessitating the furlough.
- D. A furlough shall not affect an Employee's group health insurance coverage with Employer.
- E. While on furlough, an Employee who is eligible to accrue leave benefits shall continue to accrue leave as though not on furlough.

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Section 8-114. Bereavement Leave.

- A. A Full-Time Permanent Employee shall be paid for three (3) days of bereavement leave. A Part-Time Permanent Employee shall be paid some fraction of the three (3) day bereavement leave based on the number of hours worked per week divided by forty (40) hours per week times three days. After three days, accumulated annual, personal or sick leave may be used.
- B. A Full-Time Permanent Employee shall not be entitled to more than six (6) days of bereavement leave per calendar year, regardless of the number of deaths in Employee's immediate family.
- C. Bereavement leave shall be provided only for the death of an Employee's:
 - 1. Spouse;
 - 2. Child;
 - 3. Parent or in-law parent, if Employee is still married to the child of the in-law parent;
 - 4. Grandparent;
 - 5. Brother; or
 - 6. Sister.

Section 8-115. Tracking Leave for Units of State Government Funded by the County.

The employees of certain State agencies and units of State Government, such as the Sheriff's Department, the State's Attorney's Office, the Caroline County Circuit Court, the Board of Elections, the Cooperative Extension or the Soil Conservation District, etc., that are not Employees of Employer, the County, but that are funded by the County pursuant to State law, have provided leave benefits that mirror those provided to Employees pursuant to this Chapter of the Personnel Rules and Regulations. Where the County assists such State agencies and units of State Government with their payroll, and thus, with tracking the leave provided to the employees of those State agencies and units of State government, such assistance does not make those State employees County Employees, and does not entitle those State employees to the leave provided pursuant to this Chapter of the County's Personnel Rules and Regulations. The State officials responsible for establishing the leave policies for such agencies and units of State government do not have to adopt the County's leave system. The fact that those officials have chosen to adopt the County's leave system and have requested the County, in the spirit of intergovernmental cooperation and the judicious use of public funds and taxpayer revenues to track leave for their

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employees shall not make the State employees of such agencies and units of State government County Employees, and does not give the County any right to dictate the leave that, ultimately, will be provided to such State employees.

Chapter 9 **Retirement, Health and Other Benefits**

Section 9-101. Retirement.

A. Caroline County, Maryland Employees' Pension Plan.

1. All Permanent Employees, except those who are eligible for and enrolled in the Public Safety Retirement Plan (*see* Subsection A.5 below), who are scheduled to work at least 20 hours per week are eligible for and automatically enrolled in the Caroline County, Maryland, Employees' Pension Plan (the "Pension Plan") from their date of hire.
2. The language and terms of the Pension Plan shall control eligibility and entitlement to benefits. The below synopsis is provided solely as an approximate overview of the Pension Plan. Generally, the Employees listed in Subsection A.1 become eligible for full retirement benefits when they separate from County employment after either:
 - a. Thirty (30) years of eligible service; or
 - b. Reaching age 62 or older and completion of five (5) full years of eligible service.
3. A detailed copy of the Pension Plan, the terms of which control eligibility and entitlement to benefits, is maintained and available for review in the Office of Human Resources.
4. Some employees of certain State agencies and units of State Government that are not Employees of Employer, the County, but that are funded by the County pursuant to State law, also have been allowed to participate and become enrolled in the Pension Plan. Participation in the Pension Plan has been afforded to such State employees in the spirit of intergovernmental cooperation, prudent expenditure of taxpayer revenue and as an accommodation to the State officials that oversee such agencies, so that they do not have to hire and support separate administrative employees to process payroll and procure and manage an alternative pension system. State officials and employees of the following State agencies and units of State government have been included in the Pension Plan:

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- a. The State's Attorney's Office; and
 - b. The Circuit Court for Caroline County.
5. The County has funded a separate Public Safety Retirement Plan for certain of its Employees and for members of the Sheriff's Department. Providing such benefit to members of the Sheriff's Department has been offered to such State employees in the spirit of intergovernmental cooperation, prudent expenditure of taxpayer revenue and as an accommodation to the Sheriff, so that he/she does not have to hire and support separate administrative employees to procure and manage an alternative pension system.
 6. Sharing and procuring a pension benefit with the above mentioned State agencies and units of State government shall not make the State officials and/or employees with and for whom such pension benefit is shared and procured County Employees, does not give the County any right to control such State officials or employees or to interfere in any way with the supervision and management of such State officials or employees, and is not intended to make the County a dual employer of such State officials or employees.
- B. Permanent Employees shall have the option of enrolling in a deferred compensation plan at their own expense.
 - C. The County Commissioners, at their sole discretion, may provide retirement benefits to other Employees.

Section 9-102. Workers' Compensation.

- A. Employer and Employees shall comply with the provisions of Maryland's Workers' Compensation Act. (*See* Title 9 of the Labor and Employment Article of the Maryland Annotated Code).
- B. An Employee shall not be entitled to double benefits as the result of a workers' compensation claim or award. For example, an Employee is not entitled to holiday pay from the County and wage reimbursement for the same day pursuant to an award of the Workers' Compensation Commission.
- C. If an injury for which an Employee makes a workers' compensation claim is found to be non-compensable or not covered under Maryland's Workers' Compensation Act, and the Employee has missed work as a result of the injury, such Employee shall use, and therefore lose, accrued sick leave, annual leave and/or personal leave equivalent to the Employee's period of absence. If Employee has insufficient accrued leave, Employee

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shall reimburse the County for days compensated while such Employee was off work for the injury.

Section 9-103. Health Coverage.

- A. Employer has provided health coverage to Permanent and Probationary Employees, although this is subject to change. Currently, such health coverage becomes available the first day after 30 calendar days of employment. The language and terms of each health coverage plan offered by the County will control eligibility for and the benefits provided by such plan notwithstanding any statement in this Section.
- B. An eligible Employee may elect not to obtain health coverage through Employer. If such an election is made, Employee may request the Personnel Administrator to pay a portion of the cost of Employee's health plan provided from another source. The Personnel Administrator may agree to contribute the lesser of an amount:
 - 1. Equal to the cost of the alternative health insurance coverage; or
 - 2. Equivalent to the sum the County would pay for Employee under the County-sponsored health plan.

