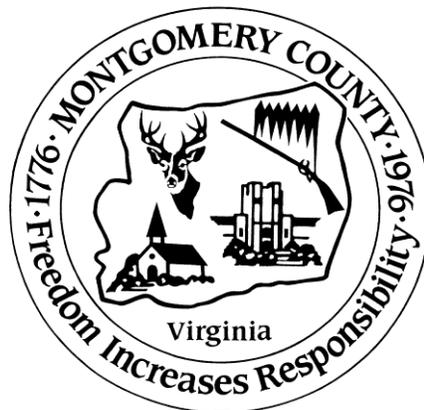


# ***COUNTY OF MONTGOMERY, VIRGINIA***

## ***PERSONNEL POLICIES AND PROCEDURES MANUAL***



**July 28, 2014**

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## CHAPTER 1

### *ORGANIZATION AND ADMINISTRATION*

#### **1.1 PURPOSE OF PERSONNEL POLICIES**

- A. To provide equitable conditions of employment for County employees;
- B. To establish and maintain uniform standards of employment and compensation; and
- C. To provide assistance to Department Directors and Constitutional Officers and supervisors in their administration of personnel matters.

#### **1.2 ADOPTION OF PERSONNEL POLICIES**

The personnel policies set forth in this Manual supersede all previous personnel policies, and serve as the official personnel policies of the County of Montgomery, Virginia. These policies do not supersede but are in conjunction with operational policies of departments and Constitutional Officers. Such policies may be more restrictive but not less restrictive than these personnel policies.

#### **1.3 ADMINISTRATION**

- A. The County Administrator shall be responsible for the administration of the County personnel program. Decisions made by the Human Resources Director in administering these policies may be appealed by the affected Department Director or Constitutional Officer to the County Administrator.
- B. This Manual is intended to address most personnel situations and actions for which the County Administrator is responsible. However, those situations not specifically covered shall be interpreted and acted upon by the County Administrator in keeping with the intent of these policies and procedures.
- C. Constitutional Officers may interpret operational situations not covered in these personnel policies, which are pertinent to their respective operations.
- D. Additional information and advice pertaining to these policies and procedures can be obtained from supervisors, Department Directors, the Human Resources Director, and other Human Resources Department representatives.

#### **1.4 SCOPE**

- A. These policies and procedures shall apply to all departments, positions, and employees of the County except for the following groups:
  - 1. Constitutional officers and employees;
  - 2. Department of Social Services' employees;

3. General Registrar and employees;
  4. Employees of the Public Service Authority; and
  5. Employees of the Montgomery-Floyd Regional Library.
  6. Employees exempted from specific portions of this Manual in later paragraphs.
- B. Groups identified in Section 1.4.A-1-5 above may elect to participate in the County's personnel policies by written agreement between the County Administrator and the requesting official.
1. In conjunction with Sections 1.2 and 1.4, it is recognized that Constitutional Officers administer established operational policies. Unless addressed specifically in these personnel policies, such operational policies and changes to them may be more restrictive but not less restrictive than these personnel policies.

## **1.5 COMPLIANCE**

Department Directors or Constitutional Officers shall take necessary and prompt action to ensure compliance with these policies within their respective departments.

## **1.6 LIMITATIONS**

- A. The policies set forth herein are not intended to create a contract, nor are they to be construed to suggest any express or implied contractual obligations of any kind with the County. The County retains the right to amend, cancel or otherwise change any of these policies and procedures, at any time as circumstances may warrant with the express written approval of the County Administrator.
- B. Employment with the County is at will, voluntarily entered into, and the employee is free to resign at any time. Similarly, the County may terminate the employment relationship at any time and such termination or any other form of discipline shall be a judgment reserved to the County at its sole discretion. Constitutional Officers make this judgment for their operations.

## **1.7 AVAILABILITY OF PERSONNEL POLICIES**

A copy of the current Personnel Policy Manual shall be issued to each County employee. New employees shall receive their copy on or before their first day of work while existing employees shall receive copies whenever a new policy is adopted or amended. Each employee shall sign a form prepared by the Human Resources Director acknowledging receipt of his/her copy of the Personnel Manual. As a condition of employment, each employee shall read the manual and any changes, sign the receipt acknowledgment form initially and with each set of changes, and shall be aware of all the County personnel policies and procedures and comply with those policies and procedures as a condition of employment. The Human Resources Director shall provide training on major policies and procedures on a regular or as-needed basis to facilitate understanding

and awareness. In addition, a copy shall be maintained in the office of each Department Director or separate staff agency and each major operating group. The Personnel Policy Manual shall be available for review by any employee or the public, in the Human Resources Department, during the County's regular business hours.

## **1.8 HUMAN RESOURCES DEPARTMENT MISSION**

The Human Resources Department is responsible for administering and interpreting the personnel policies and procedures set forth in this Manual. Additionally, the Human Resources Department is responsible for recruitment for County positions, orientation, training, compensation and classification administration, employee benefits administration, exit interviews, employee relations and related activities designed to select, develop, and maintain an effective County workforce.

Constitutional Officers or Department Directors may conduct certain operational and in-service training pertinent to their operations. Constitutional Officers may elect to do their own recruitment while conferring with Human Resources. Changes in classification initiated by the Virginia Compensation Board to Constitutional Officer positions should be recommended by the Officer and approved by the County Administrator for funding availability.

## **1.9 RESPONSIBILITIES OF THE HUMAN RESOURCES DIRECTOR**

- A. The Human Resources Director is the representative for the County Administrator and is responsible for the administration of a comprehensive personnel management system that includes the personnel policies and procedures and all other personnel responsibilities imposed by policy and by law.
- B. The Human Resources Director shall have the authority to interpret and apply these personnel policies and procedures to provide fairness and equity among all employees. This authority shall not extend, however, to the amendment or suspension of these policies, nor to action on appeal to the County Administrator.
- C. The Human Resources Director shall advise the County Administrator in matters concerning personnel administration, and shall recommend amendments to these policies as appropriate. The Human Resources Director shall review all requests for amendment to these policies and procedures, new classifications, changes in pay ranges for classes of positions, and appeals of reclassification of positions and shall present recommendations to the County Administrator. Constitutional Officers shall advise the Human Resources Director of issues relating to their offices.
- D. The Human Resources Director shall maintain all centralized personnel records and personnel files relating to County employees and positions. Constitutional Officers may retain records regarding internal affairs investigations and disciplinary actions.
- E. The Human Resources Director shall ensure that personnel administration is undertaken and completed consistent with sound merit system standards. In conjunction with the Freedom of Information Act and other County policies

described herein, the Human Resources Director will review all requests for personnel related information.

## **1.10 PERSONNEL DEFINITIONS**

Administrative Leave – Leave approved with pay by the County Administrator or Constitutional Officer and not covered by any other leave provision.

Agency Director – For purposes of these policies, this position is synonymous with Constitutional Officer and representative of County affiliated agencies such as Constitutional offices that have, by written agreement, joined the County’s Compensation and Classification Plan and fall under these Personnel Policies. These are the General Registrar, Social Services Director, Library Director, and Public Service Authority Director.

Allocation – The assignment of a position to its appropriate class in relation to duties performed.

Applicant – An individual who indicates a specific interest in a current job vacancy for which the County is hiring; and provides all required information on a Montgomery County Employment Application Form.

Appointment – The offer and acceptance of a position by a selected candidate.

Authorized Absence – An absence approved by the employee’s supervisor after proper notification (reason for absence and estimated length of absence) is given to the supervisor.

Absent Without Leave (AWOL) – The term used for any unauthorized absence during a scheduled work period (see “Unauthorized Absence” definition and Section 8.13).

Board Appointee – The following positions appointed by the Board of Supervisors/PSA Board are removed from the County’s Classification and Compensation Plans but will continue to follow the County’s Personnel Policies and Procedures: County Administrator, County Attorney, PSA Director.

Break in Service – Any separation from the service of Montgomery County whether by resignation, retirement, layoff, dismissal, disability retirement, or absent without leave when the employee is subsequently re-employed. An authorized leave without pay shall not be considered as constituting a “break in service.”

Classification (Class) – A position or group of positions which are sufficiently alike in duties performed, degree of supervision required, minimum requirements of education, experience or skill, and other such characteristics to be equitably assigned the same class title, same or similar qualification requirements, the same skill level, the same test of fitness, and the same salary range. The County Classification Plan is attached as Appendix A to these policies.

Class Series – A number of positions involving the same character of work, but differ as to the level of difficulty and responsibility.

Class Description – A formal written description of the class which defines the general character and scope of the duties and responsibilities of positions in the class. This

description includes a class title, a general statement of the level of work, and the distinguishing features of work, some examples of work, and the minimum experience and education requirements for positions in the class.

Compensation Plan – The official schedule of pay approved by the Board of Supervisors assigning one (1) or more rates of pay to each class title, arranged schematically by classification series. The County Compensation Plan is attached as Appendix B to these policies.

Constitutional Officer – Those persons identified as County officials who are elected in accordance with Article VII, Section 4 of the Constitution of Virginia, including the Sheriff, Treasurer, Commonwealth’s Attorney, Commissioner of the Revenue, and Clerk of the Circuit Court. Such officers are not considered employees of the County.

Continuous Service – The total length of time an employee has been employed with the County. Continuous service is defined as beginning with the date of employment and continues until the employee’s retirement or other separation from the County. It does not include time spent on approved leave without pay status beyond 30 days, except for approved Military Leave Without Pay.

Department Directors – Inclusive of the following:

- . County Engineer
- . Directors of:
  - . Economic Development
  - . Information Management Services
  - . Engineering and Regulatory Compliance
  - . Finance and Management Services
  - . General Services
  - . Human Resources
  - . Human Services
  - . Planning
  - . Parks and Recreation
  - . Public Information

Demotion – Movement from one class of position to another of a lower salary range in which the employee meets the minimum qualification requirements. Demotion may be disciplinary or non-disciplinary.

Dependent – A family member who is claimed as a dependent on the employee’s Federal Income Tax Return.

Discipline – Action taken against an employee ranging from verbal reprimand to dismissal depending on the severity of the employee’s unsatisfactory work performance or misconduct.

Dismissal – An involuntary separation of an individual’s employment initiated by the County.

Employee – An individual who, in consideration of wages or salary for the benefit and under the control of the County, is compensated through the County payroll. “Employee” shall not include:

1. Members of the County’s Board of Supervisors;
2. Constitutional officers and their employees, unless the officer has elected to be covered by the County’s personnel system;
3. Members of boards, commissions and authorities;
4. Employees of the School Board; and
5. Independent contractors.

Emergency Personnel – Employees who hold certain positions, which provide necessary health, safety, and emergency County services, regardless of adverse conditions.

Full-Time Regular Appointment – Appointment to a full-time regular position indicates that the employee is to work for the County on a full-time continuous basis, without time limitation and requiring a regularly scheduled 40-hour workweek.

Full-Time Temporary Appointment – Appointment to a full-time temporary position indicates that the employee is scheduled to work 40 hours per week for a maximum of one (1) year. Temporary appointments may not receive fringe benefits.

Intern – A temporary position in which the employee may work part-time or full-time hours as set by the Department Director.

Incumbent – An employee occupying a position in the County service.

Layoff – A temporary or indefinite reduction in the workforce due to economic conditions, technological changes, lack of work, or other appropriate reasons, initiated by the County and usually through no fault of the employee.

Liberal Leave – The County Administrator or Constitutional Officer may place liberal leave in effect during severe weather or other adverse conditions when deemed necessary. Non-emergency employees must receive approval from their immediate supervisor to use liberal leave (annual leave, compensatory time or leave without pay) if in their judgment adverse weather prevents them from working normal scheduled hours.

Maternity Leave - Pregnancy, childbirth or related medical conditions associated with birth shall be treated as any other temporary disability with respect to sick leave, annual leave, compensatory time, and leave without pay. Provisions for this leave fall under the Family and Medical Leave section of this Manual.

Merit Salary Increase – An increase in compensation established in the Compensation Plan which may be granted to eligible employees after completion of the appropriate length of service and a performance evaluation rating which satisfies the requirements for advancement.

Non-emergency Employee – An employee who is not required to work during adverse conditions. Adverse conditions are declared and defined by the County Administrator or Constitutional Officer.

Part-Time Regular Appointment – An appointment to a part-time position that is routinely scheduled to work less than 40 hours per week for the County on a continuous

basis, without regard to time limitation. Employees occupying part-time regular positions shall receive fringe benefits as specified in these policies.

Part-Time Temporary Appointment – An employee that is routinely scheduled to work less than 40 hours per week for a period of less than one (1) year. Temporary employees shall not receive fringe benefits.

Performance Evaluation – A systematic review of employees in the effective accomplishment of their assigned duties and responsibilities. A recommendation for a merit salary increase may or may not be included in the evaluation (depending on eligibility).

Personnel File – Official central file of information pertaining to each employee and maintained in the Human Resources Department.

Position Classification Plan – The official system of grouping of similar positions into appropriate classes based upon the respective duties, typical tasks, and qualifications.

Probationary Period – The working test or trial period of employment beginning on the first day of work.

Promotion – Movement from one class of position to another of a higher salary range in which the employee meets the minimum qualification requirements.

Qualifications – The minimum education, experience, and any special job-related requirements which must be fulfilled by a person preliminary to appointment or promotion.

Reclassification – A change in the classification of a position or group of positions.

Re-Employment – When an employee's services are terminated and that employee is subsequently employed again with the County. Should a former employee be re-employed within 60 calendar days from the effective date of termination, the re-employment may be considered a reinstatement. If the employee has been gone longer than 60 calendar days from the effective date of termination before being employed again, the re-employment process is the same as for a new employee.

Regular Employee – The status of a classified employee who has successfully completed the initial probationary period. Regular status does not ensure permanent employment.

Reinstatement – Any time an employee returns to work from an authorized leave of absence or goes from a non-pay status into a paid status within 30 calendar days, it is called reinstatement. Reinstatement means that the employee is treated as if on leave without pay for the time he/she was away from the County. The employee's leave balances for which payment has not been made are returned to the same level that existed immediately prior to moving into the non-pay status. The employee's anniversary date is not affected by the non-pay status. Reemployment of a former employee within 60 calendar days from the effective date of termination may also be considered reinstatement.

Resignation – Voluntary separation initiated by an employee who chooses to leave the County service.

Salary Range – The rate of pay assigned to a group of steps. A salary range is generally referred to by a number. A class or classes of positions are assigned to a salary range

according to labor market conditions and County organizational structure and approved by the County Administrator.

Salary Step – A rate of pay assigned to one of the steps in a salary range. Movement from one step to another within a salary range is governed solely by merit and is based upon job performance. Eligibility for consideration for movement within the salary range is based upon the length of time in a step interval and a performance evaluation rating that satisfies the requirements for advancement to that step.

Secondary (Outside) Employment – Employment in any capacity other than the employee's primary County job.

Supervisor – An employee who has the responsibility for directing and evaluating the work of other employees, including but not limited to: Scheduling work, providing on-the-job training, approving leave requests, providing on-going evaluation of work performance including completing the performance evaluations, recommending disciplinary action, and recommending hiring and firing.

Suspension – A forced leave of absence without pay for disciplinary purposes.

Transfer – Movement of an employee from one position to another position. Transfers can take place within a department, between departments, between positions of the same pay range, or between positions of the same class. Transfers may be used for disciplinary purposes, but when so used shall be clearly identified as a disciplinary measure. Otherwise, transfers shall be presumed to be for the good of the County service, and shall not reflect negatively on the employee's performance.

Unauthorized Absence – Any absence from the job during a scheduled work period, without approval from the employee's immediate supervisor, or when an employee does not follow the proper request or verification procedure for an absence is considered an unauthorized absence and is subject to disciplinary action up to and including dismissal.

Vacancy – A position which has been newly established or which has been rendered vacant by resignation, retirement, or other removal of the previous incumbent.

Workday – Scheduled number of hours an employees is required to work per day.

Workplace – Any County owned or leased property (including parking lots), any site where official duties (including business-related activities for or on behalf of the County) are being performed by a County employee during regular work hours, or while operating a motor vehicle or machine leased or owned by the County.

Workweek – The County's regular workweek shall be 40 hours; work hours shall be scheduled between the period of 12:00 a.m. midnight on Sunday through 11:59 p.m. on Saturday, effective July 1, 2011. Certain exceptions to these work hours, such as in public safety, may be necessary for the continuity of operations.

## CHAPTER 2

### *EMPLOYMENT*

#### 2.1 EQUAL EMPLOYMENT OPPORTUNITY

- A. The County shall provide equal opportunity in employment and career development. Employment decisions shall be based on merit, qualifications, and competence. The County administers its policies without regard to an applicant's or employee's race, color, gender, national origin, marital status, age, religion, political affiliation, disability or veteran status which is unrelated to a person's occupational qualifications, or any other non-merit factor. The County shall provide qualified applicants and employees with disabilities, as defined in Title I of the Americans with Disabilities Act (ADA), with reasonable accommodations that do not impose an undue hardship. The Human Resources Director shall be designated as the ADA Coordinator for the County.
- B. The County shall provide an environment that is free of unlawful harassment of any kind, including that which is sexual, age-related, or ethnic.
- C. The policy of equal opportunity governs all aspects of employment including, but not limited to, the following:
  1. Personnel Selection – Advertisement, recruitment, referral, testing, hiring, transfer; and promotion in all job classifications shall be without regard to race, color, sex, national origin, marital status, age, religion, political affiliation, disability or veteran status which is unrelated to a person's occupational qualifications, or other non-merit factor which is not a bona fide occupational qualification.
  2. Other Personnel Actions – All other aspects of employment with the County such as compensation, benefits, assignment, demotion, dismissal, layoffs, return from layoffs, training, tuition reimbursement, and social and recreational programs are administered without discrimination.
- D. The successful achievement of equal opportunity throughout the County can only be achieved with the maximum support and cooperation of all employees. Specific responsibilities are as follows:
  1. The Human Resources Director is designated as the Equal Employment Opportunity Officer and is primarily responsible for ensuring that the County Department Directors, managers, supervisors, and employees are aware of and trained on this policy and pertinent federal, Commonwealth of Virginia and local laws, guidelines, executive orders, and regulations directing equal employment opportunity and other anti-discrimination programs.
  2. All management and supervisory personnel have a positive and prime responsibility for the observance of this policy. This responsibility includes initiating or supporting programs and practices designed to

develop understanding, acceptance, commitment, and compliance within the intents and purposes of this policy.