If non-participation in the County health plan increases the cost of such plan to other Employees or otherwise adversely affects the County health plan, the Personnel Administrator may elect not to provide such subsidy to an Employee who elects not to participate in the County health plan. Whatever the County elects and agrees to do will be implemented on a uniform and non-discriminatory basis.

- C. Employer has provided a dental plan for Permanent and Probationary Employees, although this is subject to change. The language of any such plan will control eligibility for and the benefits provided by such plan. Employer's dental plan currently is available the first day after 30 calendar days of employment. The cost of coverage is paid entirely by covered Employees through payroll deductions. If Employee does not enroll in the Employer-sponsored health plan, Employer, upon request, has, in the past, and may, but is not obligated to pay a portion Employee's cost for the dental plan. Under such circumstances, Employer's contribution shall equal the lesser of the cost of the dental plan or the amount Employer would pay for the Employee under the Employer-sponsored health plan, less any amounts the Employer pays for health insurance coverage as provided in Subsection 9-103B.
- D. A Contractual Employee may receive health and dental benefits only if specified in a written employment contract.
- E. The employees of certain State agencies and units of State Government that are not Employees of the County, but that are funded by the County pursuant to State law, also

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may be provided health coverage through the County's health program. Such health coverage is offered to these State employees in the spirit of intergovernmental cooperation, prudent expenditure of taxpayer revenue and as an accommodation to the State officials that oversee these agencies, so that they do not have to hire and support separate administrative employees to procure health coverage for their employees, process payroll deductions, and administer a health coverage plan. Health coverage currently is offered to State officials and employees of the following State agencies and units of State government are included:

1. The State's Attorney's Office;
2. The Circuit Court for Caroline County; and
3. The Sheriff's Department.

Sharing this benefit with these State agencies and units of State government shall not make the State officials and/or employees with whom this benefit is shared County Employees, does not give the County any right to control such officials or employees or interfere in any way with the supervision and management of such officials or employees, and is not intended to make the County a dual employer of such officials or employees.

- F. The most up-to-date information about health care benefits, as well as copies of all applicable plans and plan summaries may be obtained from the Personnel and Benefits Coordinator.
- G. Once the County Commissioners elect the health care benefits that will be provided and the level of funding for such benefits, the Personnel Administrator is responsible for delivery and administering such benefits in a non-discriminatory manner.

Section 9-104. Disability Insurance.

- A. Employer has provided long-term disability insurance for Permanent Employees and has paid the entire (100%) premium cost, although this is subject to change. The plan language will control eligibility and coverage notwithstanding any statement in this Section.
- B. The employees of certain State agencies and units of State Government that are not Employees of the County, but that are funded by the County pursuant to State law, also have been allowed to participate in the County's long-term disability program. Such long-term disability insurance has been offered to these State employees in the spirit of intergovernmental cooperation, prudent expenditure of taxpayer revenue and as an accommodation to the State officials that oversee these agencies, so that they do not have to hire and support separate administrative employees to procure a long-term disability

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insurance benefit for their employees and process payroll deductions and administer such benefit. Long term disability insurance has been offered to State officials and employees of the following State agencies and units of State government:

1. The State's Attorney's Office;
2. The Circuit Court for Caroline County; and
3. The Sheriff's Department.

Sharing such benefit with such State agencies and units of State government shall not make the State officials and/or employees with whom this benefit is shared County Employees, does not give the County any right to control such officials or employees or to interfere in any way with the supervision and management of such officials or employees, and is not intended to make the County a dual employer of such officials or employees.

Section 9-105. Health Care Benefits for Retired Employees.

- A. Employer has made monetary contributions toward the health care costs for retired Employees and their surviving spouses and dependants based on the following considerations:
 1. An eligible recipient is a former Employee (and/or his/her surviving spouse and dependents) with at least 20 years of service with Employer who is eligible for and receives pension benefits through Employer's Pension Plan. Employees retiring with State or other pension plans shall be ineligible.
 2. The amount of Employer's contribution for each recipient shall be the rate charged to Employer for an individual membership by the health care vendor for a Medicare supplement.
 3. Recipients of the benefits provided in this Section shall be responsible for paying for all of their health care costs that exceed the amount of the Employer's contribution for an individual membership as referred to in Section 9-105(A)(2).
- B. The County Commissioners, at their discretion, may elect to discontinue this benefit, or to substantially alter or amend this benefit. To the extent that the County Commissioners elect to fund and make such a benefit available, the Personnel Administrator shall be responsible for delivering such benefit in a non-discriminatory manner to the members of any group to whom such benefit is afforded.

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Section 9-106. Life Insurance.

- A. Employer has provided group life insurance coverage for each Permanent Employee. A retired Permanent Employee has been permitted to continue obtaining life insurance under the County plan provided such retired Permanent Employee pays all costs for such life insurance. The County is under no obligation to continue to provide such benefit, although to the extent such benefit is provided, the Personnel Administrator shall be responsible for delivering such benefit in a non-discriminatory fashion to all employee groups entitled to such benefit. The language of any plan or policy that provides such life insurance shall control and dictate eligibility for and entitlement to such life insurance benefit.
- B. A Contractual Employee may receive life insurance benefits only if specified in the employment contract.
- C. The employees of certain State agencies and units of State Government that are not Employees of the County, but that are funded by the County pursuant to State law, also may be provided group life insurance. Such group life insurance is offered to such State employees in the spirit of intergovernmental cooperation, prudent expenditure of taxpayer revenue and as an accommodation to the State officials that oversee those agencies, so that they do not have to hire and support separate administrative employees to procure a life insurance benefit for their employees, to process payroll deductions and to administer a life insurance benefit. Group life insurance has been offered to State officials and employees of the following State agencies and units of State government:
 - 1. The State's Attorney's Office;
 - 2. The Circuit Court for Caroline County; and
 - 3. The Sheriff's Department.

Sharing such benefit with such State agencies and units of State government shall not make the State officials and/or employees with whom such benefit is shared County Employees, does not give the County any right to control such officials or employees or interfere in any way with the supervision and management of such officials or employees, and is not intended to make the County a dual employer of such officials or employees.

- D. The County Commissioners, at their discretion, may elect to discontinue this benefit, or to substantially alter or amend this benefit.

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Section 9-107. Educational Benefits.

Employer currently provides educational benefits to Employees, as provided in Chapter 10 of these Personnel Rules and Regulations.

Section 9-108. Direct Deposit.

All persons who receive a paycheck through the County's payroll system will complete a direct deposit form and have their pay directly deposited into their personal bank account. The direct deposit system benefits the County by reducing the cost to process payroll. The system benefits all persons receiving a paycheck through the County payroll system by promptly and automatically replenishing their personal accounts without any time, effort or expense.

Chapter 10 **Employee Career Development and Educational Benefits**

Section 10-101. Employee Career Development Programs.

Employer shall foster and promote the training and development of Employees where such training and development will improve the quality of services rendered to Employer, equip Employees for County career advancement, and provide Employer with a reservoir of skills necessary to meet current and future employment needs.

Section 10-102. Administration of Employee Career Development Programs.

- A. The Personnel Administrator shall have the overall responsibility for the development, administration, and evaluation of Employee career development programs.
- B. Department Heads shall develop Employees under their supervision by assessing needs; working with the Personnel Administrator to develop, conduct, and evaluate training and development programs; and providing sufficient time for Employees to participate in approved training and career development programs.

Section 10-103. Employee Orientation

- A. The Personnel Administrator is responsible for developing and implementing a program to orient each new Employee.
- B. Employee's Department Head, or designee, will provide job specific orientation for new Employees on the first day of employment.
- C. Within the first five (5) working days, the Personnel Administrator, or designee, will meet with each new Employee to review these Personnel Rules and Regulations, payroll

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issues, Employee benefits, and any other pertinent rules, procedures, guidelines or standards.

Section 10-104. Employee Training Opportunities.

Every Employee shall be assured equal consideration for appropriate training opportunities. When an Employee successfully completes a training program, Employee's Department Head shall forward a certificate or record of completion to the Personnel Administrator for placement in Employee's personnel file.

Section 10-105. Tuition Reimbursement.

A. Eligible Employees.

1. Permanent Full-Time Employees who have successfully completed one year of employment with Employer;
2. Contractual Employees may be eligible for tuition reimbursement as specified in their employment contract.

B. Prerequisites.

1. The Department Head and the Personnel Administrator must determine that the course for which reimbursement is sought is a job-related course or will provide Employee with skills relevant to Employee's Service.
2. The Personnel Administrator must determine that an approved institution offers the course, including accredited colleges, universities, and technical, and vocational schools.
3. The course must be offered at a time when Employee is not working or expected to be required to work, unless Employee has received educational leave approval pursuant to Section 10-106 before commencement of the course. All courses shall be taken on Employee's own time and shall not interfere with work assignments and performance.
4. At least 20 working days before the scheduled course begins, Employee shall complete a tuition reimbursement application and submit it to Employee's Department Head for review. Employee may include any other information Employee deems pertinent to determining how the course will benefit Employee's job performance, service to the community or the mission of the County. If approved by the Department Head, the application shall be submitted to the Personnel Administrator for review and approval or disapproval. Upon

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completion of the course, Employee shall complete the tuition reimbursement grade report, attach proof of the final grade, and submit the form to the Personnel Administrator for reimbursement.

- C. Amount of Reimbursement. Eligible Employees may receive tuition reimbursement for approved courses up to one-hundred percent of full tuition costs and registration fees, not to exceed the per credit course fee set by the County Commissioners. The percentage of reimbursement shall be determined by the grade received for the course, as follows:

*100%	Grade A or B
*75%	Grade C
*0%	Below Grade C

*Form requirement. Reimbursement, if any, for books or other course materials shall not exceed the lesser of the actual cost or the amount set by the County Commissioners.

- D. The decision to provide tuition reimbursement shall be rendered on a course-by-course basis. Merely because reimbursement for a course was allowed in the past does not mean that reimbursement for the same course will be allowed in the future.
- E. If an Employee separates from service within one year after completion of a course for which Employer provided tuition reimbursement, Employee shall repay Employer for the entire cost of tuition, books, or other course materials paid by Employer during the previous 12 months. An Employee who is separated from Employer due to reduction-in-force shall not be required to reimburse Employer for tuition costs.

Section 10-106. Educational Leave.

- A. Employer, with the recommendation of the Personnel Administrator and the County Administrator and the approval of the County Commissioners, may provide an Employee with unpaid leave for up to one year to attend a course of instruction in a subject or subjects that are Service related.
- B. Employer, with the approval of the Personnel Administrator and the County Administrator, may allow an Employee to use accumulated annual, personal, and/or sick leave on a weekly periodic basis, where employee seeks to use such leave for a portion of one or several days, accumulating to no more than two days of work absence per week, for no more than one year, to attend a Service related educational program that is not reasonably available or offered at an off-duty time. The availability of the course or educational program, the Employee's performance record, the Employee's years of service, and the Employee's use/abuse of leave will be considered in determining whether to allow such use of annual, personal and/or sick leave.

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- C. Requests for educational leave shall be made in writing to Employee's Department Head at least four weeks prior to commencement of the course or training for which leave is sought. The Department Head shall forward a copy of Employee's request to the Personnel Administrator along with a recommendation to grant or deny the leave. The Personnel Administrator will review the request and approve or deny the leave, with or without conditions.

Section 10-107. Suspension of Programs

Nothing in this Chapter 10 shall be interpreted as limiting the power and right of the County Commissioners to limit, alter, or suspend the programs in this Chapter 10 due to financial considerations including, but not limited to, shortfalls in anticipated tax revenues, cuts in federal or State funding, termination of grants, unforeseen financial demands, or otherwise.