## **2.2 AFFIRMATIVE ACTION POLICY STATEMENT**

- A. It is the policy of the County to afford equal opportunity to all qualified persons regardless of race, color, gender, national origin, marital status, age, religion, political affiliation, disability or veteran status, except where age or gender is a bona fide occupational qualification. In keeping with the intent of this policy, the County will adhere strictly to the following personnel practices:
1. Recruitment, hiring, and promotion of individuals in all job classifications will be conducted without regard to race, color, gender, national origin, marital status, age, religion, political affiliation, disability or veteran status, except where age or gender is a bona fide occupational qualification.
  2. Employment decisions will be made in such a manner as to further the principle of equal employment opportunity.
  3. Promotional decisions will be made in accordance with the principles of equal employment opportunity by establishing valid job-related requirements of promotional opportunities.
  4. All other personnel actions, such as compensation, benefits, transfers, training and development, educational assistance, and social and recreational programs will be administered without regard to race, color, gender, national origin, marital status, age, religion, political affiliation, disability or veteran status, except where age or gender is a bona fide occupational qualification.
  5. Periodically, and at least annually, analysis of all personnel actions will be conducted to ensure equal opportunity.

The aforesated policy is implemented by means of the County's affirmative action program, which is updated annually and is available in the County Administrator's Office for review by all employees.

## **2.3 EMPLOYMENT CONSIDERATION FOR VETERANS**

Pursuant to Section 15.2-1509 of the Code of Virginia, the County shall take into consideration a Veteran's status in the County's employment hiring policies and practices. Applicants who receive consideration in employment hiring policies and practices shall meet the following conditions:

A. **Veteran Defined**

An individual defined as a Veteran has received an honorable discharge and has 1) provided more than 180 consecutive days of full-time, active duty service in the armed forces of the United States or reserve components thereof, including the

National Guard or 2) has a service connected disability rating fixed by the United States Veterans Administration.

B. Meet Job Requirements

An applicant that receives Veteran consideration shall meet all the knowledge, skills and eligibility requirements for the available position.

The County shall also give additional consideration to Veterans who have service-connected disability rating fixed by the United States Veterans Administration.

## 2.4 EMPLOYMENT

A. Authorization from the County Administrator or Constitutional Officer is required prior to initiating any recruitment or appointment.

B. Procedures may be modified by the County Administrator when deemed necessary to best serve the interests of the County.

C. Employment Notice

1. The Human Resources Director, under the direction of the County Administrator, shall determine the advertising requirements necessary to attract qualified applicants to fill each vacancy except in the case of the Constitutional Officer who elects to handle recruitment for his/her operation. The Human Resources Director shall maintain an advertising distribution list, which shall be used to maximize the application pool.

2. When it is determined by the Human Resources Director or Constitutional Officer that a sufficient number of qualified applicants is currently on file from which to select, advertisement of a position vacancy is not required.

3. Recruitment

a. An external recruitment shall be conducted and applications from the general public and from employees shall be accepted.

b. An online County “Application for Employment” must be completed and received by the closing date listed in the “Employment Notice.”

D. Employment Applications

1. Persons seeking to apply for employment with the County shall be referred to the Human Resources Department, except for those groups specified in Section 1.4 who have not elected to be covered by the County’s personnel policies.

2. The County relies upon the completeness and accuracy of information contained in the employment application, as well as the accuracy of other data presented throughout the selection process and during County employment. Therefore, applicants and employees are hereby notified:

- a. All employment information shall be current, accurate, and complete. Incomplete or “see resume” responses on the application are not acceptable and are grounds for immediate ineligibility.
- b. Any misrepresentations, falsifications, or material omissions on the County application may result in the County’s exclusion of the individual from further consideration for employment.

E. Recruitment and Selection

1. The Human Resources Department has the primary responsibility for centralized recruitment. All selection methods shall be approved in advance by the Human Resources Director.
2. In determining qualified applicants, the County may use, but shall not be limited to, any or a combination of the following selection methods in the pre- and post-employment processes: evaluation of training and experience; written and skills tests; performance tests; psychological tests; driving record, reference, criminal history and background checks; drug and alcohol tests; and post-offer medical examinations. Criminal history checks shall be done on all County employees as a final step prior to the job offer. A consent form shall be part of the application process.
3. An applicant who refuses to participate in any phase of the selection process shall be considered withdrawn from the recruitment and shall not be eligible for further consideration.
4. After department representatives have completed final interviews and given full consideration to the group of qualified candidates, the Department Director shall submit a written recommendation for a selection to the Human Resources Director which shall include the justification for the recommendation, supported by interview summary notes for all candidates interviewed.
5. In all cases, the offer of employment and discussion of beginning salary, benefits and starting date shall be initiated by the Human Resources Department or Constitutional Officer. Any exception to this shall be approved, in advance, by the County Administrator.
6. The Human Resources Director shall prepare and submit an “Offer of Employment” letter, for the recommended candidate.  
  
As a condition of hire, all employees hired after January 1, 2007, will be required to participate in the County’s Direct Deposit program for their payroll check.
7. Upon completion of the hiring process, all applications and resumes, interview notes, and any related test materials shall be returned to and maintained by the Human Resources Department.
8. Employees not selected, but still interested in future promotional opportunities within a given department, may request career development guidance from the Constitutional Officer, Department Director, or the

Human Resources Director to learn how to prepare to qualify for a specific position.

## **2.5 HIRING OF RELATIVES**

- A. The Virginia State and Local Government Conflict of Interests Act provides that members of an officer's or an employee's immediate family may be employed in the employee's division, department or agency only under the following conditions:
  - 1. The employee does not participate in the decision to hire the employee's immediate family member;
  - 2. The employee exercises no control over the employment or the employment activities of his/her immediate family member; or
  - 3. The employee is not in a position to influence the employment activities of his/her immediate family member.
- B. Based on the above criteria, the County shall not hire an employee's immediate family member, as defined in Section C of the policy, into a supervisor-subordinate relationship.
- C. For the purposes of this policy, the following definitions apply:
  - 1. An officer's or an employee's immediate family is defined to include:
    - a. Spouse; and
    - b. Any other person residing in the same household as the employee, who is a dependent of the employee or of whom the employee is a dependent.
  - 2. A dependent generally means a son, daughter, father, mother, brother, sister or other person, whether or not related by blood or marriage, if such person receives from the officer or employee, or provides to the officer or employee, more than one-half of his/her financial support. A Department Director or Constitutional Officer may extend this definition to other family members as deemed necessary.
- D. If the relative relationship which violates this policy is established after employment, the two employees involved shall decide who is to seek a change in position, if a position is available for which the individual qualifies, or who is to leave County employment. If a decision is not made within 30 calendar days, the County Administrator or Constitutional Officer shall make this decision.
- E. Department Directors and supervisors shall ensure that this policy is enforced when making recommendations for employment, promotions, transfers, or demotions. Any concerns or questions regarding an applicant's or employee's eligibility under this policy shall be promptly directed to the Human Resources Director.

## **2.6 IMMIGRATION LAW COMPLIANCE**

The County complies with the Immigration Reform and Control Act of 1986 and is committed to employing only United States citizens and aliens who are authorized to work in the United States.

## **2.7 EMPLOYMENT REFERENCE INVESTIGATIONS**

- A. To ensure that individuals who are employed by the County are well qualified and have a strong potential to be productive and successful, reference checks may be conducted for those applicants being seriously considered by a Department Director or Constitutional Officer for employment. The Human Resources Director may request the Department Director conduct additional background investigations, and these results shall be submitted to the Human Resources Director for review.
- B. The Human Resources Department shall respond both orally and in writing to reference check inquiries. Responses to such inquiries shall confirm only dates of employment, salary, and position held. No extensive employment data shall be released without a written authorization and release signed by the individual who is the subject of the inquiry.

## **2.8 RESIDENCE REQUIREMENTS**

- A. The County Administrator shall be required to reside within County limits. As a condition of hire, other County Department Directors may be required to reside within the County limits or must live within a 30-minute driving distance. Any residency requirements for Directors are established by the County Administrator at the time of hire or promotion and must be justified according to the type of work to be performed. Constitutional Officers may establish specific residency requirements for certain positions in their operations.

## **2.9 EMPLOYEE ORIENTATION**

- A. Completion of Required Personnel Forms
  - 1. By the first day of work, all new employees must complete, sign, and return to the Human Resources Department the required tax withholding forms, the "Employment Eligibility Verification" Form, and a form acknowledging receipt of the Montgomery County Personnel Policy Manual. Each employee shall be responsible for reading and being aware of all policies and procedures contained within this Manual. Compliance with all County policies and procedures is a condition of employment.
  - 2. Regular full-time employees must also complete enrollment forms relating to certain mandatory and elective benefit programs which shall be

completed no later than the end of the orientation program conducted by a Human Resources Department representative.

3. Each department shall be responsible for conducting a thorough on-the-job training program for each new employee, which shall cover the employee's work environment, position responsibilities and duties, work schedule, safety requirements, and application of departmental policies to the particular position involved.

## **2.10 PROBATIONARY PERIOD**

The probationary period is intended to give employees the opportunity to demonstrate their ability to achieve a satisfactory level of performance and to determine whether the new position meets their expectations. This period is considered a trial period or extension of the selection process, which is used to evaluate employee capabilities, work habits, and overall performance.

### **A. Initial Probationary Period**

1. A probationary period of six months is established for all new or re-employed employees appointed to full and part-time regular positions. The probationary period for sworn law enforcement personnel and some Social Services positions is twelve months.
2. Personnel action may be taken against any employee whose performance does not meet the required standards. During the initial probationary period, all employees are subject to personnel action without prior notice or access to the Grievance Procedure.
3. Either the employee or the County may end the employment relationship at any time during or after the probationary period.

### **B. Secondary Probationary Period**

1. An employee who is appointed to another County position (through promotion, transfer, or demotion) must complete a secondary probationary period of the same length, six months, with each assignment to a new position.
2. Each probationary employee who is transferred from one position to a similar position of an equal salary range shall retain the months successfully served in the former position towards earning regular status as well as for the annual merit salary review. If the prior service has not been at an acceptable level, the employee may be assigned an extended probationary period.
3. Should an employee serve an unsatisfactory probationary period in the newly assigned position, the employee may, with the approval of the County Administrator or Constitutional Officer, be allowed to return to his/her former position or to a comparable position for which the employee is qualified, prior to the end of the probationary period, without prejudice. Such an action is dependent upon the availability of such

position and the County's needs. Where no appropriate vacancy exists, the employee's position with the County shall be severed.

4. The employee's status as a regular employee is not changed during the secondary probationary period that results from a change in position (promotion, transfer, or demotion) within the County.

C. Extension of Probationary Period

1. When it is deemed to be in the best interest of the County and the employee, the initial probationary period may be extended for a specified period up to a maximum of two months.
2. Any extension of the initial probationary period shall be initiated by a written justification and recommendation from the Department Director and forwarded to the Human Resources Director for approval. Upon approval, the employee shall then be advised by the Department Director, in writing, of the probation extension, its length, and improvements in performance which the employee needs to make. Constitutional Officers may approve the extension of an initial probationary period within his/her operation.
3. Where it is obvious early in the probationary period that the employee is not qualified, the Department Director shall contact the Human Resources Director immediately to discuss possible personnel actions including termination of employment.

D. Separation During Probationary Period

1. The Department Director shall provide a probationary employee the opportunity to discuss problems involving his/her position at any time during a probationary period, or extension thereof, and especially if it is determined that a probationary employee's work performance, work attitude, or other related work activities are not at an acceptable level of competence expected for the position. Should the employee's performance fail to improve, the County or Constitutional Office may elect to terminate employment.
2. If the employee decides that the particular job is not what he/she desires, the employee may resign without harm to his/her employment record.

E. Applying for Other Positions

The fact that an employee has not completed a probationary period shall not prevent the employee from applying for other advertised County positions.

## **2.11 SECONDARY (OUTSIDE) EMPLOYMENT**

- A. County employees shall not engage in secondary (outside) employment during regularly scheduled work hours, while at the County's facilities, or when using the County's supplies, equipment, materials or personnel.
- B. County employees shall not engage in any employment, activity, or enterprise which has been or may be determined to be inconsistent, incompatible, in conflict

of interest with, or have the appearance of conflict of interest with the duties, functions, or responsibilities of County employment.

- C. Employees shall not receive any income or material gain from individuals outside the County for materials produced or services rendered within the scope of their regular County position.
- D. County employees shall notify their Department Director or Constitutional Officer prior to accepting employment outside of their regular County employment by completing the form(s) or process prescribed by the Director or Constitutional Officer. Any approval paperwork shall be sent to the Human Resources Department.
- E. County employees shall meet the performance standards of their County position and work performance must not deteriorate as a result of secondary employment. Employees should consider the impact that such employment may have on their health and physical endurance. All employees shall be judged by the same performance standards and shall be subject to the County's scheduling demands, regardless of any work requirements outside County employment.
- F. Employees should recognize that any secondary (outside) employment, which might be considered to be joint employment under the provisions of the Federal Fair Labor Standards Act shall require close consideration and conformance with the requirements of the law.
- G. Employees found in violation of this policy may be subject to disciplinary action up to and including dismissal.

## **2.12 ACCESS TO PERSONNEL FILES**

- A. The Human Resources Department shall maintain the official County personnel files for all employees. Constitutional Officers may retain records regarding internal affairs investigations and disciplinary actions.
- B. The official personnel file shall be defined as the employment file containing personal and job-related information relevant to the individual's employment with the County. Information pertaining to any personnel-related aspect of employment (e.g., letters of commendation, letters of reprimand, verification of employment requests, performance evaluations, employment application) shall be contained in this file.
- C. Personnel files are the property of the County, and the information they contain shall not be disclosed or disseminated except as required by law or for a proper purpose of the department collecting or maintaining such records. An employee may review the contents of his/her personnel file under the supervision of the Human Resources Director and may receive copies of documents in the file.
- D. Only officials and representatives of the County who have a legitimate reason to review information in a file are allowed to do so, in the Human Resources Department.

- E. Employees are required to provide adequate notice to their supervisors of their desire to be released from work to review their personnel file (the employee does not have to disclose the reason for the request). The employee shall make an appointment with the Human Resources Department to review his/her personnel file.
- F. With reasonable advance notice, employees may review material in their personnel file but only in the Human Resources Department and in the presence of the individual appointed by the County to maintain the file.

### **2.13 OPEN DOOR POLICY**

- A. The County's Open Door Policy is an informal policy which provides for open communication through all levels of the County. Any employee who has a concern or would like assistance in solving issues is encouraged to meet with his/her immediate supervisor. The Department Director, Human Resources Director or County Administrator is also available to meet with employees if the need arises. This opportunity is in no way a substitute for the Employee Grievance Procedure or for the normal chain of command. Any discussions involving harassment issues would apply to the related policy described elsewhere in these policies. There will be no retaliation or reprisal for using this policy.

## CHAPTER 3

### *POSITION CLASSIFICATION PLAN*

#### **3.1 PREPARATION AND PLAN ADMINISTRATION**

The Position Classification Plan for the authorized positions in the service of the County provides for the grouping of similar positions in classes based upon the respective duties, typical tasks, and qualifications. The Plan class descriptions are used to assist with the recruitment, training, career planning, assignment to a salary range, and communication of job requirements to employees. The Plan shall be maintained by the Human Resources Director.

A. Amendments to the Classification Plan

Periodic amendments shall be made to maintain plan accuracy.

B. Official Copy of the Classification Plan

The Human Resources Director shall maintain and publish a set of descriptions for all classes. The official copy shall include regulations for administration, a schematic list of class titles and class descriptions, plus all amendments thereto.

#### **3.2 CLASSIFICATION OF POSITIONS**

A. Each position classification shall be classified by the Human Resources Director and allocated within the Plan according to the appropriate class title, general definition of work, the required knowledge, skills and abilities, desirable training and experience, special licensing or other unique requirements, and additional requirements deemed necessary by the Human Resources Director. Positions shall be allocated to the same class when their duties are sufficiently similar that:

1. The same descriptive title may be used to designate each position in the class;
2. The same level of education, experience, knowledge, skill, ability, and other qualifications may be required of incumbents;
3. Similar tests of fitness may be used to select incumbents; and
4. The same salary range shall apply.

B. All classes involving the same character of work, but different as to level of difficulty and responsibility, shall be assembled into the same series. All series of classes within the same broad occupational field shall be assembled together.

#### **3.3 INTERPRETATION OF CLASS DESCRIPTIONS**

A. Class Title

The term “class title” or “title” shall refer to the official title of the class as stated in the class descriptions, and shall apply to all positions allocated to the class, and shall be used in all personnel and administrative processes. Department Directors may assign “informal” titles to such positions if they deem this action necessary.

B. Class Descriptions

The class descriptions shall be considered descriptive rather than restrictive. They shall not be construed as declaring what the duties and responsibilities shall be or as limiting the power of any Department Director or Constitutional Officer to assign duties to, and to direct and control the work of, employees under his/her supervision. The use of a particular expression or illustration as to duties shall not be held to exclude others not mentioned that are of a similar kind or quality.

### **3.4 MAINTENANCE OF THE CLASSIFICATION PLAN**

- A. The Plan shall be kept current by ongoing investigation and review. Position classification studies of individual positions or groups of positions shall be conducted whenever the Human Resources Director or the County Administrator deem it necessary; whenever the duties or responsibilities of existing positions have undergone significant changes; or whenever the Human Resources Director is notified by a Department Director or Constitutional Officer that new positions are to be created. Reclassifications may result from study by the Human Resources Department or an external consultant, as well as by request of the Department Director or Constitutional Officer.
- B. It shall be the responsibility of each Department Director or Constitutional Officer to promptly notify the Human Resources Director of each change of duties, responsibilities, or work requirements, and furnish detailed information relative to such changes. In addition, any time a department or division is reorganized, proposed amended class descriptions shall be submitted to the Human Resources Director for review.
- C. Whenever a vacancy is created and the vacancy is to be filled, the Department Director or Constitutional Officer shall review the entrance qualifications stated in the class description and submit to the Human Resources Director a recommendation to raise, lower, or otherwise change or maintain the existing qualifications.
- D. When a new class title is established, a class description shall be written and incorporated into the existing Plan and the class title added to the schematic list of titles.
- E. It shall be the responsibility of the Department Director to notify the County Administrator, and the Human Resources Director whenever a position is no longer needed. An abolished class shall be deleted from the Plan by removing the class description and eliminating the class title from the schematic list of titles.
- F. All class allocations are subject to the approval of the County Administrator and Board of Supervisors. Constitutional Officers will advise the Human Resources Director of issues affecting class allocations within their offices.

### **3.5 RECLASSIFICATION PROCEDURE**

- A. When significant changes in position content or prevailing economic conditions warrant a review of a class or classes, the Department Director or Constitutional Officer may submit a written request (outlining all facts supporting the request) to the Human Resources Director. Reclassifications shall not be used for the purpose of avoiding restrictions concerning demotions and promotions.