Chapter 11 **Employee Performance Evaluation**

Section 11-101. The Performance Evaluation System.

- A. **Overview.** The Employee performance evaluation system is a process for observing and reviewing work performance; recognizing its quality; identifying needs for improvement; and working with an Employee to improve effectiveness in order to maximize the use of Employee's knowledge, skills and abilities.
- B. **Purpose.** The Performance evaluation process provides a structured opportunity for an Employee to meet with his/her direct supervisor and discuss the supervisor's expectations of Employee, Employee's strengths and weaknesses, and other issues that affect the job and Employee's ability to succeed at the job.
1. A supervisor's performance evaluation will, in part, be predicated on such supervisor's ability to motivate, manage, and obtain productivity from such supervisor's direct reports. Therefore a supervisor must critically assess the strengths and weaknesses of the Employees that he/she directly supervises, quickly address deficiencies, and positively reinforce strengths and valuable contributions.
 2. An Employee must always be respectful of his/her supervisor. An Employee should use the evaluation process to self assess areas where he/she might improve his/her performance and the overall performance of the team for which he/she works. An Employee should feel comfortable respectfully voicing concerns and suggestions for training or operational enhancements as part of the evaluation process. An Employee must recognize that suggestions may not be acted upon for

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any number of reasons, but there is value in such exchanges to all concerned when conducted in a respectful and professional manner.

- C. Impact to Employee. The evaluation shall be considered in determining an Employee's pay increment.

Section 11-102. Personnel Administrator and Performance Evaluations.

The Personnel Administrator shall be responsible for the overall administration of Employee performance evaluations. Responsibilities include training and advising Department Heads and supervisors to ensure performance evaluations are conducted properly, communicating the intent and process of performance evaluations to Employees, and overseeing the appeals process.

Section 11-103. Probationary Period and Performance Evaluation.

- A. Each Probationary Employee shall be evaluated by his or her supervisor at the midpoint of the probationary period. However, failure to conduct a written evaluation within the probationary period does not deprive Employer of its right to terminate a Probationary Employee at will and without cause with the concurrence of the Personnel Administrator.
- B. Additional evaluations may be conducted during probation at the discretion of the supervisor.
- C. Copies of the completed evaluation forms shall be forwarded to the Personnel Administrator within seven (7) working days after the date on which the evaluation was completed.
- D. Only Probationary Employees receiving at least an overall "meets expectations" rating on their evaluation shall be moved from probationary status to permanent status. A letter of permanent appointment shall be sent to the Employee by the Personnel Administrator informing them of their change in status.

Section 11-104. Annual Performance Evaluation.

- A. Each Permanent Employee shall receive an annual performance evaluation at a time specified by the Personnel Administrator. All other Employees may receive annual performance evaluations at times set by their supervisors. Employees may obtain from the Personnel Administrator a copy of the form used for the evaluation.
- B. An Employee's supervisor shall prepare the performance evaluation of the Employee. The performance of the supervisor in managing and obtaining productivity from the Employees he/she directly supervises, including the proficient evaluation of the work of

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such Employees shall be considered in the supervisor's performance evaluation, along with the performance of other duties and responsibilities of the supervisor.

- C. Before meeting with an Employee for a performance evaluation, the supervisor shall submit a preliminary evaluation of the Employee to the "Review Officer." For purposes of these Personnel Rules and Regulations, the "Review Officer" shall be the person who supervises the person preparing the performance evaluation of an Employee, such as the Department Head.
- D. After meeting with the supervisor for purposes of discussing a performance evaluation, the Employee who was evaluated shall sign the performance evaluation. The signature by itself shall not signify that an Employee agrees with the evaluation. The signature shall signify that the Employee has received the evaluation personally and is aware of its content.
- E. The completed performance evaluation shall be forwarded through the Department Head to the Personnel Administrator. The personnel file of the Employee shall contain each performance evaluation that pertains to the Employee.
- F. An overall rating of "meets expectations" on the annual performance evaluation is required in order for an Employee to be eligible for an increase in in-grade pay increment.
- G. The Personnel Administrator shall certify to the payroll clerk when a given Employee is entitled to an increase in pay increment.

Section 11-105. Unsatisfactory Evaluations.

- A. An Employee who receives an overall rating that is below the "competent" or "meets expectation" level (*i.e.*, a rating of "unsatisfactory" or "needs improvement") on the annual evaluation shall not be eligible to receive an increase in-grade pay increment.
- B. During the meeting between the supervisor and the Employee for a performance evaluation, if Employee receives an unsatisfactory or needs improvement in any element of a performance evaluation, the supervisor shall prepare, submit and discuss with Employee a performance improvement plan that identifies the steps required for improvement and continued employment. A written summary of the meeting shall be prepared and a copy forwarded to the Employee and the Employee's Department Head. The original written summary of the meeting shall be forwarded to the Personnel and Benefits Coordinator or the Personnel Administrator and shall be placed in Employee's personnel folder.

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- C. The supervisor shall conduct a follow-up performance evaluation after 90 days following the receipt of a rating of unsatisfactory or needs improvement in any element of a performance evaluation by an Employee. The 90-day performance evaluation and a written summary of the meeting shall be prepared and forwarded to:
1. The Personnel Administrator;
 2. The Employee;
 3. The Employee's Department Head.
- D. Prior to conducting the performance evaluation provided in Subsection 11-105C, the supervisor shall consult with the Review Officer, the Department Head and the Personnel Administrator or the Personnel and Benefits Coordinator on matters pertaining to the evaluation of the Employee.
- E. Even if performance in all areas rated unsatisfactory, needs improvement or lower improves to competent or meets expectations at the first 90-day review, a second 90-day review will be conducted to ensure that Employee sustains an acceptable level of performance. Such second 90-day performance evaluation and a written summary of the meeting shall be prepared and forwarded to:
1. The Personnel Administrator;
 2. The Employee;
 3. The Employee's Department Head.
- F. An Employee who receives an overall rating of "unsatisfactory" on the annual performance evaluation and fails to show significant and sustained improvement in the interim 90-day follow-up evaluations and/or the next annual evaluation shall be subject to dismissal.

Section 11-106. Performance Evaluation Overall Rating Appeal Procedure.

- A. Employee performance evaluations of an Employee shall not be subject to the grievance procedure provided in Chapter 6 of these Personnel Rules and Regulations. An Employee in the Classified Service, nevertheless, shall have the right to appeal his/her overall performance evaluation, but not any specific rating or specific comment pertaining to his/her formal evaluation, in accordance with the following procedure.
1. Within fourteen (14) calendar days of receiving a performance evaluation, a Classified Employee who feels the overall rating is unfair and has an overall

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rating that is below “Meets Expectations” or “Competent” (*i.e.*, the level where the Classified Employee no longer is entitled to an increase in in-grade pay increment) may request a meeting with the Review Officer to review the overall rating.

2. The Review Officer shall meet with the Classified Employee within fourteen (14) days after receiving a request for review. Within fourteen (14) days following the meeting, the Review Officer shall dispose of the matter by rendering a written decision and forwarding it to the Classified Employee, with a copy to the supervisor and the Personnel Administrator, who shall place the decision in the Classified Employee’s personnel file. If the Review Officer has not met with the Classified Employee within fourteen (14) days after receipt of a request for review, the Classified Employee shall consider the request denied and may proceed to request review from the Personnel Administrator by following the Procedure in Subsection 11-106A.3 (*i.e.*, filing an appeal with the Personnel Administrator within seven (7) days after the tenth day after requesting a meeting with the Review Officer).
 3. If the Classified Employee is dissatisfied with the Review Officer’s decision, Employee may, within seven (7) days of receipt of the decision, appeal the performance evaluation report in writing to the Personnel Administrator. The Personnel Administrator shall, within twenty-one (21) days of receipt of the written request, meet with the Classified Employee. If the Review Officer *is* the Personnel Administrator, the appeal shall be directed to the County Administrator. The County Administrator shall meet with Classified Employee within twenty-one (21) days of receipt of the request, whichever is shortest. Within seven (7) days of the meeting, the Personnel Administrator or the County Administrator, whoever conducted the meeting, shall dispose of the matter by rendering a written decision and forwarding a copy to the Classified Employee, the Classified Employee’s Department Head and the Classified Employee’s immediate supervisor. A copy of the decision shall be placed in the Classified Employee’s personnel file.
- B. There shall be no right to grieve a performance evaluation beyond the procedure provided for Classified Employees, as set forth in Subsection 11-106A above.

Section 11-107. Other Performance Evaluations.

- A. A supervisor may conduct a performance evaluation at any time deemed prudent by the supervisor.

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- B. Prior to leaving a supervisory position or being transferred to a new position, a supervisor shall complete a performance evaluation on each Permanent and Probationary Employee under his/her supervision who has not been evaluated within the last six months.
- C. Prior to leaving a position either by transfer or promotion, any Employee whose performance has not been evaluated during the preceding twelve months shall have that performance evaluated.

Chapter 12 **Separations**

Section 12-101. Policy.

- A. Employer shall separate all Employees equitably and fairly.
- B. At the time of separation, an Employee shall return all County Property to his/her immediate supervisor or Department Head, including keys, badges, Equipment, and uniforms.

Section 12-102. Voluntary Separations.

- A. Retirement. Any Employee who is eligible for retirement may retire from service in accordance with the procedures established under Employer's pension plan. (*See* Section 9-101, Retirement).
- B. Resignation. In order to resign in good-standing and to receive payment for a portion of unused sick leave (*see* Section 8-105G), an Employee shall give at least fourteen (14) days written notice to his/her Department Head of Employee's intent to resign and must be available during that fourteen (14) day period to wrap up business and assist Department Head with any pressing matter within such Employee's scope of business.
- C. Abandon/Quit. An Employee who fails to come to work or who separates from service without two weeks prior notice as provided in Subsection 12-102B, or who is terminated for cause shall forfeit any right to payment for a portion of unused sick leave pursuant to Section 8-105G.

Section 12-103. Involuntary Separations.

- A. Dismissal. Employer may separate an Employee from service, which shall constitute dismissal. (*See* Section 5-105 of these Personnel Rules and Regulations).
- B. Disability. An Employee who can no longer perform the essential functions of his/her job on a daily basis, even if reasonable accommodations are made with respect to such

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disability, may be separated from Service.⁸ (*See* Section 9-104, Disability Insurance, and Section 9-101, Retirement.) Separation for disability will not restrict eligibility to receive payment for accrued and unused annual, sick and/or personal leave. (*See* Sections 9-107, Life Insurance, 8-104E, Annual Leave, 8-105G, Sick Leave, and 8-106E, Personal Leave).

- C. Death. Separation resulting from the death of Employee will not restrict eligibility to receive payment for accrued and unused annual, sick and/or personal leave. (*See* Sections 9-107, Life Insurance, 8-104E, Annual Leave, 8-105G, Sick Leave, and 8-106E, Personal Leave).
- D. Layoff. An Employee may be separated from service due to a reduction-in-force.

Section 12-104. Reduction-in-Force.

- A. Definition. Reduction-in-force occurs when any of the following occurs: a shortage of funds, a shortage of work, a re-organization, or an abolishment of positions.
- B. Determination of Affected Employees. The County Commissioners, working with the County Administrator, shall designate positions to be affected. Employees working in the positions that are affected by the reduction-in-force shall be laid off on the following basis:
 - 1. If an entire Class is abolished, then all Employees working in that Class will be laid off;
 - 2. If all of the positions within a Class within a particular department (*i.e.*, all under the same Department Head) are abolished, then all Employees in that Class within that Department will be laid off.
 - 3. If certain positions within a Class and within a department are abolished, but not all of the positions within that Class and within such department are abolished, then, generally, the least senior Employee shall be laid off first, provided that those who may retain their position solely on the basis of seniority shall have achieved a rating of at least “Meets Expectations” or “Competent” (*i.e.*, the minimum rating that qualifies an Employee for an in-grade increase in pay increment) in the two most recent annual performance evaluations. If a senior Employee has not received a rating of at least “Meets Expectations” or “Competent” in either, or both, of the two most recent annual performance evaluations, Employer may lay off such Employee and retain the services of a less senior Employee with better performance evaluations.