In most cases, reclassification requests should be made during the budget process each year. If an unexpected mid-year change results in an upward reallocation within the Classification Plan, it must be recommended by the Human Resources Director to the County Administrator and approved by the Board of Supervisors.

- B. If a Department Director or Constitutional Officer or Human Resources representative has facts which indicate that a position, or group of positions, is improperly classified, a written request for a review may be made to the Human Resources Director. All pertinent information relative to the request shall be submitted in writing.

### **3.6 SALARY ADJUSTMENTS FOR RECLASSIFICATIONS**

- A. Merit Salary Increase Date

Reclassification shall not change the employee's merit salary increase date.

- B. Downward Reclassification/Reallocation

Upon downward reclassification/reallocation of a position, an employee shall be placed in the new range at the same rate of pay. When the employee's rate of pay prior to reclassification exceeds the maximum of the new, lower range, the employee's rate of pay shall be frozen at that existing rate of pay until the pay of the lower range matches or exceeds the employee's rate of pay from the time of reclassification/reallocation.

- C. Upward Reclassification/Reallocation

Upon upward reclassification/reallocation of a position, an employee shall receive five percent (5%) of the midpoint of the new pay range or the minimum of the new pay range, whichever is greater.

- D. When, in the opinion of the Department Director and with the concurrence of the Human Resources Director, following this policy results in an inequity, the County Administrator may authorize an adjustment to correct the inequity based on the circumstances involved. If the inequity involves positions in Constitutional Offices, the County Administrator will meet and confer with the Constitutional Officer.

## CHAPTER 4

### *COMPENSATION*

#### **4.1 COMPENSATION PLAN**

- A. The County's Compensation Plan shall be designed to achieve the following objectives:
  - 1. Establish and maintain a salary structure which attracts and retains qualified employees;
  - 2. Maintain the salary structure in proper relation to competitive pay practices in the local labor market;
  - 3. Ensure internal equity in the assignment of classes to salary ranges through a systematic evaluation of each position;
  - 4. Provide a consistent and effective means of recognizing and rewarding valuable employee contributions made through improved and satisfactory or better work performance.
- B. When, in the opinion of the Department Director and with the concurrence of the Human Resources Director, following this policy results in an inequity or problem, the County Administrator may authorize an adjustment to correct the inequity based on the individual circumstances involved. If the inequity involves positions in Constitutional Offices, the County Administrator will meet and confer with the Constitutional Officer. Except as provided in this policy, anniversary dates shall not be affected by the adoption of any revisions to the Compensation Plan.
- C. The Board of Supervisors may authorize a periodic wage adjustment to reflect current market conditions.

#### **4.2 STARTING RATE OF PAY**

- A. The normal entry level salary for appointment shall be the minimum rate of pay for the classification assigned.
- B. Compensation may be established beyond the minimum of the salary range, upon recommendation by the Department Director, Constitutional Officer with approval of the County Administrator, if any of the following conditions exist:
  - 1. The qualifications of the applicant exceed the requirements for the class;
  - 2. The applicant is a former employee in good standing and possesses qualifying experience; or
  - 3. Competitiveness in recruitment requires payment of a higher rate.

The County Administrator may approve an amount of compensation up to and including the midpoint/market point of the pay range; any compensation above the midpoint must have the approval of the Board of Supervisors.

- C. Entry rates for County Interns and other temporary positions are based on the type and complexity of duties, level of education, the prevailing job market, and available funding. These rates shall be the current minimum wage or above depending upon the above factors. Department Directors or Constitutional Officers will determine the rate of pay with assistance from the Human Resources Director if needed.

#### **4.3 PERFORMANCE EVALUATION**

- A. The County's performance evaluation program is designed to help ensure quality services through improving performance. Assigned duties and responsibilities of an employee shall be evaluated by the immediate and second level supervisor against established standards for the employee's position.
- B. The performance evaluation process is not meant to be a substitute for direct communications between supervisors and employees. Supervisors and employees are strongly encouraged to discuss job performance and goals on an informal, day-to-day basis.

- C. Uses of the Performance Evaluation Program

The formal performance evaluation program shall be used to:

1. Provide both supervisors and employees with the opportunity to discuss job tasks, identify and correct weaknesses, encourage and recognize strengths, and discuss positive, purposeful approaches for meeting goals;
2. Develop specific recommendations for training and development (tied to areas needing improvement);
3. Motivate employees to improve work performance;
4. Increase employee morale through management recognition;
5. Serve as the basis for salary increase recommendations;
6. Improve communications between supervisors and employees;
7. Identify employee career development goals; and
8. Serve as part of the underlying justification for recommendations pertaining to personnel actions (promotion, demotion, or dismissal).

- D. Confidentiality

The performance evaluation process is strictly confidential; every effort shall be made by all parties involved (supervisory chain within the employee's department, and Human Resources Department staff) to maintain employee confidentiality. Any employee, other than the employee being evaluated, who is found in breach of this confidentiality shall be subject to disciplinary action.

- E. Timing of Performance Evaluations

1. Performance evaluations are conducted at the end of an employee's probationary period in a regular full-time or part-time position where the incumbent regularly works a minimum of 20 hours per week.
2. Performance evaluations for non-probationary employees are scheduled to be completed at least every 12 months coinciding with the employees' anniversary date. The Human Resources Director will provide notice to the Department Director, Constitutional Officer, the evaluation form, and a Change-of-Status Form for approval of a merit salary increase.
3. Additional evaluations shall be authorized as needed by the employee's Department Director, Constitutional Officer.
4. Performance evaluations must be completed and received in the Human Resources Department by the 15<sup>th</sup> of the month that the anniversary date falls in.
5. A non-probationary employee who receives a less than satisfactory performance rating may receive additional time to improve work performance when it is deemed to be in the best interest of the County and the employee. The Department Director or Constitutional Officer shall submit a written justification and recommendation for extending the review period to the Human Resources Director for approval. The maximum period for an extension shall be 90 days beyond the anniversary date.

A performance evaluation shall accompany the department's status recommendation to the Human Resources Director at the conclusion of the extended performance review period.

#### **4.4 MERIT SALARY INCREASE**

- A. It is County policy to provide eligible employees with opportunities for annual merit salary increases based upon receiving a satisfactory performance evaluation provided sufficient County funds are available. A merit increase is not an entitlement, nor a right of employment, nor an integral part of the pay system to be awarded automatically. Rather, it is an expression of management recognition of the ability, the performance, and the potential worth of the employee to the County.
- B. Annual merit salary increases are based upon an eligible employee receiving a satisfactory or better performance evaluation by the evaluator, positive recommendation by concurrence of the Department Director, and approval by the County Administrator or Constitutional Officer.
- C. Each eligible employee may be advanced through the salary range by designated percentages on the basis of performance until the maximum of the range is reached.
- D. All submissions for merit salary increases shall be accompanied by the completed performance evaluation.
- E. Eligibility

1. The following employees are eligible to be considered for annual merit salary increases based on satisfactory performance in accordance with this policy:
  - a. Regular full-time employees;
  - b. Regular part-time employees who work a minimum of 20 hours per week; and
  - c. An employee who transfers from a temporary to a regular position, without a break in service, is eligible when the following conditions apply:
    - 1) The regular position must be identical or near identical to the temporary position in duties and level of responsibility; and
    - 2) The employee must have worked an average of 30 hours per week in the temporary position.
2. Eligibility for merit salary increases shall not be affected by:
  - a. Salary adjustments due to change in hours of work;
  - b. Revisions made to the Compensation Plan;
  - c. Promotion, transfer, and demotion; and
  - d. Satisfactory completion of active military service.

F. Merit Salary Increase Date

1. Each eligible employee has a merit salary increase date which is the employee's anniversary date. The initial employment date, for purposes of these policies, shall be referred to as the employee's anniversary date.
2. An employee who is on leave without pay for more than 30 consecutive days shall have his/her anniversary date changed by the number of days beyond 30 to establish a new merit salary eligibility date. Leave without pay absences that are not consecutive, but represent an excessive amount of time away from work, may also warrant the establishment of a new merit salary eligibility date.
3. The effective date of any merit salary increase shall be the employee's anniversary date or the next closest business day unless a new date is established for performance improvement to be monitored by recommendation of the Department Director or Constitutional Officer and approved by the Human Resources Director.

G. Performance increases may be awarded to interns and other temporary employees at the discretion of the Department Director, County Administrator, or Constitutional Officer based on work performance and/or a recognized change in the nature of work.

#### **4.5 PROMOTION**

A promotion is the movement of an employee from one class of position to another of a higher salary range in which the employee meets the minimum qualification requirements.

- A. When an employee is promoted, the employee's salary shall be increased by five percent (5%) of the midpoint or the minimum of the new range, whichever is greater. A higher rate of compensation may be recommended by the Department Director to the County Administrator in the case where the employee's qualifications exceed the requirements for the class. The County Administrator may approve an amount of compensation up to and including the midpoint/market point of the pay range; any compensation above the midpoint must have the approval of the Board of Supervisors.
- B. A promotion shall not change the employee's anniversary date.
- C. A flexible salary adjustment may be considered in special situations for promotions. The flexible salary adjustment shall permit an adjustment beyond the policy set in A of this section. Justification shall be required and may be based on a salary equity issue, or for a highly competitive position, recognition of special skills or abilities. The request shall be made by the Department Director or Constitutional Officer and reviewed and approved by the County Administrator.
- D. All promoted employees are required to serve a probationary period in accordance with Section 2.9.
- E. Exceptions may be granted by the County Administrator. Where Constitutional Offices are affected, the County Administrator will confer with the respective Officer(s) before such exceptions are made.

#### **4.6 DEMOTION**

A demotion is the movement of an employee from one class of position to another of a lower salary range in which the employee meets the minimum qualification requirements.

- A. An employee may be demoted to a position for which he/she qualifies for any of the following reasons, subject to review of the Human Resources Director and approval of the County Administrator or Constitutional Officer:
  - 1. When an employee would otherwise be laid off because the position is being abolished, lack of work, lack of funds, or other organizational changes;
  - 2. When an employee is unable to meet the satisfactory performance standards over a period of time or when removed during probation following a promotion;
  - 3. When an employee voluntarily requests such demotion; or
  - 4. For the good of the County service.
- B. When an employee is demoted from a class in which he/she was originally appointed, the salary shall be reduced to a salary in the new range of pay between

the minimum and maximum, not to exceed the employee's current salary, and the salary reduction must be at least 5% of the midpoint of the pay grade he/she is being demoted from. Any demotions and amounts of reduction beyond 5% are at the discretion of the County Administrator or Constitutional Officer.

- C. A demotion shall not change the employee's anniversary date.
- D. All demoted employees are required to serve a probationary period in accordance with Section 2.9.

#### **4.7 TRANSFER**

- A. There shall be no change in salary as the result of a lateral transfer.
- B. When an employee is transferred into any position, other than moving within the same classification and range level, the employee shall be paid a salary within the range based on qualifications in the new position and the anniversary date shall not change.
- C. All transferred employees are required to serve a probationary period in accordance with Section 2.9.

#### **4.8 RECLASSIFICATION**

- A. Upon an upward reclassification/reallocation of a position, an employee shall receive five percent (5%) of the midpoint or the minimum of the new range, whichever is greater.
- B. Upon a downward reclassification/reallocation of a position, an employee shall be placed in the new range at the same rate of pay. When the employee's rate of pay prior to reclassification exceeds the maximum of the new, lower range, the employee's rate of pay shall be frozen at the existing rate of pay until the pay of the lower range matches or exceeds the employee's rate of pay from the date of reclassification/reallocation.
- C. Reclassifications shall not change the employee's anniversary date.

#### **4.9 ACTING CAPACITY**

- A. Requests for "acting pay" shall be made in writing by the Department Director or Constitutional Officer and submitted in advance to the Human Resources Director who shall review the request and submit it for approval, if appropriate, to the County Administrator.
- B. Acting assignments are always at the discretion of the Department Director or Constitutional Officer and subject to the need for operational continuity.
- C. When an employee is required to work in the capacity of a higher-level position due to an anticipated absence over a prolonged period of time, typically not less than three weeks, such employee may be paid additionally for assuming the higher-level duties. If the job description of that employee requires him/her to fill

in during the absence of the higher-level employee, a six-week absence must occur before additional pay will be made. Constitutional Officers may establish differences to these time periods based on operational and emergency assignments, contingent upon funding availability.

- D. The temporary salary adjustment for the period of assignment to the higher-level position shall be up to 5% of the midpoint of the acting employee's current pay range or the minimum of the salary range assigned to the position in which he/she is acting, whichever is greater. This additional pay shall only occur while the employee is in the acting capacity.
- E. Retroactive requests shall not be considered.
- F. While a non-exempt employee is serving in an acting capacity for an exempt position, the acting employee would not be eligible for overtime pay or compensatory time.
- G. Exceptions to this policy may be made by the County Administrator, or his/her appointed designee. Exceptions which affect Constitutional Offices must have the concurrence of the Constitutional Officer.

#### **4.10 CAREER DEVELOPMENT INCREASES**

- A. Constitutional Offices/State Agencies:

Career development increases require that the employee has met certain criteria "above and beyond" normal job duties, through continuous education and professional standards achievements. The intent of this program would be to award an increase to the employee without penalizing his/her current salary status with the County. Therefore, the following criteria are established:

An individual who currently earns more from the County (with any County supplement) than the State compensated salary (with any State across-the-board increments) would receive the full allotted increase, due to qualifying for a Career Development increase in salary, to the individual's County salary. This would not include any across-the-board State increments not associated with a Career Development increase, generally effective December 1, as they would be considered a revenue offset.

An individual who currently earns less from the County (with the County supplement) than any new State compensated minimum salary would receive the amount of the State across-the-board increase and the full allotted increase for the Career Development in addition to the State salary, plus the addition of any County supplement being paid prior to receiving the Career Development increase. In this case, the individual must receive the across-the-board increment because the County cannot pay the individual less than the new State salary, and the supplement cannot offset it in order to keep with the above philosophy.

#### **4.11 OVERTIME PAY AND COMPENSATORY TIME**

- A. Policy

It is the policy of the County to adopt and implement the provisions of the Fair Labor Standards Act (FLSA), as amended, as the fundamental wage and hour policy of the County. Further, it is the policy of the County that any overtime work necessary to the continued effective operation of the County shall be managed in the most efficient and economical manner possible.

No overtime pay or compensatory time provisions shall be in conflict with what is allowed by law under FLSA.

The County shall provide time off in the form of compensatory time as compensation for hours worked beyond 40 per week by non-exempt employees as approved by the Department Director if overtime funds are not available.

Overtime pay and compensatory time shall be at the rate of one and one-half times the regular rate of pay for any hours worked beyond 40 per week by employees in non-exempt positions. Law enforcement may establish a different work period for purposes of compliance with the Fair Labor Standards Act. Any compensatory time that exceeds a 240-hour balance will be paid out as a cash payment (except in public safety and public facilities positions responding to emergency weather conditions or public safety hours of work). Employees shall be permitted to use accrued compensatory time within a reasonable period after it is requested if to do so would not unduly disrupt departmental operations.

Employees required to work outside of their regular work hours will be compensated for a minimum of 2 hours for each call back to work.

Employees who are required to be available on-call will be compensated for a minimum of 2 hours for each 8-hour period/shift of on-call time. Departments/agencies may recommend a plan of exception to this policy to the Human Resources Director pending approval by the County Administrator or Constitutional Officer, which pays less but not more for on-call time, depending on the operational circumstances in their department or agency. On-call hours will not be considered hours worked for purposes of overtime calculation. Hours worked in response to a call will apply toward the 2-hour call back minimum and will be subject to overtime pay or compensatory time at a rate of one and one-half times the regular rate of pay for any hours worked beyond 40 per week by non-exempt employees.

Upon termination of employment, an employee shall be paid for all unused compensatory time at a rate not less than the final regular rate received by the employee.

**B. Authorization For Overtime**

1. Overtime work shall be authorized to cover emergencies, necessary seasonal activity, inclement weather conditions, and unusual working requirements, and may be authorized only by Department Directors or their designees prior to such work being performed.

As a general rule, any employee who works for two or more different departments or agencies within the County government is essentially working for the same employer and the hours worked for a particular week

for the different departments/agencies are combined when considering overtime or compensatory leave applicability under the FLSA.

2. It is the responsibility of each Department Director to determine that overtime pay is administered in the best interest of the County. Department Directors shall ensure that, whenever possible, overtime assignments are distributed as equitably as practical to all employees qualified to perform the required work. In addition, it is equally important for the Department Director to eliminate unauthorized overtime.
3. Under FLSA, unauthorized work shall be counted as hours worked, if the immediate supervisor should have stopped it but did not, or if he/she knew or had reason to know of its practice. No employee shall start work before the authorized starting time, work through the meal period or work past the authorized ending time without prior authorization from the Department Director or supervisor.
4. Failure by an employee to work scheduled overtime or overtime worked without prior authorization from the supervisor may result in disciplinary action, up to and including dismissal.

C. Categories of Jobs

1. Under the FLSA, there are two (2) basic categories of jobs:
  - a. Exempt (E) – Those employees not covered by the overtime provisions of the FLSA; or
  - b. Non-Exempt (N) – Those employees covered by the overtime provisions of the FLSA.
2. FLSA requirements apply to positions and employees not to classes. The County's class designations serve as a general guide in determining whether individual positions are exempt or non-exempt from the overtime provisions of the FLSA. All County positions, under the direction of the County Administrator, shall be identified as follows:
  - a. E – Exempt; or
  - b. N – Non-exempt.
3. In determining which positions shall be exempted from the provisions of FLSA, the guidelines established by the FLSA shall be followed. A listing of exempt positions is attached as Appendix C of these policies.
4. Record Keeping

Each department must generate a daily and weekly time and attendance record of hours worked, sick leave, annual leave, holidays, leave without pay, other categories of leave, and overtime hours for each work period. All employees' time cards, time and attendance records, leave slips, on-call records, overtime records, and payroll records must be kept for a minimum of five (5) years by the Payroll Supervisor.

5. An exempt employee must be paid his/her full salary for any week in which the employee performs work, irrespective of the number of hours or days worked. Partial day or partial week absences may only be made under the following circumstances:
  - a. For absences from work for less than one workday or more for personal reasons, other than sickness or disability, in accordance with the County's leave policies;
  - b. For absences from work for less than one workday or more occasioned by sickness or disability, in accordance with the County's leave policies;
  - c. To offset jury leave or military leave pay received by the employee;
  - d. For penalties imposed in good faith of one or more full days in accordance with the County's disciplinary policies for infractions of safety rules of major significance and serious workplace conduct such as sexual harassment, drug and alcohol violations; workplace violence; and violations of State and Federal law.
  - e. For hours not worked in the first or last weeks of employment; or
  - f. For hours taken as unpaid leave under the Family and Medical Leave Act (FMLA).