⁸ The Americans with Disability Act establishes parameters that must be considered when terminating a disabled Employee.

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- C. Exception to Subsection B. A Permanent Employee who is scheduled to be laid off may, at the sole discretion of the Department Head, fill a position that is currently filled by a less senior Employee within the department who is not scheduled to be laid off, provided such senior Employee meets the following conditions:
1. Such senior Employee has five years or more of service;
 2. Such senior Employee has received a rating of at least “meets expectations” or “competent” on the two most recent annual performance evaluations;
 3. Such senior Employee possess the minimum qualifications required under the Class Specification for the position of the less senior Employee and the Department Head concurs that such senior Employee possesses the qualifications and training necessary to perform the job; and
 4. Such senior Employee accepts the salary associated with the position. Employees who are within one year of their retirement date, who agree and commit to retiring within the one-year period, and who are affected by this Section shall retain their current rate of pay, unless the salary attached to the new position is greater than the salary the Employee currently receives, in which case the greater salary shall be received.
- D. Notification. Employees selected for reduction-in-force will be given written notice at least 30 days prior to the last day of employment. The notice shall include the reason for the reduction in force, the date of employment, and an explanation of any benefits to be received. The written notice shall be deemed given when hand delivered to the Employee or, if provided by mail, three days after being deposited with the United States Postal Service, first class postage paid, addressed to the Employee’s last know address in the personnel records of the County.
- E. Continuing Benefits for Permanent Employees. For each Permanent Employee laid off pursuant to a reduction in force, Employer will:
1. Pay all medical insurance costs for two months after the separation date;
 2. Pay life insurance premium for one month after the separation date; and
 3. If the reduction in force is not due to fiscal concerns or constraints, or, if the reduction in force is due to fiscal constraints and the County Commissioners, in their sole discretion, deem the County has the fiscal capability, Employer shall pay any accrued and unused annual leave and may pay one week of wage

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compensation, computed at such Employee's highest pay level, for each year of service and/or may pay the benefit for accrued and unused sick leave provided in Section 8-105G.

4. An At-Will Employee with a written employment contract that provides for continuing payments or a lump sum payment in the event of termination without cause shall not qualify for any of the payments in this Subsection 12-104E.

Chapter 13 **Compensation**

Section 13-101. Compensation Plan.

- A. Employer shall maintain a Compensation Plan adequate to recruit and retain competent Employees.
- B. Each position with Employer shall be assigned a Class and a pay grade that establishes the current pay for the person filling the position and the pay range within the Class (*i.e.*, minimum, intermediate, and maximum pay that an Employee filling a position within the Class could receive).
- C. Positions shall be classified and the range of pay will be set based on consideration of the following principles:
 1. Equal-pay-for-equal-work regardless of ancestry or national origin, race or color, religion, age, disability, genetics, or sex or marital status;
 2. The relative difficulty of the work assigned;
 3. The recruiting experience of Employer;
 4. Any compensation comparison or review studies prepared for the County; and
 5. The budget constraints of the County.

Section 13-102. FLSA Classification of Positions.

The Federal Fair Labor Standards Act ("FLSA") establishes criteria for determining whether a position is exempt from, or subject to, the overtime pay requirements of the act. Periodically, the County will review Class Specifications and the work actually performed by Employees to

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determine whether a position is exempt from, or subject to, the overtime pay requirements of the FLSA. The County will endeavor to have the Compensation Plan denote whether a Class Specification position is exempt from the overtime pay requirements (*i.e.*, “FLSA Exempt”) or subject to the FLSA overtime pay requirements (*i.e.*, “FLSA Non-Exempt”).

Section 13-103. Adoption of the Compensation Plan.

- A. In conjunction with the annual budget cycle, the County Administrator, with the assistance of the Personnel Administrator, shall develop the Compensation Plan.
- B. The Compensation Plan shall be adopted by the County Commissioners in conjunction with the adoption of the operating budget.

Section 13-104. Administration of the Compensation Plan.

The Personnel Administrator is responsible for the administration of the Compensation Plan.

Section 13-105. Amending the Compensation Plan.

The Personnel Administrator is responsible for monitoring the Compensation Plan. Periodically, the Personnel Administrator shall prepare for the County Administrator comparative compensation studies and reviews of pertinent factors affecting compensation policies. As needed, the Personnel Administrator and the County Administrator shall recommend to the County Commissioners necessary amendments to the plan.

Section 13-106. Entrance Into Service.

Generally, a newly appointed Employee will enter the service at the lowest step in the appropriate grade for his or her position. Upon the recommendation of the Department Head and Personnel Administrator, which will be based on such factors as the new Employee’s training and equivalent job experience, the County Commissioners may provide for entry at a higher step, provided the new Employee has considerable appropriate training and experience and no current equally qualified Employee in the same classification makes less in compensation.

Section 13-107. In-Grade Pay Increases.

- A. Only a Permanent Employee may receive an in-grade (*i.e.*, step) pay increase. An Employee on probation is not eligible to receive in-grade pay increases.
- B. An Employee shall have received an overall rating on the most recent annual performance evaluation of “meets expectations” or higher to be eligible for an in-grade pay increase.

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Section 13-108. Re-classification.

An Employee whose position was re-classified during the past twelve months and, because of the re-classification, received a ten percent (10%) pay increase, shall not be eligible for an in-grade increase until having served twelve (12) months in the current pay grade and step.

Section 13-109. Temporary Employees.

A Temporary Employee will be compensated at an hourly rate of pay equivalent to the computed hourly rate of pay provided in the Compensation Plan.

Section 13-110. Contractual Employees.

A Contractual Employee will be compensated as provided in the written employment contract.

Section 13-111. Adjustments to the Pay Rate.