Pursuant to the principles of public accountability, County employees shall only be paid for hours worked.

An exempt employee's salary is intended to compensate for all hours worked. The County is committed to a good faith policy in which any improper pay deductions are prohibited from an exempt employee's salary. If it is found that an improper pay deduction has occurred, the affected employee will be reimbursed for such improper pay deduction.

If an exempt employee believes that an improper pay deduction has occurred, he/she should report it in writing to his/her immediate supervisor who then in turn will contact the appropriate Department Director/Constitutional Officer. The Director/Officer will confer with Human Resources and pay records will be examined to determine if an improper deduction has been made. If such deduction is found to have occurred, the above restitution will be made to the employee within the next immediate payroll cycle. The resolution of the situation will be documented in the employee's personnel file. An investigation will be done regarding the individual responsible for the error to determine if this was an isolated incident or a pattern of conduct that requires further action on the part of the County. If warranted, the responsible person may be subject to disciplinary action.

Following the identification of any improper pay deduction, the County will establish a practice to regularly audit employee pay records to ensure no further issues arise.

### **Questions on Applicability**

1. All questions about the application of this policy or the FLSA should be directed to the Human Resources Department.
2. Additionally, copies of all policies, practices, or procedures issued by a Department Director, as it relates to any provisions of this policy, must be reviewed by the Human Resources Department and approved by the County Administrator prior to implementation.

## **4.12 PERSONNEL DATA CHANGES AND PAYROLL DEDUCTIONS**

### **A. Personnel Data Changes**

It is the responsibility of each employee to promptly notify the Human Resources Department of any changes in personnel data. Personal mailing addresses, telephone numbers, dependent information, changes in marital status (which may impact on your tax status and certain benefits), individuals to be contacted in the event of emergency, educational accomplishments, and other such status reports should be accurate and current at all times.

### **B. Pay Deductions**

The County is required by law to make certain deductions from every employee's compensation. These mandated deductions include Federal and Virginia income taxes, and Social Security taxes. Chapter 9, Benefits, provides additional information regarding payroll deductions should be directed to the employee's immediate supervisor or the Human Resources Department.

### **C. Garnishments**

1. Garnishments are legal permission of creditors to collect part of an employee's pay from the County. The County cannot refuse to honor such levies, as they represent an order from the Court to withhold and pay to the Court a specific amount of an employee's earnings.
2. Upon receipt of an order of garnishment by the County, a written notification of the garnishment shall be sent to the employee. A copy of the garnishment shall be placed in the employee's personnel file.

### **D. Administrative Pay Corrections**

1. The County takes all reasonable steps to ensure that employees receive the correct amount of pay in each paycheck and that employees are paid promptly on scheduled paydays.
2. In the event that an error in pay is detected, the employee shall promptly notify the immediate supervisor of the discrepancy. Payroll errors shall be corrected as soon as possible, typically, by the next pay period.
3. Both underpayments and overpayments shall be corrected as soon as possible. If an overpayment results in the employee owing a substantial

amount, a schedule of repayments may be arranged with the employee to minimize the inconvenience.

E. Time Reporting

1. Accurately recording time worked is the responsibility of every employee. Time sheets are used to meet federal and Virginia record keeping requirements and serve as the basis for calculating employee pay and benefits.
2. Tampering, altering, or falsifying time sheets, or recording time on another employee's time sheet may result in disciplinary action, up to and including dismissal.
3. It is the employee's responsibility to sign his/her time sheet to certify the accuracy of all time recorded. At a minimum, the immediate supervisor shall review and then sign the time sheet before submitting it for payroll processing.

## CHAPTER 5

### *HOURS OF WORK*

#### **5.1 ATTENDANCE AND PUNCTUALITY**

- A. To maintain a safe and productive work environment, the County expects employees to be reliable and to be punctual in reporting for scheduled work. Absenteeism and tardiness place a burden on other employees and on the County. Employees are responsible for learning the specific reporting requirements for their department and work unit from their immediate supervisor or other designated official. In addition, employees shall become familiar with the leave provisions outlined in Chapter 8 of this Policy Manual.
- B. Poor attendance and excessive tardiness are disruptive. Either may lead to disciplinary action up to and including dismissal.

#### **5.2 WORK SCHEDULES**

- A. The County Administrator shall establish the hours of work. The regular workweek is a seven (7) day period (effective July 1, 2011, 12:00 a.m. midnight on Sunday through 11:59 p.m. on Saturday). Full-time employees (including those working as full-time in a temporary capacity) work a 40-hour workweek (excluding meal periods). The regular hours for administrative offices are: 8:30 a.m. – 5.00 p.m., Monday through Friday. When individual work schedules differ from this, compensation shall be made on a proportionate basis.
- B. When a department's normal services necessitate work schedules other than that listed above, work schedules shall be established by the Department Director by submitting such request, in writing, to the Human Resources Director. Upon review, the Human Resources Director shall seek final advance approval from the County Administrator. Constitutional Officers may establish different work schedules than stipulated in Section 5.2.A. based on operational need.
- C. Other workweeks and hours may exist for specific classes of employees as a condition of employment.
- D. With the advance approval of the County Administrator, a department, division, or other work unit or employee thereof may establish an alternative workweek (i.e., flextime, compressed workweek).
- E. Supervisors shall advise employees of their individual work schedules.

#### **5.3 MEAL PERIODS**

All employees who work a minimum of five hours each work period are provided one (1) meal period each workday. All meal periods are scheduled by the supervisor to ensure appropriate work area coverage. Employees shall be relieved of all active work

responsibilities during meal periods. Employees shall not be compensated for the meal period, unless specifically authorized by the County Administrator or Constitutional Officer.

## CHAPTER 6

### *WORK ENVIRONMENT*

#### **6.1 NONSMOKING POLICY**

Numerous reliable studies have found that tobacco smoke is a major contributor to indoor air pollution and have shown that breathing sidestream or secondhand smoke is a significant health hazard to nonsmokers. The Surgeon General of the United States has concluded that involuntary or passive smoking is the cause of disease, including lung cancer, in healthy nonsmokers and has estimated that involuntary smoking causes more deaths than all other airborne pollutants combined, excluding asbestos. The County recognizes the increasing evidence that smoke creates a danger to the health of its employees and is a cause of annoyance and physical discomfort to those who are in confined spaces where smoke is present.

- A. The purpose and intent of this policy is to promote the health, safety, and general welfare of employees, and the general public, by prohibiting smoking in County departments, offices, and agencies, except in designated areas, and to strike a reasonable balance between the needs of persons who smoke and the needs of nonsmokers to breathe smoke-free air.
- B. Designated Smoking Areas
  - 1. It is the policy of the county to prohibit smoking in its facilities, except in designated areas. Designated smoking rooms or areas shall be reasonably separate and shall be indicated by signs in the area.
  - 2. Designated smoking areas shall be determined by the County Administrator or Constitutional Officer after consultation with Department Directors in charge of County facilities.

#### **6.2 PROTECTION OF EMPLOYEE LIABILITY**

- A. It is the policy of the County to protect its employees against lawsuits arising out of the performance of their official duties. It is in the public interest to ensure that the County business is carried out properly and expeditiously by providing protection to the officer or employee exposed to liability by his/her employment. All public employees and officers of the County, when acting within the scope of their employment, are protected from financial loss resulting from a lawsuit or action brought against them.
- B. This policy requires that certain “conditions for protection” must be met to provide an effective defense, namely:
  - 1. The employee must deliver to the County Administrator or Constitutional Officer the original or a copy of any summons, complaint, process, notice,

demand, or pleading within two days after being served with such document;

2. The employee must provide the County full cooperation in the defense of such action or proceeding; and
3. If the acts complained of against the employee are found to have been malicious or the result of gross negligence, fraud, other willful acts, or a violation of County policy, disciplinary action against the employee shall be imposed.

### **6.3 SEXUAL AND OTHER UNLAWFUL HARASSMENT**

#### **A. Policy**

1. It is the County policy that sexual and other unlawful harassment of its employees in any form is prohibited and that all employees shall be treated with respect. Actions, words, jokes, or comments based on an individual's gender, race, ethnicity, age, disability, religion, or any other legally-protected characteristic shall not be tolerated.
2. Employees have the right, under the Federal Civil Rights Act of 1964, to work in an environment that is free of conduct that can be considered sexually harassing or abusive. Any employee who engages in or who perpetuates or condones sexual harassment shall be subject to disciplinary action, including dismissal.
3. The County, in recognizing its obligation to maintain a place of employment that is free of harassing, abusive, or disruptive conduct, shall take positive and prompt corrective action where necessary in accordance with the policy.

#### **B. Definition**

1. Sexual Harassment: Behavior that constitutes sexual harassment, as currently defined in guidelines published by the U.S. Equal Employment Opportunity Commission (EEOC), includes sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:
  - a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
  - b. Submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual; and
  - c. Such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.
2. Sexual Discrimination: The EEOC has determined that sexual harassment is a form of sexual discrimination.

3. Employee: An individual employed by the County on a full-time, part-time, regular, grant, term, or temporary basis is considered to be an employee for the purpose of this policy.

C. Persons Covered

Employees, as defined in Section 6.3.B, are covered by the provisions of this policy. This policy does not cover any person elected to public office; any person chosen by an elected official to be on his/her staff; a Board of Supervisors appointee at the policy-making level; or an immediate advisor to the Board of Supervisors with respect to the exercise of the constitutional or legal powers of the office.

D. Prohibited Conduct

1. Sexual harassment is a serious offense. It is a form of employee misconduct which undermines the integrity of the employment relationship. Sexual harassment does not refer to occasional non-sexual compliments. It refers to behavior of a sexual nature which is not welcome, is personally offensive, erodes morale and the respect between employees, and impairs employees' work effectiveness.
2. The following types of conduct are examples of sexual harassment and are prohibited. These examples do not necessarily represent all the ways in which sexual harassment may occur and are not intended to limit the definition of sexual harassment in Section 6.3.B of this policy.
  - a. Verbal comments and gestures of a sexual nature. This includes any type of sexually suggestive remarks, pictures, jokes, and catcalls.
  - b. Explicit or implicit promises of career advancement or preferential treatment in return for sexual favors. Such promises or preferential treatment may include, but are not limited to, hiring, promotion, training opportunities, work scheduling and leave approval, acceptance of a lower standard of performance, providing higher performance evaluations, and lax timekeeping.
  - c. Explicit or implicit threats that an employee shall be adversely affected if sexual demands are rejected. Such threats include, but are not limited to, lower performance evaluations, denial of promotions, punitive transfers, terminations, and altered or increased work assignments.
  - d. Unsolicited and repeated touching of any kind. This includes the touching, patting, or pinching of another person, and repeated brushing against another person's body.

E. Responsibilities

1. Employees

- a. Employees have a responsibility to conduct themselves in a manner which ensures the proper performance of their job responsibilities and maintains the public confidence.
- b. Employees who experience sexual or other unlawful harassment should clearly state to the individual that his/her behavior is offensive to them and, upon its occurrence or repetition, should promptly bring the matter to the appropriate supervisor's attention and to the attention of the appropriate County official as outlined in Section F of this policy.

2. Department Director/Constitutional Officers and Supervisors

- a. Department Directors, Constitutional Officers, and other supervisors have a responsibility to act immediately and take corrective action when they observe behavior that violates this policy. All management representatives must recognize the seriousness and sensitive nature of any sexual harassment complaint brought to their attention, and must respond accordingly, even if the complaining employee has not informed the alleged harasser that such conduct was unwelcome.
- b. Supervisors who become aware of possible sexual or other unlawful harassment shall promptly advise their Department Directors who shall immediately contact the Human Resources Director who then shall investigate the matter in a timely and confidential manner, as outlined in Section F.
- c. Any management representative who allows sexual harassment to continue or fails to take appropriate corrective action, as specified in this policy, shall be considered a party to the act of behavior, even though they themselves may not behave in such a manner. Lack of prompt, appropriate corrective action by any management representative shall be grounds for disciplinary action, including dismissal.
- d. Department Directors have a responsibility to ensure that this policy is circulated among all of their employees and to consistently convey County policy that sexual harassment in the workplace is illegal and will not be tolerated.

- 3. The Human Resources Department has a responsibility to provide guidance to management and supervisors, and to facilitate counseling, referrals, and assistance to employees with complaints of sexual harassment.

F. Complaint Process

- 1. Sexual harassment is a work-related problem. While avenues of redress are available through the EEOC, effective relief is also available through this procedure or the County Grievance Procedure. Employees are encouraged to use these County procedures to resolve any sexual harassment difficulties.

2. If the employee is alleging that a Department Director is the person conducting or condoning the harassing behavior, the employee shall discuss the matter directly with the County Administrator. Complaints against persons excluded in Section 6.3.C, or complaints made by such persons shall be discussed directly with the Human Resources Director.

3. First Step

a. It is the responsibility of any employee who experiences sexual or other unlawful harassment to bring the harassment to the attention of the Human Resources Director within twenty (20) working days of the incident.

b. Individual preference may lead some employees who experience sexually harassing conduct to seek to resolve the problem by dealing directly with the offending individual. However, when such conduct is not reported to the County, the County is severely limited in achieving a workplace free of harassment. Employees are not required to deal directly with the offending individual in seeking resolution of a complaint of sexual harassment.

4. Second Step

a. Within three (3) working days of receipt of an oral or written complaint, the Human Resources Director shall meet separately with the complainant and the alleged harasser, and then together, if appropriate. If necessary the Human Resources Director shall also meet with all other persons having any information on the matter in the process of conducting a full investigation.

b. The Human Resources Director shall determine all facts relevant to the alleged misconduct and any relief sought by the complainant.

c. The Human Resources Director shall give his/her response to the complainant in writing within two (2) working days following the investigation.

d. If additional time is needed, the complainant shall be so advised and the response shall be provided by the end of the extension period which shall not exceed three (3) working days.

5. Third Step

If a satisfactory solution is not reached by this process, the employee may within twenty (20) calendar days from receipt of the findings from this process, put the grievance in writing and follow all steps and deadlines contained in the County's Grievance Procedure.

G. Nature and Scope of Investigation

1. Any investigation of a complaint of sexual or other unlawful harassment shall be limited to an inquiry of the truth or falsity of such specific complaint.

2. Any person conducting an investigation shall conduct a fair, prompt, complete, and thorough investigation within the bounds of reason and propriety. Interviews of all relevant witnesses shall be conducted, in confidence, and summaries of witnesses' statements and the investigator's findings and recommendations shall be in writing.

#### H. Confidentiality

1. Any complaint shall be handled in a confidential manner. Every effort shall be made, by all parties involved, to protect the confidentiality and privacy of all information and documents pertaining to a claim.
2. Persons conducting investigations shall not communicate the fact that an investigation is pending nor shall they communicate the contents and findings of such investigation except to appropriate parties.
3. Persons from whom information is being sought within the course and scope of the investigation shall only be informed that a harassment complaint has been brought and that the information sought of such persons is a necessary part of the investigation.
4. Breach of confidentiality may result in disciplinary action, including dismissal.
5. The written contents and findings of investigations shall be maintained by the investigating party in a place of security. Once the investigation is completed, all information shall be maintained in a separate file from the official personnel file in the Human Resources Department. If a formal disciplinary action is taken, that document shall be filed in the official personnel file. Such records may be made available to any court or federal agency having jurisdiction over sexual harassment complaints.

#### I. Frivolous and Groundless Complaints

1. The County's commitment to eliminate sexual harassment and other forms of unlawful harassment from the workplace does not grant license for employees to engage in unfounded, frivolous, or vindictive actions in violation of the intent of this policy.
2. Where the results of an investigation reveal that a written complaint of sexual or other unlawful harassment is wholly frivolous or groundless, the employee having made such complaint may be subject to disciplinary action, including dismissal.

#### J. Policy Against Retaliation

Reprisal or retaliation is strictly prohibited. This includes both direct retaliation or reprisal, or the encouragement of others to engage in retaliation or reprisal against any person who:

1. Opposes any conduct prohibited by this policy;
2. Complies or encourages others to comply with any provision of this policy;

3. Files a complaint concerning any violation of this policy
4. Testifies, assists, or participates in any investigation or hearing resulting from a complaint under this policy; and
5. Exercises or attempts to exercise any right conferred under this policy.

K. Discipline

Any employee found to have engaged in sexual or other unlawful harassment, who is found to have knowingly condoned, encouraged, or perpetuated an act or acts of sexual or other unlawful harassment, or who is found to have in some way participated in retaliation or reprisal, shall be subject to disciplinary action, including, but not limited to, suspension, loss of salary increment, demotion, and dismissal.

## 6.4 DRUG-FREE WORKPLACE

A. Policy

1. The County is committed to the safety and well being of its employees and the public it serves. It is the County's intent to establish and maintain a work force and work environment free from the adverse effects of alcohol and controlled substances, and to comply with the requirements of the Federal Drug-Free Workplace Act.
2. Employees reporting to work must be able to perform their assigned duties safely and competently; employees must be free from the effects of alcohol or controlled substances, which impair judgment and job performance, and may result in accident or injury to self, other employees, or the general public. This policy is intended to support the County's commitment to provide services to the public with a qualified, capable, and fit-for-duty workforce.
3. All County employees who are subject to the Commercial Drivers License Program (who are required to drive a 26,000 pound or greater vehicle as part of their County duties) will be required to undergo drug/alcohol testing. The Federal Department of Transportation (DOT) requires random drug testing of employees operating motor vehicles that fall under their Commercial Driver's License (CDL) guidelines. Such testing requirements shall be included in position job descriptions.
  - a. Positions covered include drivers of vehicles that:
    - (1) Have a gross combination weight of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds;
    - (2) Have a gross vehicle weight rating of 26,001 or more pounds;
    - (3) Are designed to transport 16 or more passengers, including the driver; and,
    - (4) Are of any size and are used in the transportation of hazardous materials requiring placards.

- (5) Mechanics, supervisors, managers and any other employees who drive DOT-regulated motor vehicles on public roads are included.

Human Resources shall be required to obtain an applicant's DOT testing history from the previous employer(s) over the past two years, after obtaining a signed release from the applicant.

- b. This testing may include any or all of the following:
    1. Pre-employment
    2. Reasonable Suspicion
    3. Random
    4. Post-accident
    5. Return-to-duty
    6. Follow-up
  - c. Employees in violation of DOT guidelines are considered in violation of the Drug Free Workplace policy and are subject to discipline as outlined in this policy.
  - d. After an accident involving a County vehicle, the surviving driver will be tested for alcohol and controlled substances. This testing will be done whether or not the accident involved the loss of human life, or whether or not the driver receives a citation under State or local law for a moving traffic violation arising from the accident.
  - e. Employees who engage in prohibited alcohol conduct and/or have a verified positive drug test result, must be immediately removed from their safety-sensitive functions. Should the County decide to retain the employee, the employee cannot return to safety-sensitive duties until the employee has been evaluated by a substance abuse professional (SAP), has complied with any treatment recommendations, and has a negative result on a return-to-duty alcohol and/or drug test.
  - f. Employees returning to duty shall be subject to a minimum of 6 additional alcohol and/or drug tests over a 12-month period, as determined by the SAP.
4. The manufacture, distribution, dispensation, possession, purchase, sale, or use of alcohol or a controlled substance in the workplace is prohibited. Employees found in possession of, or under the influence of alcohol, or controlled substances not legally prescribed by their physicians, shall be subject to disciplinary action, up to and including dismissal, in addition to facing possible legal consequences.
  5. The possession, use (unless in administering a controlled substance prescribed by a physician), gift, distribution, or sale of a hypodermic

syringe needle or other instrument or implement prohibited by the Controlled Paraphernalia Act, is likewise prohibited, and employees are cautioned that simple possession of such paraphernalia while in the workplace is prohibited and cause for disciplinary action, up to and including dismissal.

6. All County employees shall provide full assistance to legal authorities in investigating and prosecuting charges of illegal drug-related activity by County employees.

B. Responsibilities

1. Employees

- a. Employees shall notify their supervisors in writing, no later than three calendar days if convicted of violating:
  - 1) a criminal drug law, based on conduct occurring in or away from the workplace; or
  - 2) an alcoholic beverage control law or law which governs driving while intoxicated, based on conduct occurring in or away from the workplace.
- b. Employees shall report any conduct of other employees that appear in violation of this policy to their supervisors.

2. Management

- a. Each supervisor, Department Director has the responsibility to immediately report violations, as well as any reasonable evidence to suspect that an employee is manufacturing, distributing, dispensing, in the possession of or is under the influence of alcohol or a controlled substance to the Human Resources Director. The Department Director and the Human Resources Director shall work in concert to investigate the violation, obtain the facts, and advise and recommend appropriate action to the County Administrator.
- b. The County Administrator shall notify any granting Federal agency within five days after receiving notice from an employee or otherwise receiving actual notice of a criminal law conviction against an employee for conduct (1) occurring within the workplace and (2) in connection with that Federal agency's grant.
- c. Department Directors and supervisors shall assist in ensuring that the workplace is free of controlled substances and that their departments meet the requirements of the Drug-Free Workplace Act.

C. Screening

With all new hires starting work on or after April 1, 2009, candidates selected to fill positions which are classified as high risk positions, public safety positions, jobs requiring the regular and routine operation of County vehicles or other

motorized equipment, or financial accountability, shall be required to complete a drug/alcohol test prior to employment with the County.

In an effort to identify and eliminate controlled substance/alcohol abuse, which affects an employee's ability to safely and competently perform his/her duties, urinalysis/blood tests and breathalyzers may be conducted.

Candidates selected to fill positions which are classified as high risk positions, public safety positions, or jobs requiring the regular and routine operation of County vehicles or other motorized equipment, may be required to complete a drug/alcohol test prior to employment with the County.

1. Employee Screening

a. Screening of employees may take place under any of the following conditions:

1) Change in Position: Employees who are being transferred, promoted, or demoted may be required to complete a drug screening prior to appointment.

2) Reasonable Cause: Testing may occur when the employee's work performance is impaired and workplace behavior indicates that an employee is under the influence of drugs/alcohol. Such behavior must be witnessed by at least one supervisor.

3) Post-Accident: Following any on-duty accident which causes either death; property damage resulting in the towing of either of the vehicles and the employee receives a moving traffic citation; personal injury resulting in one or more of the parties being transported from the scene to receive medical treatment and the employee receives a moving vehicle traffic citation; or where the employee's supervisor or law enforcement has reasonable suspicion to believe that the involved employee(s) is under the influence of, has been using, or is in possession of alcohol or controlled substances in violation of this policy.

b. Any employee who is relieved of duty due to reasonable suspicion of alcohol or drug use shall not be permitted to operate a County vehicle or County equipment. Every attempt shall be made to locate a family member or friend to transport the employee. If this is unsuccessful, a taxi may be called at the County's expense.

c. Any employee who routinely drives a County vehicle/equipment, and who tests positive for alcohol/drug use shall be immediately disqualified from driving and taken off the road.

D. Discipline

1. Employees performing work while impaired by alcohol and/or drugs are subject to disciplinary action, up to and including dismissal.

2. Employees refusing to participate in a drug or alcohol screening test required by this policy shall be subject to disciplinary action, up to and including dismissal.

## **6.5 WORKPLACE VIOLENCE**

### **A. Policy**

The County prohibits any acts or threats of violence in the workplace against the County's employees, customers or visitors while engaged in business with or on behalf of the County, on or off the County's premises. The County is committed to:

1. Provide a safe and healthful work environment in accordance with policies described herein;
2. Proactively train employees on the philosophies and tenets of this policy, conflict resolution, and prevention awareness;
3. Take prompt remedial action up to and including immediate termination of any employee who engages in threatening behavior, acts of violence, or uses any obscene, abusive, or threatening language or gestures;
4. Take appropriate action when dealing with customers, former employees or visitors to the County's facilities who engage in the above behavior, including notifying appropriate law enforcement officials and prosecution of offenders.
5. Prohibit customers and visitors from bringing onto County premises firearms that are unauthorized by law.
6. Prohibit employees from bringing firearms into County buildings or other weapons onto County premises. Firearms and ammunition are allowed in locked motor vehicles in County parking lots. Employees who carry weapons as part of their employment, i.e., law enforcement, animal control, are exempt from this policy.

- B.** Any employee who recognizes a potential threat is required to report the incident or situation to his/her supervisor immediately. If the threat is coming from the employee's supervisor, the employee is required to report the situation to the next higher level of County management or to the Human Resources Director. In the case of an emergency, dial 9-911 to alert law enforcement authorities. Any reported possibility of violence will be promptly investigated with action taken to resolve or diffuse the situation. Consequences may include disciplinary action or criminal prosecution. The County prohibits any form of retaliation against any employee for making a report under this policy.

## CHAPTER 7

### *WORKER SAFETY*

#### 7.1 SAFETY PROGRAM

##### A. Safety Policy

1. It shall be the policy of Montgomery County that every employee is entitled to work under the safest conditions possible. To this end, every reasonable effort shall be made to promote accident prevention.
2. Safety is a fundamental responsibility of management. To this end, the primary responsibility for safety in all work activities rests with the supervisors, at all levels.
3. Most accidents can be prevented. A major goal of this policy is accident prevention, not the assignment of blame.
4. With the commitment from all segments of the County's workforce, the results of this safety program shall be to decrease employee/personal injury, equipment and property damage, and liability.
5. In a proactive manner, the County's safety program shall work to effectively eliminate or control work-related physical impacts and hazards by providing management direction and employee involvement in the identification and resolution of hazards, and by providing training, medical management and evaluation as an ongoing process. Such measures shall include evaluating work tasks, equipment, and environment, with an objective of making the most efficient use of worker capabilities while reducing the possibility of physical injury.

##### B. Managerial, Supervisory, and Employee Responsibility

1. Department Directors: Department Directors hold final accountability for working conditions, safety practices, and loss control of subordinate supervisors as well as the general loss control record under their span of management responsibility. Therefore, Department Directors shall:
  - a. Ensure that the policies and procedures set forth herein are complied with by all supervisors and employees under their direction;
  - b. Provide the leadership and positive direction essential in maintaining safety and loss prevention policies as a prime consideration in all operations;
  - c. Devote a portion of staff meetings, as necessary, to review departmental accidents and injuries and to discuss plans to bring about more positive results;

- d. Demonstrate a personal concern in departmental losses by interviewing, directly or through a responsible supervisor, each worker and his/her supervisor who has:
  - 1) Lost work time from an occupational injury because of negligence;
  - 2) Been involved in a vehicular collision because of failure to drive defensively or to comply with traffic laws; or
  - 3) Encountered third party liability claims from specific activities.
- e. Hold each supervisor accountable for an explanation of the preventable injuries, collisions, and liabilities incurred by his/her employees. An excessive number is an indication that some management policies and practices need re-evaluation.
- f. Ensure that each supervisor includes an employee's safety record as part of the basic criteria used to judge each formal performance (merit or change in position) evaluation;
- g. Ensure that hazardous tasks are covered by specific published work procedures to minimize injury and property damage potential;
- h. Ensure that employees are instructed and understand the need for and use of protective equipment for specific hazardous jobs;
- i. Ensure that the necessary safety equipment and protective devices for each job are available, and are used properly;
- j. Ensure that departmental safety meetings are conducted to review accidents, analyze their causes, and promote a free discussion of hazard work problems, conditions, and possible solutions;
- k. Ensure that safety suggestions and written comments from employees are encouraged, that suggested improvements are implemented, where practical.
- l. Ensure that budget requirements include anticipated costs to meet federal and Virginia Occupational Safety and Health Act requirements;
- m. Ensure that all accidents are thoroughly investigated, recorded, and promptly reported in accordance with County procedures; and
- n. Ensure that prompt, corrective action is taken wherever hazards are recognized or unsafe acts are observed.
- o. Provide modified duty opportunities where possible for injured employees to transition back to work within physician limitations.
- p. Ensure that the work environment is properly equipped to support employee work responsibilities. Medical and/or other ergonomic specialist determinations may be sought as necessary.

2. Supervisors: All personnel in a supervisory capacity shall be responsible for the safe actions and related work performance of their employees, and the safe and proper use of machines and equipment within their operating area. They have full authority to enforce the provisions of this policy to keep losses at a minimum. Supervisors shall:
  - a. Assume responsibility for safe work areas for their employees while they are working under their supervision;
  - b. Be accountable for preventable injuries, collisions, and liabilities caused by their employees. These items shall be taken into consideration during their performance evaluations;
  - c. Ensure that each employee is trained for the job assigned and is familiar with all published work procedures;
  - d. Take the initiative in recommending correction of deficiencies noted in facilities, work procedures, employee job knowledge, or attitudes that adversely affect safety efforts;
  - e. Take appropriate disciplinary action against those who fail to follow safety policy and procedures, and be prompt to give recognition to those who perform well;
  - f. Ensure advance planning for new work activities to anticipate requirements for needed safeguards and controls;
  - g. Report all accidents and injuries involving County employees, County vehicles, or County property in accordance with County reporting procedures; and
  - h. Provide safety instructions to assigned employees and provide on-the-job supervision to ensure safe working conditions.
3. Employees: Employees are held directly responsible for exercising care and good judgment in preventing accidents and for observing safety rules which apply to their duties. An employee who causes or contributes to a preventable accident is subject to disciplinary action. An employee who is found to have been negligent shall be subject to disciplinary action up to and including dismissal. Employees shall:
  - a. Comply with the County's safety program policies and procedures and directions from their supervisors;
  - b. Report all accidents and safety hazards to the immediate supervisor as soon as practical after an accident occurs or a hazard is observed;
  - c. Keep work areas clean and orderly;
  - d. Avoid engaging in horseplay and avoid distracting others;
  - e. Learn to lift and handle materials properly;
  - f. Be familiar with the Workers' Compensation policy;

- g. Operate assigned vehicles, equipment, and machinery in a safe and responsible manner.

## **7.2 SAFE OPERATION OF COUNTY VEHICLES**

- A. Employees who use a County vehicle, whether occasionally or on a daily basis, are expected to follow County and Virginia safety procedures and traffic laws. In addition, for the protection and safety of County employees and the public; every employee is required to follow these safety steps:
  - 1. Any operator of a County vehicle must possess a valid Virginia driver's license (certain employees must comply with the County's Commercial Driver's License Program). For employees required to operate a County vehicle the invalidation, revocation, or suspension of the driver's license or any restrictions must be reported to the immediate supervisor within one (1) workday of the occurrence. Employees who do not report these changes as required shall be subject to disciplinary action, up to and including dismissal;
  - 2. Any employee required to operate a County vehicle must also report a Driving Under the Influence (DUI) or a Driving While Intoxicated (DWI) charge within one (1) workday of the occurrence. In response to the charge, the County shall temporarily suspend the employee's driving privileges of a County vehicle until such time as the court ruling occurs. Any DUI or DWI conviction shall be subject to disciplinary action, up to and including suspension of driving privileges or dismissal from employment. An employee charged or convicted with on or off duty DUI or DWI is also subject to the Drug Free Workplace section of these Personnel Policies.
  - 3. Safety belts must be properly used by the vehicle operator and any passengers of County vehicles at all times; the vehicle operator shall be responsible for ensuring that passengers use their safety belts;
  - 4. Employees are responsible at all times for the proper care of County vehicles and to be alert to any apparent defects or mechanical problems. Any operational problems shall be reported to the employee's supervisor as soon as possible;
  - 5. In certain positions and at the discretion of the County Administrator or Constitutional Officer, employees may be assigned a County vehicle to take home for fast access the following day, such as during inclement weather or when traveling on County-related business; employees assigned a County vehicle are responsible at all times for the proper care, periodic inspection, and maintenance of their vehicle; and
  - 6. Employees observed operating a County vehicle in an unsafe manner shall be reported to the appropriate Department Director or Constitutional Officer and may be subject to disciplinary action.

- B. A driving record check shall be performed pre-hire and in January of each year for all employees who drive a County vehicle. The County reserves the right not to hire and to restrict driving privileges of individuals with a poor driving record.
- C. The personal use of County vehicles by County employees is prohibited.

### **7.3 UNIFORMS, PROTECTIVE CLOTHING, AND SAFETY EQUIPMENT**

Uniforms, protective clothing, and safety equipment shall be provided to County employees for their safety. Those positions requiring uniforms and safety equipment shall be identified by Department Directors or Constitutional Officers, and other appropriate County staff. The loss or excessive wear does not relieve the employee of the responsibility to wear uniforms and safety equipment. The loss or destruction of uniforms or safety equipment due to the employee's negligence shall be the responsibility of the employee.

#### **A. Uniforms and Protective Clothing**

- 1. Uniforms and protective clothing shall be provided to each employee whose position precludes wearing personal clothing for reasons of safety or prospective damage to normal personal work attire.
- 2. County uniforms shall never be worn for any jobs other than County employment.
- 3. Uniforms and protective clothing shall be replaced when the employee's Department Director determines the uniforms or protective clothing to be non-usable.
- 4. Upon the employee's termination of employment, all County-issued uniforms shall be returned to the County.

#### **B. Safety Equipment: Shoes**

- 1. Safety shoes shall be worn by each County employee whose position requires protective footwear. The County shall annually provide regular full-time employees with a minimum of one pair of Director-approved safety shoes not to exceed the amount established each fiscal year as part of the annual County budget.
  - a. Any employee who is required to wear safety shoes shall wear them from the first day of work.
  - b. Employees, other than regular full-time employees, who are required to wear safety shoes shall be required to purchase safety shoes at their own expense.
  - c. Safety shoes shall be replaced on an as-needed basis and with approval of the Department Director.
- 2. All safety shoes worn by County employees shall be classed according to the American National Standard Institute Standard as prescribed by OSHA.

3. Employee Responsibility

- a. Employees are responsible for the care and maintenance of their safety shoes by polishing, weatherproofing, and guarding against theft.
- b. Employees shall wear their safety shoes at all times during their work shift. Any employees not wearing County-approved safety shoes shall be sent home that day without pay. Repeated offenses shall result in further disciplinary action.

4. Supervisory Responsibility

- a. Department Directors, and supervisors, as appropriate, shall inform employees of the correct styles of safety shoes to be worn. Supervisors shall also advise all selected candidates being considered for County employment of this requirement during the interview and again when an offer of employment is being made.
- b. The immediate supervisor is required to inspect all newly purchased safety shoes prior to the employee wearing them to determine if they meet County policy.
- c. Any questions regarding the acceptability of the shoes, or a request to be provided safety shoes by an employee whose position classification does not require them shall be resolved by the Department Director.

5. Safety Shoe Purchase and Reimbursement Procedure

- a. An employee shall request advance approval for safety shoes by submitting a "Request for Safety Shoe" form to the immediate supervisor.
- b. The employee shall not wear newly purchased safety shoes until the immediate supervisor has inspected them to ensure compliance with this policy.
- c. Once a purchase has been made, the employee shall submit the original receipt, a copy of the completed "Request for Safety Shoes" form and a payment voucher to the Human Resources Director to receive reimbursement within 30 days.
- d. A new employee who has been reimbursed for safety shoes and who leaves County service prior to completion of the initial probationary period, shall be required to reimburse the County the same amount he/she had received from the County. This amount shall be deducted from the employee's paycheck.

C. Safety Equipment: Hard Hats

- 1. Hard hats shall be provided to each County employee whose position requires protective headwear.

2. All hard hats worn by County employees shall be classed according to A.N.S.I. Z.89.1-1969 and Z.89.2-1971 Standard as prescribed by OSHA (Regulation 29, CFR Part 1920-135).
  3. Any question regarding the acceptability of the hard hat or exceptions to the position classification requirement to wear one shall be resolved by the Department Director.
  4. Upon the employee's termination of employment, hard hats issued by the County to the employee shall be returned to the County.
- D. Safety Equipment: Gloves
1. Protective gloves shall be provided to each County employee whose position requires protective gloves.
  2. Protective gloves shall be replaced as they become non-usable. An employee's Department Director shall determine when the gloves need to be replaced.
  3. Any question regarding the application of this requirement shall be resolved by the Department Director.
- E. Safety Equipment: Safety Eyeglasses
- Protective eye equipment, e.g., safety eyeglasses, goggles, hoods, etc., shall be provided to each employee whose position requires protective eye equipment.

#### **7.4 CONTAGIOUS OR LIFE-THREATENING ILLNESSES**

- A. The County is committed to maintaining a healthy and safe work environment. The purpose of this policy is to establish policies and procedures concerning employees with contagious or life-threatening illnesses, including, but not limited to cancer, heart disease, HIV and related conditions of all types, Hepatitis b, tuberculosis, and any on-the-job exposure to illnesses which are contagious in the workplace or are life-threatening.
- This policy is intended to supplement other personnel policies, including but not limited to those related to leave, conduct, and safety.
- B. Policy
1. Montgomery County shall not discriminate in its employment practices (e.g., selection, promotion, transfer, and termination) against persons with, or perceived or suspected of having, a contagious or life-threatening illness.
  2. Employees with contagious or life-threatening illnesses may wish to continue working to the extent their condition allows. If these employees desire to work and are able to meet the normal performance standards of their job, and medical evidence indicates that the employees' continuing to work does not present an immediate threat to themselves, co-workers, or the public, supervisors shall ensure that they are treated consistent with other employees.