- A. Transfer. When a Permanent Employee or a Probationary Employee is transferred to another position with a similar pay range for non-disciplinary reasons, the Employee shall continue to receive the same rate of pay.

- B. Promotion. When a Permanent Employee is promoted to a position with a higher pay range, such Employee shall be placed at a pay step in the range for the new position at a level determined by the Director of Human Resources on consultation with the Department Head of the employing Department, considering the qualifications, experience level, and preparedness of the Employee for the new position. In no event shall such employee receive less than a five percent (5%) increase in pay (not to exceed the maximum of the range for the new position).

- C. Reassignment versus Demotion.
 - 1. An Employee who is reassigned to a position with a lower range of pay than the Employee's current position shall continue to receive no less than his/her current rate of pay.

 - 2. An Employee who is demoted for disciplinary reasons shall receive that rate of pay recommended by the Personnel Administrator and approved by the County Administrator or the County Commissioners actions as a body of the whole, keeping in mind the principles of Section 13-101C.

- D. Reinstatement. When a former Employee who resigned in good-standing pursuant to

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Section 12-102 is rehired within three (3) years after such resignation and placed in a position with the same pay range as that from which the Employee resigned, such Employee shall be placed in the same pay step occupied at the time of resignation. If the Employee is rehired within three (3) years after such resignation to fill a position with a lower pay range, the Employee will be placed in the pay step that most nearly approximates the pay at the time of resignation.

Section 13-112. Compensation During Temporary Assignments.

- A. A Permanent Employee working for a period of 22 consecutive workdays in a position with a pay range higher than his or her own position shall be paid either at the first step of the higher pay range or be granted a one-step in-grade pay increase in such Employee's current position, whichever is higher, for the period worked in the temporary assignment, retroactive to the first day of the temporary assignment. If an Employee is assigned a temporary position with a lower pay range, the Employee shall receive no reduction in pay.
- B. Any temporary assignment that may result in a temporary adjustment of pay shall require the approval of the County Administrator.
- C. No temporary assignment shall exceed six (6) months. An Employee who is given a temporary assignment that lasts six (6) months shall be offered the position permanently, if Employer wishes to fill it. If the Employee does not want the position permanently, he/she shall be allowed to return to his/her current position.

Section 13-113. Overtime Compensation.

A. Policy.

- 1. As a general rule, the County does not want Employees to work overtime. Department Heads should attempt to schedule work and Employee shifts so that overtime work is unnecessary.
 - a. An Employee shall not work overtime unless a Department Head or the Department Head's designee has expressly authorized and approved the overtime in advance of when Employee works the overtime.
 - b. Each Department Head shall track overtime worked and consider and recommend to the Personnel Administrator any changes in operating procedures or staffing that might help to eliminate the need for overtime without increasing the overall operating costs/budget of the department.

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2. When it is necessary for Employees to work overtime, overtime compensation shall be paid as required under the federal Fair Labor Standards Act (FLSA).
 - a. Salaried positions that are executive, administrative, professional, appropriate computer employee positions and positions otherwise exempt from the overtime pay requirements of the FLSA, as provided pursuant to the Wage and Hour regulations of the Department of Labor (*see* 29 Code of Federal Regulations Part 541), will not be afforded overtime compensation (*i.e.*, “FLSA Exempt” positions).
 - b. Employees who punch a time clock (or log in and out of work), are paid on an hourly basis, and qualify for overtime compensation, as provided by the FLSA and the Wage and Hour regulations of the Department of Labor, generally will receive overtime pay for hours worked over 40 hours per week or, in the case of certain classifications of employees, for time worked in excess of the minimums established by the applicable Department of Labor regulations (*i.e.*, “FLSA Non-Exempt” positions). Awarding compensatory time generally is a less preferred alternative to payment of overtime.
- B. At-Will Employees. At-Will Employees are salaried Employees and hold FLSA exempt positions that do not qualify for overtime pay. Overtime compensation shall not be paid to At-Will Employees and At-Will Employees are not eligible to earn compensatory time-off.
- C. FLSA Non-Exempt Employees. Employees who hold FLSA Non-Exempt positions shall be compensated at the rate of one and one-half times their normal hourly rate of pay for any hours worked in excess of the standard work week of 40 hours or, for law enforcement and corrections personnel, for hours worked in excess of 171 hours in a 28-day work cycle or 86 hours in a 14-day work cycle.
- D. Calculation of Hours Worked. Only authorized hours worked shall be counted as hours worked in a standard workweek or 28-day/14-day work cycle. Any other paid or unpaid leave taken during that period shall not be included in the calculation of hours worked.
- E. Compensatory Time-Off. Compensatory time may be provided, in lieu of overtime pay, to a FLSA Non-Exempt Employee who works overtime under the following conditions and circumstances:
 1. Prior to working overtime, the Employee agrees to accept compensatory time-off in lieu of payment for working overtime. An FLSA Non-Exempt Employee who wishes to receive compensatory time instead of overtime pay shall make such election for an entire fiscal year (*i.e.*, July 1 of the year through June 30 of the

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following year). Thereafter, whenever such Employee has approval to work overtime, such Employee shall receive compensatory time-off in lieu of overtime pay as long as such Employee does not have accrued and unused compensatory time in excess of forty (40) hours. If an Employee has over forty (40) hours of accrued and unused overtime, such Employee must be paid for all additional overtime in excess of forty (40) hours.