Specifically with respect to HIV and related conditions, this policy is based on current general medical opinion that casual workplace contact with employees who have these conditions, or who have been exposed to Acquired Immune Deficiency Syndrome (AIDS) virus, will not result in transmission of AIDS to others.

3. The County shall take precautions to ensure that an employee's condition does not present a health or safety hazard to co-workers or the public.
4. The County shall make reasonable accommodation for individuals who are suffering disabling effects of a contagious or life-threatening illness. Reasonable accommodation procedures shall be determined on a case-by-case basis by County staff as deemed appropriate by the County Administrator pursuant to this policy.
5. Information regarding an employee's health condition is personal and confidential and shall be protected and disclosed only to personnel who are authorized to participate in the decision making of the employee's health or employment status.
6. Evaluation of an employee's ability to perform job duties and health risk shall occur on a case-by-case basis and shall be determined in consultation with the employee's personal physician, the Human Resources Director, and other County staff deemed appropriate by the County Administrator or Constitutional Officer pursuant to this policy.

#### C. Procedures

1. A fact-finding team shall be created consisting of the Human Resources Director, Public Health Director, and appropriate Department Director or Constitutional Officer (herein "the team") to determine whether an employee's continued presence at work poses a threat to others and what reasonable accommodations, if any, can be made to allow an employee with a contagious or life-threatening illness to continue working. A meeting shall be held between the employee and the team before the team submits a recommendation. The team's recommendation shall be based upon all medical documentation (including medical examination results) received and shall be forwarded to the County Administrator. The final decision shall be made by the County Administrator.
2. Department Directors shall make reasonable accommodations to allow employees to continue working, based on the recommendations of the team. Reasonable accommodations may include, among other things, changes in physical environment, modified or part-time work schedules, adjustment of job duties, or transfer to a more suitable position, which do not impose an undue hardship on the department or the County.
3. When requested, the Human Resources Department shall provide employees with the names of agencies and organizations that offer supportive services.

4. The Human Resources Department shall counsel the employee on how to best utilize County-provided health insurance, leave, and other employee benefits.
5. An employee who claims application of this policy shall be required to furnish a statement from an attending physician verifying the employee's condition and that the employee's continued presence at work does not pose a threat to others. In addition, the physician shall indicate the need, if any, for accommodation of the employee's condition. This statement shall be reviewed by the authorized County physician and the team described in Section C.1 of this policy.
6. If the employee's ability to perform regular job duties is in question, the employee may be required to take a fitness for work medical examination, administered by the authorized County physician, to determine to what extent accommodations are necessary and available.
7. Employees who are diagnosed with contagious or life-threatening illnesses may, in some cases, pose a risk to others or may incur additional risk to themselves due to their work environment. Employees who are told by their physicians that their condition poses a threat to others or that their work environment should be altered, shall immediately notify their Department Director of their condition. Employees who do not know whether their condition meets any of the foregoing criteria should ask their physician or consult with the Human Resources Director. An employee who fails to notify his/her Department Director may be subject to disciplinary action.
8. Concerns of Co-workers
  - a. The concerns of co-workers of employees with a contagious or life-threatening illness shall be treated sensitively. Management and employee education on terminal illness and specific contagious or life-threatening diseases may be arranged through the Human Resources Department and other County agencies as appropriate. Co-workers shall cooperate with decisions of management made pursuant to this policy and shall continue the working relationship with any fellow employee having a contagious or life-threatening disease covered by this policy.
  - b. Any co-worker of an employee with a contagious or life-threatening illness who believes that the application of this policy may affect his/her physical well-being shall state the concern to the Department Director who shall consult with the Human Resources Director in addressing the concern. Any such co-worker may be required to provide written documentation of medical circumstances which warrant special treatment of the co-worker.
  - c. Employees shall utilize devices prescribed by the authorized County physician that have been determined to reduce the possible transmission of contagious or life-threatening illness.

9. Suspected Exposure

- a. Any employee who believes that he/she has come into contact with a contagious or life-threatening illness as a result of performance of the employee's duties and, as a result of the contact, may contract such illness, shall immediately report the incident to his/her Department Director or Constitutional Officer.
- b. The Department Director or Constitutional Officer shall advise the Human Resources Director of the incident. The employee shall follow-up the verbal notification with a written report of the circumstances and send it to the Human Resources Director on forms provided by these officials.
- c. The employee shall follow post-exposure recommendations provided by the authorized County physician.
- d. The employee shall cooperate with designated County staff in determining whether an illness has been contracted as a result of performance of the employee's duties, which may include voluntary testing for the illness in accordance with guidelines set forth by the Centers for Disease Control.

10. No County employee shall withhold County services from any citizen because he/she has AIDS, may be perceived or suspected to have AIDS, or has tested positive for HIV infection. County departments that provide services in which employees may be exposed to blood or other potentially infectious materials shall follow procedures for preventing transmission of the HIV virus in the workplace.

## CHAPTER 8

### *LEAVE*

#### **8.1 LEAVE DEFINED**

Leave is any approved absence during regularly scheduled work hours that has been authorized by the proper authority. Leave may be authorized with or without pay. An unapproved absence without leave is considered unauthorized leave (AWOL) and is subject to disciplinary action. An approved absence without leave may be authorized by the Department Director, Constitutional Officer or County Administrator in accordance with the Leave Without Pay section of these policies.

#### **8.2 TYPES OF LEAVE**

- A. Holiday Leave (Section 8.4)
- B. Annual Leave (Section 8.5)
- C. Sick Leave (Section 8.6)
- D. Bereavement Leave (Section 8.7)
- E. Civil Leave (Section 8.8)
- F. Military Leave (Section 8.9)
- G. Leave Without Pay (Section 8.10)
- H. Emergency Closings Policy (Section 8.11)
- I. Administrative Leave (Section 8.12)
- J. Unauthorized Absence (AWOL) (Section 8.13)
- K. Family and Medical Leave Act of 1993 (Section 8.14)
- L. Educational Leave (Section 8.15)

#### **8.3 GENERAL LEAVE PROVISIONS**

- A. Employees are responsible for obtaining approval from their immediate supervisor or Department Director, as appropriate, before beginning any absence from work. Leave shall be requested and approved in advance in writing on the appropriate form. When circumstances allow (i.e., scheduling doctor appointments, elective surgery), sick leave shall also be requested and approved in advance. Otherwise, a sick leave request shall be completed and submitted for approval immediately upon the employee's return to work.
- B. To receive paid annual or sick leave for unscheduled absences, employees must notify their immediate supervisor immediately or as soon as possible after their regular starting time. In cases where the supervisor is unavailable, employees

should contact the Human Resources Department. All departments are required to advise employees of their notification procedures, and to keep these departmental procedures posted.

- C. The calculation of annual and sick leave accrual is based on a standard pay period.
- D. Charges for authorized leave shall be made on quarter hour basis.
- E. No employee shall use leave that has not been earned. If an employee is off and does not have sufficient leave to cover the balance of the pay period, leave without pay shall be reflected on the employee's time sheet, for approved absence, and unauthorized absence if the time off was not approved.
- F. All County employees, including temporary employees, are eligible for leave without pay.
- G. Annual and sick leave shall be earned on the basis of twelve (12) pay periods each calendar year.
- H. For a pay period in which a new, returning, or exiting eligible employee is paid less than the regular standard hours, including paid leave, leave earned shall be calculated on a one-half time basis if the employee has worked less than one-half month. If the employee has worked at least one-half month but less than a full month, he/she will still earn a full month's leave for that month. Eligible part-time employees will earn leave based on budgeted hours (average hours of work) if they average at least 20 hours/week. An active employee on any leave without pay during a month will not accrue annual or sick leave during that month. A returning employee does not include returning to work from using out of the Sick Leave Bank.
- I. Leave shall accrue while an employee is on approved paid leave. Leave shall not accrue if an employee is on unauthorized leave, military leave without pay, or leave without pay as specified within this policy.
- J. Leave hours are not considered hours worked for overtime purposes.
- K. The County may accept a portion of or all of a new hire's traditional sick and/or annual leave from another agency or locality into the County's leave system. Hybrid employees may participate in this program, but for those Hybrid employees hired on or after July 28, 2014, any transferred sick and annual leave will be kept separate from the employee's Paid Time Off (PTO) accruals. The request must be in writing and approved by the County Administrator. The following rules apply:

1. The requesting employee will provide a letter to the County Administrator indicating the amount of leave to be transferred.

2. Upon approval, the employee will provide a check or money order to the County to **purchase County leave from the balance paid out by a previous employer**; this amount will reflect the hourly wage of the payout from the previous employer times the number of hours to be purchased at the County (not to exceed **96 hours of annual leave**). This amount would then become subject to payout upon separation from the

County. If the hourly wage of the payout is higher than the hourly wage at the County, the lower County wage rate will be paid.

3. **Sick leave** may also be purchased according to level of experience (based on the hourly wage paid out above) as follows:

Up to 100 hours per year of public service (not to exceed 800 hours of sick leave)

4. If the employee **is not paid out** for any or all sick leave which exists from the former employer, the employee may provide a letter from that employer indicating the amount of leave left on the books, along with a letter requesting the portion of that amount he/she would like to transfer. Approval will be considered within the above limits based on experience. This unpaid leave will **not** be subject to payout upon separation from the County.

5. The employee must use sick leave in the following order:

- 1<sup>st</sup> - transferred sick leave which has been purchased;
- 2<sup>nd</sup> – then County accrued sick leave until exhausted;
- 3<sup>rd</sup> – then transferred unpaid sick leave.

6. The County Administrator approves all leave transfer requests as a part of the hiring process. Other unique circumstances may be considered in the administration of these procedures as the County Administrator deems necessary.

In summary, no more than 96 hours of annual leave may be transferred; sick leave transfer is negotiable. Leave must be purchased with a payment from the previous employer based on the number of hours paid out from that employer. That number of hours will buy the equivalent number of hours at the County. The new employee will begin to accrue County leave from the first day of work. Both transferred (paid) and accrued leave would be subject to payout upon termination or retirement from County service as described elsewhere in this Policy Manual. Unpaid transferred sick leave would not be subject to payout upon termination or retirement.

L. False or fraudulent use of leave, or failure to follow this policy, may be cause for disciplinary action, depending upon circumstances, in accordance with the disciplinary policy. The investigation of the circumstances shall be supervised at the Department Director, or higher, level.

## 8.4 HOLIDAY LEAVE

A. The County observes the following holidays as official holidays:

New Year's Day	January 1
Lee-Jackson Day	Friday preceding the third Monday in January
Martin Luther King Day	Third Monday in January

Presidents' Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Columbus Day	Second Monday in October
Veterans' Day	November 11
Thanksgiving Day	Fourth Thursday in November And Following Friday
Christmas Day	December 25

Additional holidays may be designated by the Board of Supervisors, and the County shall observe any day so appointed as a legal holiday by the Governor of Virginia or the President of the United States.

**B. Eligibility**

1. Regular full-time employees shall receive holiday leave.
2. Regular part-time employees who are specifically required by the County to work on a holiday are eligible to receive a proportional amount of holiday leave based on budgeted hours of work (i.e., an employee budgeted at 20 hours/week would receive 4 hours of leave; 30 hours/week would receive 6 hours).
3. Temporary full and part-time employees are not eligible to receive holiday leave.

**C. Holiday Leave Excluded From Overtime Computation**

Holiday leave shall not be counted as hours worked for the purpose of determining overtime.

**D. Holiday on Weekend**

When a holiday falls on a Saturday, it shall be observed on the preceding Friday. When a holiday falls on a Sunday, it shall be observed on the following Monday.

**E. Holiday on a Mandatory Workday**

Eligible employees, including employees who are exempt from the Fair Labor Standards Act, who are required to work on a holiday shall be compensated for the hours worked on that day as well as for the holiday itself.

**F. Holiday During Paid Leave**

A holiday falling within a period of paid leave shall not be counted as a workday in computing the amount of leave debited. However, when an employee is absent on a holiday on which he/she is scheduled to work, the time shall be deducted from annual or sick leave or PTO, or be charged to leave without pay, as appropriate.

**G. Holiday During Unpaid Leave**

When a holiday falls within a period of leave without pay, or immediately preceding or following such leave, the employee shall receive no pay for the holiday.

H. Appointment or Separation on a Holiday

The appointment or separation of an employee shall not be effected on a holiday unless the employee worked that day.

I. Limit to Holiday Leave

Holiday Leave will be capped, inclusive of Compensatory Leave totals, at 240 hours. Any Holiday leave earned beyond the 240-hour limit of Holiday and Compensatory Leave together would be lost. Any Compensatory Leave alone earned beyond 240 hours will be paid out immediately.

**8.5 ANNUAL LEAVE**

A. Annual Leave Accrual – Applies to regular full and part-time employees (full-time Plan 1 or Plan 2 employees through the Virginia Retirement System) and Hybrid employees through the Virginia Retirement System hired prior to July 28, 2014.

1. Regular full-time employees shall accrue annual leave based on years of service as follows:

<u>Earning Rate of Annual Leave</u>	<u>Per Full Month of Service / Days/Yr.</u>	
Date of Hire – 5 years	1 day (8 hours)	12
5+ years – 10 years	1-1/4 days (10 hours)	15
10+ years – 15 years	1-1/2 days (12 hours)	18
15+ years – 20 years	1-3/4 days (14 hours)	21
20+ years continuous service	2 days (16 hours)	24

2. Regular part-time employees (who are budgeted and are compensated for hours worked and/or leave paid an annual average of 20 hours per week or more) shall earn annual leave based on the following:

Date of Hire – 5 years	.5 day (4 hours)	6
5+ years – 10 years	.625 day (5 hours)	7.5
10+ years – 15 years	.75 day (6 hours)	9
15+ years – 20 years	.875 day (7 hours)	10.5
20+ years continuous service	1 day (8 hours)	12

3. Temporary full and part-time employees do not earn annual leave.

4. Maximum annual leave accrual rates are as follows:

Date of Hire – 5 years continuous service	24 workdays
5+ years – 10 years continuous service	30 workdays
10+ years continuous service	36 workdays

The maximum annual leave accrual rates for part-time employees are as follows:

Date of Hire – 5 years continuous service	12 workdays (or 96 work hours)
5+ years – 10 years continuous service	15 workdays (or 120 work hours)
10+ years continuous service	18 workdays (or 144 work hours)

5. During the calendar year, an employee may accrue more than the maximum levels as stated above. Leave beyond the maximum levels not used by the beginning of the first full pay period of the new calendar year shall be forfeited.

B. Granting of Annual Leave

1. Periodic change of pace and rest results in improved productivity and employee morale. County employees shall be encouraged to take annual leave as an important means for maintaining the employee's health and well-being.
2. So far as possible, annual leave shall be set at a time mutually agreeable to the employee and the employee's immediate supervisor and/or Department Director. Annual leave shall normally be granted each calendar year unless a Department Director specifically defers an employee's vacation because of work requirements.
3. Employees are encouraged to first use any accrued compensatory time before using annual leave.

C. Payment of Annual Leave or PTO Upon Separation

1. Upon voluntary separation, after 6 consecutive months of employment have been successfully completed and with sufficient notice, an employee shall receive payment for annual leave or Paid Time Off up to the maximum accrual rate. If the employee has not completed 6 months of employment, either voluntarily or involuntarily, he/she will not receive payment for annual leave or PTO. Payment shall be calculated using the employee's base hourly rate of pay at the time of separation.
2. If the required notice of resignation is not provided by the employee, the equivalent of one day may be deducted from the leave payment for each day the employee failed to give notice up to a two (2) week maximum. Any annual leave or PTO taken during this time shall be approved by the

immediate supervisor and shall not interfere with the ongoing work effort of the department.

3. In the case of the death of an employee, the unused annual leave or PTO credit shall be paid to the employee's estate.
- D. Generally, annual leave or PTO shall not be donated or conveyed from one employee to another. A Department Director may forward requests from employees wishing to donate annual leave to other employees as sick leave to the Human Resources Director subject to approval by the County Administrator. Hybrid employees (hired after July 28, 2014) are not eligible to receive annual leave or PTO from other employees. Those Hybrid employees hired after January 1, 2014, and before July 28, 2014, may be eligible to receive annual leave to be used as sick leave since they are under the traditional leave plan. Such leave may be used for the employee, spouse of the employee, and child(ren) of the employee in cases of catastrophic or long-term illness after all other avenues are exhausted and if the employee is not eligible to use from the sick leave bank. Constitutional Officers may approve such donations within their respective operations. The total dollar value of the annual leave hours donated shall be debited based on the hourly rate of pay of the recipient.
- E. Effect of Change of Appointment Status

An employee who transfers from a temporary to regular position, without a break in service, may receive annual leave credit from the date of temporary appointment. Credit is conditional upon the following:

1. The permanent position must be identical or similar to the temporary position in duties and level of responsibility; and
2. The employee must have worked an average of 30 hours per week in the temporary position.

## **8.6 SICK LEAVE**

- A. Sick Leave Accrual – Applies to regular full-time and part-time employees (full-time Plan 1 or Plan 2 employees through the Virginia Retirement System) and Hybrid employees through the Virginia Retirement System hired prior to July 28, 2014.
1. Regular full-time employees shall accrue sick leave as follows:  
10 hours (1 ¼ days) for each completed calendar month of service  
Regular part-time employees who are budgeted and are compensated for (hours worked and/or leave paid) an annual average of 20 hours per week or more shall earn sick leave at a rate of 5 hours (.625 day) for each completed calendar month of service.
  2. All other employees do not accrue sick leave.
  3. Sick leave may be accumulated up to 1,040 hours or 130 days (full-time); 520 hours (part-time).

4. Upon termination of employment, employees shall be paid for unused sick leave at the rate of 25 percent up to 260 hours or 32 days.

B. Granting of Sick Leave

The Department Director shall grant sick leave to eligible employees in accordance with the following provisions:

1. Leave for sickness shall not exceed the total amount accrued by an employee at the time of absence; sick leave shall not be advanced;
2. Leave without pay may be granted for sickness extending beyond the employee's earned sick leave balance after all other accrued leave has been exhausted.
3. Employees may use available annual leave and compensatory leave for sick leave when sick leave has been exhausted.
4. When advanced approval is not possible, employees are required to submit to their immediate supervisor a request for leave slip immediately upon return to work.
5. A Department Director may investigate an employee's request for or use of sick leave if circumstances warrant.

C. Sick Leave Policy

Sick leave shall not be considered a right, which may be used at the employee's discretion, but is a privilege. Sick leave shall be provided to aid employees in time of need and shall only be used when necessary, and as outlined in this policy. Full-time employees not using sick leave during an entire calendar year shall receive one month's accrual of annual leave to be credited at the beginning of the next calendar year. Regular part-time employees who are eligible for sick leave shall receive prorated annual leave as described. Hybrid employees hired on or after July 28, 2014, are not eligible under this policy.

Family and Medical Leave (see Section 8.14) should be considered concurrently with sick leave for those absences that qualify.

1. Sick leave shall be granted, in accordance with this policy, to eligible employees for the following:
  - a. Sickness or physical incapacity;
  - b. Medical, dental, or optical diagnosis or treatment;
  - c. When an employee is unable to perform regular duties, as certified by a licensed physician, during pregnancy, childbirth, or related medical conditions associated with birth;
  - d. Exposure to a contagious disease when the employee's presence at work jeopardizes the health of others;
  - e. The necessary care and attendance of an employee's spouse and dependent(s) due to sickness or incapacity;

- f. The birth, adoption of a child or State placement of a child through foster care; and
- g. The necessary care and attendance of an employee's immediate family, defined as the employee's parents, child, grandparents, grandchildren, brother, sister, and any of these relatives in-law, as well as any relative living in the household of the employee.

2. Written Certificate of Sickness or Physical Incapacity

An employee may be required by the Department Director to submit a certificate by a licensed physician confirming the employee's incapacity and his/her inability to report for work.

3. Medical Examination

The County Administrator may require an employee to undergo a medical examination to be performed by a County authorized, licensed, physician and at County expense under any of the following conditions:

- a. When there is evidence to support that an employee is having problems related to job performance or safety;
- b. To verify fitness for duty of employees assigned to physically demanding jobs;
- c. When in the judgment of the Department Director, an employee absent on sick leave is falsely or fraudulently using sick leave; or
- d. Upon an employee's return to work after an absence due to sickness or physical incapacity.

4. Confidentiality of Medical Information

All medical information obtained shall be treated as confidential medical records to be maintained by Human Resources Department staff in separate medical files.

5. Modified Work Assignment

When an employee is found, either through certification from a licensed physician or County medical examination, to be unable to perform all regular duties and the medical condition appears to be of a temporary, short-term nature, a temporary transfer to modified duty (less strenuous or less hazardous jobs) may be granted. Request must be endorsed by the Department Director and forwarded to the Human Resources Director. Employees shall not be assigned modified duty without review and approval by the Human Resources Director.

6. Extended Sickness or Physical Incapacity

Medical information and the staffing needs of the department shall be considered by the Department Director in determining the holding of the employee's position or placement in another position for which the employee qualifies.

7. Montgomery County Sick Leave Bank – Applies to regular full-time employees who are Plan 1 or Plan 2 employees through the Virginia Retirement System, and Hybrid employees through the Virginia Retirement System hired prior to July 28, 2014, Hybrid employees hired on or after July 28, 2014, are not eligible for the Sick Leave Bank.

Purpose

The intent of this policy is to provide some pay protection for employees who experience a catastrophic or long-term mental or physical illness of him/herself. The Bank is not an entitlement; there are no guarantees of approval to use from the Bank. It is meant to be a benefit of last resort. Examples of catastrophic illness: cancer/treatments, heart attack, stroke, kidney failure, aneurism, severe accidental injury, AIDS, pregnancy with complication, amputation. Examples of long-term illnesses and conditions: diabetes, deteriorating muscular, skeletal, and neurological conditions, ovarian or uterine conditions, chronic or severe arthritis, Crohn's disease, lupus, Parkinson's disease.

Exceptions to catastrophic or long-term illnesses: repetitive motion conditions, migraine headaches, common cold and flu lasting a week or less, cosmetic, Lasik surgery, pregnancy without complication, doctor visits that are not part of an approved condition. Exceptions mean that these conditions would not be covered by the Sick Leave Bank.

These examples are not inclusive of all illnesses or conditions. They are offered merely to provide examples of what the bank is and is not intended to cover.

Membership

Membership guidelines are as follows:

1. Membership shall be voluntary on the part of all personnel who are eligible for sick leave.
2. Membership shall be continuous unless withdrawn in writing.
3. Membership is open to new enrollees at any time during the year.

Enrollment

1. An eligible employee may enroll by agreeing to donate 10 hours of sick leave accrual to the bank. An individual who has exceeded the number of carryover sick leave hours at the end of a calendar year may donate the hours that would otherwise be lost under this provision.
2. Time donated to the Sick Leave Bank is irrevocably donated and lost to the control or individual use of the donor except as a participant in the Sick Leave Bank.
3. Sick Leave Bank Authorization Forms must be submitted to the Human Resources Department.
4. An eligible employee may enroll at any time.
5. An employee must be enrolled in the bank for six (6) months prior to becoming eligible to utilize the benefits of the Sick Leave Bank.

Use of Sick Leave Bank

Utilization of the Sick Leave Bank shall be as follows:

1. The employee must make application through Human Resources to the County Administrator for the benefit. It is not automatic. Forms are available from Human Resources.
2. The employee must be under a physician’s care while using out of the bank and must provide written documentation from the physician regarding diagnosis and return to work date.
3. No member of the bank will be granted sick leave from the bank until all of his/her sick leave, annual leave and compensatory leave have been depleted.
4. The requesting member must have a minimum of 80 hours of personal accrued leave (may include sick, annual, compensatory) on the books at the time of the request or onset of the accident or illness. The bank will begin to cover immediately after all accumulated sick, annual, and compensatory leave have been exhausted.
5. A maximum of 10 weeks within a rolling 12-month period may be withdrawn by a member qualifying for bank benefits. Administrative review shall occur at each fifteen (15) day interval by the Human Resources Director. Members utilizing sick leave days from the bank will not have to replace those days taken.
6. Termination of employment or retirement will not permit an employee to withdraw his or her days previously contributed.
7. The Sick Leave Bank will be governed by all rules of the County’s Sick Leave Program with the exception that the Sick Leave Bank is only available to the employee to use for him/herself. Only catastrophic or unforeseen complications for pregnancy and/or birth are eligible to be considered for Sick Leave Bank utilization; pregnancy and birth without complication would not be eligible.
8. Time in the Sick Leave Bank not used will be carried over to the next year.
9. While utilizing benefits in the Sick Leave Bank, members will not accrue further leave benefits. Individual accrual will begin again once the member has returned to work and is no longer utilizing the Bank.

**8.7 PAID TIME OFF (PTO)**

Regular full time Hybrid employees (through the Virginia Retirement System) hired on or after July 28, 2014 will receive Paid Time Off (PTO) leave accruals as follows:

<u>Earning Rate of PTO</u>	<u>Per Full Month of Service</u>	<u>Days/Yr.</u>
0 – 5 years	1-1/2 days (12 hours)	18
5+ - 10 years	1-3/4 days (14 hours)	21
10+ - 15 years	2 days (16 hours)	24
15+ - 20 years	2-1/4 days (18 hours)	27
20+ years	2-1/2 days (20 hours)	30

The maximum amount of PTO hours that can be carried over or paid out are as follows:

<u>Years of Service</u>	<u>PTO hours</u>
0 – 5	452
5+ - 10	500
10+	548

1. Hybrid employees accruing PTO may not donate PTO to another Hybrid employee unless it is for additional Bereavement Leave purposes, which must be approved by the County Administrator.
2. Plan 1 and Plan 2 employees may not donate annual leave for sick purposes to a Hybrid employee.
3. Any employee promoted on or after July 28, 2014 who will be covered under the Hybrid VRS Plan, shall move to the Hybrid PTO plan and begin accruing according to that plan's policies as of their promotion date. Such promoted employee formerly under the County's Sick and Annual Leave (traditional) program would be allowed to retain their former leave balances separately from their PTO balance (up to the maximum). Employees hired or promoted to Hybrid status from January 1, 2014 to prior to July 28, 2014, are covered under the County's Traditional Sick and Annual Leave Program.
4. All Hybrid employees are eligible for Short and Long-Term Disability benefits (see Section 9.10).

## **8.8 BEREAVEMENT LEAVE**

- A. Regular full-time employees may be granted up to three workdays of bereavement leave per death in a calendar year. Bereavement leave may be used in the event of the death of an immediate family member. This three days of leave is granted with pay and is not charged against an employee's other leave accruals. If an employee has need to use more than three workdays for bereavement purposes, the employee may use an additional three workdays from their personal sick leave accrual, subject to supervisory approval.
- B. Regular part-time employees may be granted up to 1.5 scheduled workdays (12 hours) of bereavement leave per death in a calendar year. If a part-time employee has need to use more than 1.5 workdays, an additional 1.5 scheduled workdays may be used from personal sick leave, subject to supervisory approval.
- C. Immediate family member includes an employee's parents, spouse, children, brothers, sisters, grandparents, grandchildren, or the same as step relatives, or the spouse's parents, children, brothers, sisters, grandparents or grandchildren. In addition, bereavement leave shall be granted for the death of any other relative living in the employee's household.

- D. Bereavement leave may also be granted to attend a funeral or similar services for a former or current County employee, providing the employees requesting the leave receive approval from the Department Director or Constitutional Officer prior to attendance.
- E. Additional leave may be requested by classified full and part-time employees based on extraordinary situations that may warrant the need for additional time off due to bereavement reasons. The County Administrator shall consider such requests for approval, which may include requests from other employees to donate additional sick leave or PTO to the employee (if the employee has exhausted all annual and sick leave or PTO) or for the employee to use more than the allotted sick leave or PTO described elsewhere in this policy from his/her personal accruals.

## **8.9 CIVIL LEAVE**

### **A. Eligibility**

1. Regular full-time employees shall be granted leave with pay (without charge against other leave accruals) for any absence necessary when they are required to serve as a juror, or are subpoenaed as a witness to appear before a court or duly authorized public body or commission.
2. If an employee is summoned to court to appear as a witness for County-related business or to appear as a witness in a case in which the employee is not a party, civil leave is applicable. If, however, the case is one in which the employee is a party and the court decision affects the employee (positively or negatively), the time off from the job is of a personal nature and the employee shall request leave as appropriate. Civil leave shall not be granted when a court appearance is of a personal nature.

### **B. Exemption from Jury Duty**

Either the employee or the employee's Department Director or Constitutional Officer may request that the employee be excused from jury duty if in the Department Director/Constitutional Officer's judgment the employee's absence would create serious operational difficulties.

### **C. Amount of Compensation**

Any payment received by an employee while on civil leave, except meals and related travel expenses, shall be reimbursed to the County.

### **D. Requesting Civil Leave**

1. The employee shall provide a copy of the court summons or subpoena along with a leave request form to his/her Department Director, Constitutional Officer as soon as possible to allow arrangements to be made to accommodate the employee's absence.
2. The approved leave request form and supporting documents shall be forwarded to the Human Resources Department

3. Civil leave shall not extend beyond the actual time required. Any additional time off on the same day shall be requested as annual or compensatory leave or PTO, or leave without pay, as appropriate.

## **8.10 MILITARY LEAVE**

### **A. Eligibility**

Regular full-time and part-time employees, including those serving a probationary period, are eligible for military leave with or without pay. Temporary employees are not eligible for military leave.

### **B. Military Leave With Pay**

1. Employees who are former members of the armed services or members of the organized reserve forces of any of the armed services of the United States, National Guard, or naval militia shall be entitled to a military leave of absence, with pay, for the purpose of federally funded military duty to include training duty. This leave shall not exceed 15 workdays, equivalent to 120 hours, for FLSA non-exempt employees (whether the time is fragmented or continuous) each federal fiscal year, October 1 – September 30.
2. FLSA non-exempt employees requiring more than 15 workdays (a maximum of 120 hours) shall be granted the time off for the performance of such duty. Such absences shall be without pay or, at the option of the employee, may be charged to annual or compensatory leave balances.
3. Employees who are called forth by the Governor pursuant to the Code of Virginia, shall be entitled to leave with pay for the period of the ordered absence.
4. Employees returning from military leave with pay are required to return to work the first regularly scheduled workday after the end of duty, allowing reasonable travel time.

### **C. Military Leave Without Pay**

1. Any eligible employee who leaves County service as a result of volunteering for active duty or being drafted into the armed services of the United States during time of war or other national emergency, as determined by the Board of Supervisors, or when reservists and National Guard members are voluntarily or involuntarily called to active duty, shall be placed on military leave without pay.
2. Leave shall only be granted for active military service for those dates stated on the employee's military orders. Such leave shall extend 90 days after the employee is released from service.
3. Status of Benefits For Employees on Leave Without Pay for Active Military Service

- a. Service Credit – An employee on extended leave without pay due to active military service shall be treated as though he/she was continuously employed for purposes of determining benefits based on length of service, such as the annual leave accrual.
- b. Annual Leave Balance or PTO Balance – An employee has the option to retain or be paid for his/her annual leave or PTO balance.
  - 1) If the employee elects to be paid for annual leave or PTO, the unused balance, up to the allowable maximum, shall be paid off at the time the employee is placed on military leave without pay.
  - 2) If the employee elects not to be paid for such leave, the accrued leave credits shall be reinstated upon the employee's return to County service.
  - 3) An employee shall not accrue annual leave credits or PTO credits while on military leave without pay. However, upon reinstatement to County service, the leave accrual rate shall be calculated to include the period of military leave without pay.
- c. Compensatory Leave – Any compensatory leave balance shall be paid in accordance Section 4.10 at the time the employee is placed on military leave without pay.
- d. Sick Leave Balance – An employee has the option to retain or be paid for his/her sick leave balance or PTO balance.
  - 1) If the employee elects to be paid for sick leave or PTO, it shall be paid off at the rate of 25 percent of the sick leave balance or all of the PTO balance and so stated on the employee's personnel records. Upon reinstatement, the employee shall have a zero (0) sick leave balance or zero (0) PTO balance.
  - 2) If the employee chooses to retain his/her unused sick leave balance or PTO balance, it shall be reinstated upon the employee's return to County service, provided reinstatement is within one (1) year from the date of reapplication.
  - 3) An employee shall not accrue sick leave credits or PTO credits while on military leave without pay. However, upon reinstatement to County service, the leave accrual rate shall be calculated to include the period of military leave without pay.
- e. Continuation of life insurance – County paid life benefits will continue while an employee is on extended leave without pay due to active military service.

4. Reinstatement from Active Military Service

- a. Conditions – Upon satisfactory completion of active military service, the employee is entitled to reinstatement to his/her former position or to a position of like status and pay, provided that:
- 1) The employee makes application to the Human Resources Department within the proper time frames established under the Federal Veterans Reemployment Rights statute. Normally these time frames are as follows:
    - a) The unpaid leave of absence for active duty shall not exceed a cumulative period of five years; and
    - b) Within 90 calendar days after release from active duty, or from hospitalization associated with the active duty which continues after discharge, for a maximum period of one (1) year.
  - 2) The employee presents a certificate showing satisfactory completion of military service.
  - 3) The employee is still physically and mentally qualified to perform the duties of his/her position.
- b. Conditions stated in 8.9.C-4.a shall not apply when County circumstances have changed making it now impossible or unreasonable to reinstate the employee. Reinstatement may not be possible when:
- 1) The employee's former position has been abolished at the time of reinstatement: The employee may be placed in a position of comparable status and pay to the one previously held. Employees selected to fill vacancies created by persons on military leave may be employed on a temporary basis.
  - 2) Such a position is not available: The employee shall be considered affected by a reduction in force and the provisions of the County's Layoff Policy shall apply.

D. Employee Notification Requirements

1. Requests for military leave shall be made in writing and submitted with copies of the employee's official military orders to the immediate supervisor. The employee shall notify his/her supervisor of the military obligation as far in advance as possible. A minimum of six (6) weeks advance notice is required except for an emergency call-up. In the case of emergency call-up, the employee shall notify the immediate supervisor as soon as possible.
2. The leave request and supporting military orders shall be forwarded through the Human Resources Director to the County Administrator, Constitutional Officer.

## **8.11 LEAVE WITHOUT PAY**

- A. A Department Director or Constitutional Officer may grant leave without pay for an excused absence when the employee does not have sufficient leave credit to cover an absence during a given pay period. The Human Resources Department shall be notified, in writing, of all occasions an employee is in a non-pay status in excess of five (5) consecutive workdays.
- B. A Department Director or Constitutional Officer may grant leave without pay to employees for period not to exceed five (5) consecutive workdays. The County Administrator or Constitutional Officer may grant leave without pay to employees for periods beyond five (5) consecutive workdays, subject to the following conditions:
  - 1. Leave without pay shall be granted only when it is in the interests of the County to do so. The interests of the employee shall be considered when his/her work record reflects above average value to the County and when it is desirable to retain the employee, even at some sacrifice;
  - 2. All annual, sick and compensatory leave balances or PTO must be exhausted before leave without pay can be approved, with sick leave being used only for absences which qualify under Section 8.6.C of these policies;
  - 3. Medical and life insurance, short or long-term disability insurance, and retirement benefits for an employee who is off work and covered by Workers' Compensation (Section 9.4) shall continue to be in effect, even if the employee had previously exhausted all annual, sick, and compensatory leave or PTO;
  - 4. At the expiration of leave without pay, the employee shall be reinstated in the position vacated or in any other vacant position in the same class, if possible;
  - 5. Annual and sick leave or PTO credit shall not accrue during leave without pay or when an employee is off work and covered by Workers' Compensation;
  - 6. Leave without pay shall not constitute a break in service but changes the merit salary increase date if the employee is absent more than 30 consecutive days (unless the employee is off work due to military leave [Section 8.9] or a work-related injury or illness as described in Section 9.4);
  - 7. An employee who anticipates being on approved leave without pay for six (6) consecutive days or more shall consult the Human Resources Department, in advance of the absence when possible, to ensure continuation of health insurance coverage and other applicable benefits; and

8. Failure on the part of the employee to report to work at the expiration of leave without pay may be cause for disciplinary action, up to and including dismissal.

#### Requested Leave of Absence

If an employee requests a leave of absence for a non-illness related reason, the employee must have used all accrued annual and compensatory time before leave without pay would begin as described above.

### **8.12 EMERGENCY CLOSINGS POLICY**

It is the intent of the County to provide maximum services to the public by maintaining normal business hours at all County facilities. Under normal and safe conditions, employees are expected to arrive at work on time.

Adverse weather conditions (generally the result of snow or icy conditions) and conditions which make it unsafe or unsanitary for employees to remain at work are recognized as conditions which could jeopardize the safety of employees and could therefore warrant the closing of County facilities. The County Administrator shall determine when to announce the closing or delayed opening of County facilities. On weekends or after standard County work hours, affected agencies may make this determination. In cases where certain operations may be required to work during such conditions, Department Directors, Constitutional Officers are responsible for determining the pay and leave status for employees within their departments in accordance with this policy.

#### **Eligibility**

Leave defined within this policy applies to regular full-time and eligible regular part-time employees only.

#### **Emergency and On-Call Personnel and Operations/Job Sites**

For the purposes of this policy, employees who report to an emergency job site or occupy an emergency position may be regularly scheduled to work regardless of weather conditions. Additionally, certain County employees are considered on-call for the purpose of responding to emergency situations.