2. Prior to any overtime being worked, the Department Head has approved the award of compensatory time-off in lieu of overtime pay.
 3. One and one-half hours of compensatory time-off is awarded for each hour of overtime worked.
 4. Compensatory time-off shall be provided in lieu of overtime pay only in the event that Employee has less than 40 hours of accumulated and unused compensatory time-off and is not anticipated to accumulate more than 40 hours of compensatory time-off as a result of the overtime in question.
 5. Employee must obtain approval for use of compensatory time-off in the same manner as approval for use of annual leave (*see* Section 8-104E).
 - a. Absent extraordinary circumstances (*e.g.*, an Employee accumulating Compensatory time-off to extend paid time-off for child birth or adoption, or care of an elderly parent), an Employee must use compensatory time-off within 120 days after accumulating such leave.
 - b. The Department Head will allow an Employee to use accumulated compensatory time off within 120 days after it is accumulated, unless Employee fails to give adequate advance notice of a request for use of compensatory time-off and the department will be short staffed and unable to function properly when the leave is requested.
 - c. A Department Head shall notify the Personnel Administrator of the name of each Employee who has not used accumulated compensatory time-off within 120 days after earning it and the number of accumulated and unused hours. Thereafter, Employees shall be compensated for such time.
 - d. An Employee with accumulated compensatory time-off that believes he/she has been unreasonably denied use of such time-off shall promptly notify the Personnel Administrator.
- F. Administration of Compensatory Pay and Time-Off. Department Heads shall be responsible for administering the provisions of this policy within their respective

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departments and shall ensure that all overtime pay and compensatory time-off earned and used is promptly recorded in a ledger. Each Department Head is responsible for providing the Personnel and Benefits Coordinator with a monthly ledger showing the amount, if any, of compensatory time that each Non-FLSA Exempt Employee who has elected to receive compensatory time-off in lieu of overtime pay has accrued and used. Such ledger shall be delivered to the Personnel and Benefits Coordinator by no later the fifth (5th) day of each month. Form is provided by the Office of Human Resources.

Section 13-114. Cost of Living Increases.

- A. The County Commissioners may approve cost-of-living increases as part of the annual budget. Permanent Employees and Probationary Employees shall be eligible to receive cost-of-living increases.
- B. The County Commissioners shall, during annual budget formulation, consider whether a cost-of-living increase shall be provided to retirees receiving a monthly County pension benefit.

Section 13-115. Travel Compensation.

- A. Employees required to travel in a privately owned car on approved County business shall be reimbursed for mileage at the prevailing rate set by the County Commissioners.
 - 1. An Employee will not use a privately owned vehicle for County business unless the vehicle is insured in accordance with the laws of Maryland and such Employee is an approved and insured driver of such vehicle.
 - 2. In the event of an accident, the private insurer shall be responsible for providing a defense and indemnification for any liability of Employee.
 - 3. Employee shall promptly notify the County's risk manager of any accident or mishap that occurs during Employee's use of such private vehicle and shall complete an incident report and provide whatever other information about the incident as is deemed necessary and appropriate. Failure to comply with this requirement will be grounds for immediate termination.
- B. Reimbursement for parking, bridges, and road tolls shall be provided to Employees traveling on official business if receipts for the expenses are received and provided to Employer within 60 days of occurrence.

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- C. Employees may be reimbursed for the actual cost while traveling overnight for lodging and meals on County business during travel required by the Employer when supported by receipts. If Employee travels out of the County during a regular business day, reimbursement for meals may be allowed when supported by receipts. The reimbursed amounts shall not exceed the limits established by the County Commissioners. If limits for reimbursed amounts have not been established by the County Commissioners, then the reimbursed amounts shall not exceed the typical and reasonable rates applicable in the area in which the travel occurred.

Section 13-116. Compensation of On-Call Time for Non-Exempt FLSA Employees.

- A. On-Call. A Non-Exempt FLSA Employee who is designated as an “On-Call Employee” must be:
1. Reachable by phone, pager, or similar Technology Equipment provided to Employee by the County at any times such Employee is required to be on-call; and
 2. Capable of reporting to work within one hour of being called to duty.
- B. Restrictions. As long as an On-Call Employee can be contacted and report to work within an hour, there is no restriction on what an On-Call Employee does when such Employee is not regularly scheduled to work, provided that such On-Call Employee may not consume any substance that would impair him/her from performing his/her duties in the event he/she is called to work.
- C. Dress and Equipment. If the County provides an On-Call Employee with a uniform and/or portable Equipment that may be carried with such Employee, such Employee shall keep the uniform and equipment with him/her when on-call and shall report to the Service area appropriately attired and equipped. Otherwise, such Employee should dress appropriately when called into work (e.g., an on-call Employee who goes swimming should carry clothes to change into in the event such Employee is summoned to work).
- D. Pay. When an on-call Employee is called to Service, he/she shall be paid portal to portal, *i.e.*, from the time such Employee leaves wherever such Employee was when called to Service until such Employee returns home from Service. When an on-call Employee is summoned to work, he/she will receive a minimum of three (3) hours pay. Regardless of any annual, sick, or personal leave used during the workweek, if the on-call work results in Employee working overtime, Employee shall receive the appropriate overtime compensation pursuant to Section 13-112. Otherwise, an On-Call Employee will be paid according to his/her regular rate and work schedules.

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APPENDIX

NOTICE FOLLOWING A POSITIVE DRUGS AND ALCOHOL TEST

You are receiving this notice because you have tested positive for alcohol and/or drugs from the test that you recently undertook. We are obligated to provide you information, under Section 17-214(c) of the Health General Article of the Maryland Code, about your rights to an independent testing of the same sample for verification of the positive result.

You shall receive with this notice:

1. A copy of the laboratory test indicating the test results; and
2. A copy of County's Substance Abuse Policy.

Should you decide to seek an independent test, you must have the same sample tested at a lab that is licensed either in Maryland or in another state. You are obligated to pay the cost of this independent test. Please make arrangements with the Personnel Administrator.

If the results from an independent test is positive, or you choose not to challenge the results of this test, the following disciplinary actions shall be taken:

1. If you are applying for employment, you will no longer be considered for the position for which you had applied.
2. If you are an Employee, you will be required to attend an approved alcohol or substance abuse program that does not interfere with your work responsibilities if this result is your first positive result.
3. If you are an Employee, you will be terminated if this result is a second positive result.

The County, in its sole discretion may vary from the foregoing disciplinary actions. If your disciplinary measure is a variation, a separate written notice will accompany this notice.

If you have any questions, or care to offer any further information or insight in to this situation, please direct all inquiries to the Office of Human Resources at 109 Market Street, Room 103, Courthouse, Denton, Maryland 21629 or call 410/479-4105.