#### **Employee Responsibility**

Employees shall be responsible for checking with their Department Director to determine for the purposes of this policy, whether or not they would be considered non-emergency.

#### **Notification to Employees**

All decisions on closing and/or early closings will be made by the County Administrator after coordinating with the Emergency Services Coordinator and the General Services Manager. It will be the employee's responsibility to get information about inclement weather closings by calling 382-5700 or 394-2120 for a recorded message that will be posted no later than 7:00 a.m. on the day in question. On each recorded message, the date of the message will be clearly noted.

For early closings due to inclement weather, the Public Information Office will notify the Circuit Court of the early closing, and then send an e-mail to all other users. On each e-mail, the date of the message will be clearly noted.

### **Liberal Leave**

If adverse weather causes difficulty for employees getting to or from work, and County offices are not officially closed, a liberal leave policy shall be announced. Liberal leave permits non-emergency employees to use their annual leave, compensatory leave, PTO, or leave without pay to cover their absence should they not report to work or leave work early. Liberal leave differs from other leave because advance approval is not required. However, employees are required to notify their supervisor or the Human Resources Department within 30 minutes of their normal arrival time, or due to unusual circumstances, as soon as possible when using liberal leave.

### **Closing of County Facilities**

#### Operational Necessity

Should the County Administrator authorize the closing of one or more County facilities, non-emergency employees shall be treated as having worked a full regular workday, regardless of hours not worked. If a facility must be closed due to emergency or operational necessity, the Department Director or Constitutional Officer in charge of that and/or any other affected facility may require any or all employees to work despite the closing.

### **Prior Approved Absences**

Employees who are on leave resulting from a previous approved leave request for annual, compensatory, or sick leave, or PTO, during a time when County facilities are ordered closed, shall have the previously approved leave charged according to the number of hours County facilities were opened for business.

## **8.13 ADMINISTRATIVE LEAVE**

- A. Administrative leave shall be other paid leave as authorized by the County Administrator or Constitutional Officer. Any paid leave specifically authorized by the Board of Supervisors, not otherwise classified by these rules, shall be classified as administrative leave.
- B. Illustrative examples of administrative leave include leave authorized by the County Administrator or Constitutional Officer for reasons of suspension of an employee due to investigation of a complaint or attendance at meetings outside of normal working hours. The County Administrator, by conferring with the Constitutional Officer (if applicable), may approve cases of breakdown of equipment making it impossible to perform assigned duties, severe weather conditions, leave for extraordinary hours worked, or conditions which make it unsanitary or unsafe for employees to remain at work. Administrative leave shall not be substituted for any other prior approved leave.

In cases where Administrative Leave is approved for exempt employees who work extraordinary hours, it is not meant to be an “hour taken for hour worked” accounting. It is subject to approval by the Department Director or Constitutional

Officer and is not a guarantee. A Director may recognize Administrative Leave only when it is clear that extraordinary hours have been worked.

- C. Administrative Leave may also be granted to employees who wish to serve as Officers of Election or receive training for such service during a regular workday. The interested employee must receive approval from his/her immediate supervisor and Director/Constitutional Officer to serve in this capacity. The employee would receive Administrative Leave for the day based on the employee's regular work schedule. If the employee chooses to accept any stipend provided by the Board of Elections, he/she must use personal accrued leave (annual or compensatory or PTO) to cover the absence from work. If a training period occurs after the employee's workday, however, the employee may accept the stipend.
- D. Pursuant to the principles of public accountability, County employees shall only be paid for hours worked.

#### **8.14 UNAUTHORIZED ABSENCE (AWOL)**

- A. An employee who is absent from duty without approval shall:
  - 1. Receive no pay for the duration of the absence; and
  - 2. Be subject to disciplinary action up to and including dismissal.
- B. It is recognized that there may be extenuating circumstances for unauthorized absences and due consideration shall be given each case.
- C. An employee who fails to report to work at the expiration of an authorized leave of absence or who has not requested and received approval for an extension of such leave, shall be considered and charged as unauthorized absence or absent without leave (AWOL).

#### **8.15 FAMILY AND MEDICAL LEAVE ACT**

- A. The Family and Medical Leave Act (FMLA) protects the employee's position during the time of absence as described in this policy. FMLA does not provide pay for the employee during the absence. However, any accrued leave balance(s) of the employee or the Sick Leave Bank (if the employee is a member) would be the avenue through which the employee would be compensated during the FMLA absence.
- B. Under the Family and Medical Leave Act (FMLA), an employee may be entitled to up to 12 weeks of paid (with accrued leave balances) or unpaid leave in a 12-month period. The 12-month period will begin with the first day of FMLA usage.

Employees and spouses employed by the County are jointly entitled to a combined total of up to 12 workweeks of Family/Medical Leave for the birth and care of a newborn child, for placement of a child for adoption or foster care, and to care for a parent who has a serious health condition.

An employee who is the spouse, son, daughter, parent or next of kin of a covered service member who is recovering from a serious illness or injury sustained in the

line of duty on active duty is entitled to up to 26 weeks of leave in a single 12-month period to care for the service member during which time the employee is entitled to a combined total of 26 weeks of all types of qualifying FMLA leave.

C. Reasons for Leave:

1. to care for your child following birth, adoption or state placement of a child with you for foster care;
2. to care for your spouse, child or parent who has a serious health condition;
3. for a serious health condition that makes you unable to perform the essential functions of your job; or
4. Military family leave:
  - (a) due to any “qualifying exigency” arising out of the fact that a spouse, son, daughter, or parent of the employee is a covered military member on active duty, or has been notified of an impending federal call to active duty status, in support of a contingency operation;
  - (b) to care for a covered service member with a serious injury or illness incurred in the line of active duty and is undergoing continuing treatment, to which the employee is the spouse, son or daughter, parent, or next of kin of the service member.
5. “Serious health condition” means an illness, injury, impairment or physical or mental condition that involves:
  - (a) Any period of incapacity or treatment in connection with or consequent to inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility; or
  - (b) Any period of incapacity requiring absence from work, school, or other regular daily activities, of more than three consecutive full calendar days, that involves continuing treatment by a health care provider; or
  - (c) Continuing visits for treatment by (or under the supervision of) a health care provider at least twice a year for a chronic or long-term health condition that is incurable or so serious that, if not treated, would likely result in an extended period of incapacity of more than three consecutive full calendar days, or for prenatal care.
  - (d) Any period of incapacity of more than three consecutive full calendar days requiring in-person treatment by a health care provider at least once within the first seven days of the first day of incapacity, and requiring either a regimen of continuing treatment initiated by the health care provider during the first treatment, or a second in-person visit for treatment within 30 days of the first day of incapacity.

D. Qualification for Leave

To qualify, an employee must have been employed by the County for at least 12 months (need not be continuous) and must have worked at least 1,250 hours in the previous 12 months.

E. Notice Requirement

An employee is required to provide thirty (30) days notice to his/her Department Director if the absence is foreseeable. If the leave of absence is not reasonably foreseeable, this notification must be made as soon as practicable before the leave is to begin. Failure to give timely notice may cause leave to be delayed and those non-FMLA absences will apply to the County's attendance policy. In the case of exigency leave (whether foreseeable or unforeseeable), notice must be given "as soon as practicable." Employees are required to follow the County's call-in procedures. When calling in for a particular FMLA-qualifying condition for which the County has previously provided FMLA leave, employees must specifically reference the need for FMLA leave or provide a qualifying reason for the leave. Employees also must inform the County if the requested leave is for a reason for which FMLA leave was previously taken or certified.

The County shall provide eligibility notification (Form WH-381) back to the employee within five business days of the employee first notifying the County of his/her need for FMLA leave, and within five business days after determining that the leave is FMLA-qualifying, the County shall designate the leave in writing using Form WH-382-Designation Notice. If at the time an employee provides notice of a subsequent need for FMLA leave during the applicable 12-month period due to a different FMLA qualifying reason and the employee's eligibility status has not changed, no additional eligibility notice is required.

F. Certifications

An employee may be required to provide to the Department Director certification from a health care provider of the serious health condition, which requires the employee to use leave. If required, the employee must provide a complete and sufficient certification within 15 calendar days of the leave request or the leave may be delayed or denied. This form will be provided by the Human Resources Department. Should the County disagree with the opinion given by your health care provider, the County reserves the right to solicit opinions from a second or third health care provider at its expense. In respect to military exigency leave, the County may require two different types of certifications; one certification is for a covered military member who is on active duty or called to active duty in support of a contingency operation, along with a copy of his/her active duty orders or other documentation issued by the military which indicates that the covered military member is on active duty or call to active duty status in support of a contingency operation and the dates of the active duty service. The other certification is a statement from the employee about the details of the specific exigency, the amount of leave needed, and the relationship to the military member. Additionally, an employee may be required to furnish to the Department Director reports on status, intent to return and recertification of the serious health condition at no greater than 30-day intervals. Recertification for a particular exigency is not permitted. Recertification can be required every six months in all

cases, but only in connection with an absence that has occurred for that medical condition. A recertification can also be required at any time if an extension to a leave is requested, circumstances described in the last certification have changed significantly, or the County receives doubtful information as to the stated reasons for the absence or the continued validity of the certification.

G. Use of Accrued Paid Leave

Employees are required to use all available and applicable accrued leave (accumulated sick, annual, PTO and compensatory leave), before leave without pay will be granted, as part of the designated FMLA leave entitlement. An employee who is a member of the sick leave bank shall exhaust any benefits through it before going on leave without pay. Usage of accrued leave will be consistent with established leave policies. Under FMLA leave, earned annual and compensatory leave or PTO may be used without restriction; earned sick leave may be used only for the qualified leave necessitated by the birth or adoption of a child, serious health condition of the employee, his/her spouse, child or parent.

1) Holidays. The County may count a holiday as FMLA when the employee is on FMLA leave the entire week in which the holiday falls. If the employee works for part of the week in which the holiday occurs, the holiday would not count as FMLA leave.

2) Overtime. Any voluntary or discretionary overtime is not counted as FMLA leave entitlement. However, if an employee is required to work overtime, but is unable to do so because of FMLA leave, then the hours of overtime the employee would have worked are counted against the employee's FMLA entitlement.

H. Health Insurance Continuation

During FMLA leave, the County will continue paying for health insurance coverage, as provided during active employment status. The employee shall have the option of continuing to pay the premiums for dependents' health care coverage during the period of leave. However, if an employee fails to return from FMLA leave, the County may recover the premium(s) paid during the leave period of "leave without pay" status. The County will not recover the premium from the employee if the employee fails to return to work because of the continuation, recurrence, or onset of the serious health condition which entitled the employee to leave or because of other factors beyond the employee's control.

I. The taking of leave under FMLA leave shall not result in the loss of any employment benefit accrued prior to the date on which the leave commenced, except paid leave taken under FMLA leave. However, the employee does not accrue annual leave, sick leave or holiday pay or PTO or other employment benefits during any period of leave without pay.

J. Return from FMLA Leave

Employees will be returned to their original position or to a position with equivalent pay benefits and other terms and conditions of employment after FMLA leave. The County may require a return to work medical certification and prior notification before the employee may return to work.

K. Fraudulent Leave Requests

An employee who fraudulently obtains FMLA leave is not protected by the Act's restoration or maintenance of health benefits provisions and will be subject to appropriate disciplinary action including dismissal.

L. Record Keeping

The Human Resources Department is responsible for keeping records designating FMLA usage and must retain these records for at least three (3) years. This information must be recorded on the tracking form provided by the Human Resources Department which identifies the date and amount of leave taken. All medical certifications and other medical records must be forwarded to and maintained in a separate file within the Human Resources Department.

M. FMLA Regulations

It is the intent that this policy comply with the Family and Medical Leave Act of 1993, effective August 5, 1993. Any issue not specifically addressed herein or requiring greater definition will be reviewed with respect to the FMLA Regulations and Guidelines. The Employee Rights and Responsibilities Notice is included in the Policies and Procedures Handbook as Appendix D, electronically posted on the County's Intranet (Monty), and in areas where other employment information is displayed, advising employees of their rights and obligations under the FMLA.

## 8.16 EDUCATIONAL LEAVE

A. Approval for educational leave is required by the County Administrator and is subject to the following conditions:

1. The educational leave must be such that it will expand the employee's knowledge of his/her work with the County and the County must stand to gain from the experience;
2. The normal functioning of the department or agency must not suffer.
3. These guidelines will be used by those involved in evaluating approval:
  - (a) The educational effort must be job-related;
  - (b) That no more than five percent (5%) of the regular workforce is engaged in some type of educational leave; and
  - (c) That the same course is not offered at night or on the weekend.
4. Educational leave will be reviewed and approved for each educational semester in advance.

5. The time taken for educational leave shall be leave without pay or made up at a later time.
6. The Educational leave policy shall follow the provisions of Section 10.2 TUITION REIMBURSEMENT of this Manual.

## **CHAPTER 9**

### ***BENEFITS***

The County offers a comprehensive benefits program. Employees are encouraged to contact their supervisor or the Human Resources Department with any questions about the benefits program. The Human Resources Department has brochures, membership applications, and enrollment information for all benefit programs described in this policy.

It is important that employees advise the Human Resources Department of any personal status changes (i.e., marriage, divorce, change in dependents or beneficiaries) within 31 calendar days which could affect their benefits or those of their dependents.

#### **9.1 HEALTH INSURANCE**

All full-time employees are eligible to participate in the County's health insurance plan. The County pays the employee's individual premium. However, if coverage for dependents is desired, a payroll deduction will be made for this coverage at the employee's expense. Health insurance benefits are available to regular (Pay Plan) part-time employees who are budgeted and are compensated for (hours worked and/or leave paid) an annual average of at least 20 hours per week. Employees who work or have leave paid for an annual average of at least 30 hours per week are considered as full-time employees for purposes of health insurance purchase. The County will pay one-half of the premium for individual coverage (for part-time employees). The employee must pay the other half, as well as any dependent costs. Vision and dental coverage are included. Health insurance coverage for employees hired during a month will be effective on the first of the following month.

County health insurance, including dental and vision coverage, may be maintained by retiring employees and exiting members of the Board of Supervisors enrolled on the plan(s) through the age of Medicare eligibility or through it being awarded due to approved disability benefits. The retiring employee or exiting Board member must pay the entire rate.

A County-provided onsite clinic is available to all employees eligible for County health insurance. This clinic is staffed by a Nurse Practitioner and requires the completion of a confidential Health Risk Assessment (HRA) questionnaire and blood draw in order to receive services in the clinic. All employees hired on or after January 1, 2009, must complete the HRA and blood draw and meet with the Nurse Practitioner in order to enroll in the County's health insurance program. Employees hired prior to January 1, 2009, may choose to participate or not to participate in the onsite clinic and Health Risk Assessment process. Any employee choosing not to participate shall incur an additional \$25/month in health insurance premiums.

## **9.2 LIFE INSURANCE**

All full-time regular employees will be enrolled in the Virginia Retirement System's life insurance program. The cost is paid totally by the County.

## **9.3 RETIREMENT**

- A. All full-time regular employees will be enrolled in the Virginia Retirement System. The County pays the County portion and the employee pays the employee portion. The amount of contribution is regulated by the General Assembly of Virginia.
- B. Amount of Benefit
  - 1. VRS offers several alternative methods of receiving retirement benefit payments (these options are outlined in the Handbook for Members, available with forms online at <http://www.varetire.org>).
  - 2. The amount of the retirement benefit is based on three (3) factors: the employee's average final compensation, years of service credit, and age. The particular elements for Plan 1, Plan 2, and Hybrid employees may vary.
- C. Notice of Retirement

Employees planning retirement should contact the Human Resources Department three (3) months prior to retirement to ensure sufficient time for application of all retirement benefits.
- D. Disability Retirement
  - 1. Employees may apply for disability benefits if they become mentally or physically unable to perform their present duties, and the disability is likely to be permanent.
  - 2. Regular disability retirement (for conditions that are not work-related) may be granted if medical conditions warrant and all other qualifications established under the retirement program are met.
  - 3. A work-related disability results form a cause compensable under the Virginia Workers' Compensation Act. The amount of compensation provided by the retirement program is coordinated with any benefits received under Workers' Compensation and Social Security disability benefits.
  - 4. VRS Hybrid employees are not eligible for the Virginia Retirement System Disability Retirement Program. They are eligible for the County-provided short- and long-term disability programs.

## **9.4 WORKERS' COMPENSATION**

- A. Coverage

1. The County provides workers' compensation insurance coverage at no cost to employees. This insurance program covers an injury (by accident) or illness (occupational disease) which arises out of and in the course of employment that requires medical, surgical, or hospital treatment. Workers' compensation coverage is provided to all regular and temporary employees, both full and part-time.
2. Benefits are provided by the Virginia Workers' Compensation Act which and include time-loss benefits after seven (7) calendar days for temporary or permanent partial disability, death benefits, paid medical expenses, and rehabilitation services. The Virginia Workers' Compensation Act is administered by the Virginia Workers' Compensation Commission (VWCC), located in Richmond, Virginia.
3. Family/Medical Leave runs concurrently with lost time under Workers' Compensation.
4. Medical and life insurance, long-term disability insurance, and retirement benefits for an employee who is off work and covered by Workers' Compensation (Section 9.4) shall continue to be in effect, even if the employee had previously exhausted all annual, sick, and compensatory leave. Any employee covering dependents continues to be responsible for paying the dependent cost share.
5. Annual and sick leave or PTO accrual credit will not be in effect while an employee is off work and covered by Workers' Compensation. Once the employee has returned to work (at least 20 hours/week), he/she will receive one-half of their regular accrual rate until back to full duty.
6. The employee's anniversary date with the County shall not change due to any lost time under Workers' Compensation, unless the absence is for more than 90 consecutive days.

B. Program Administration

1. It is recognized that the time frames outlined herein must be adjusted for those situations where employees are injured after regular business hours. Notification to the Human Resources Department shall be the beginning of the first business day following any injury or illness which occurred during emergency or other hours outside the regular business day. The Human Resources Director shall be notified immediately (at home if after hours) in the event of a fatality.
2. Each department shall establish procedures for notification of appropriate supervisory personnel for emergency and after-hours situations, including notification of injury or illness of employees during such times. Departmental procedures shall be communicated to all employees affected.
3. Employee Responsibility
  - a. Immediate Notification of Injury/Illness

It is mandatory that every work-related injury or illness regardless of severity, be reported immediately by the employee to his/her immediate supervisor. In addition when circumstances allow, the employee is to complete the written incident report at the time of supervisor notification. These steps will enable an eligible employee to qualify for coverage as quickly as possible. Failure to report an injury/illness promptly may result in loss of compensation and payment of medical expenses.

b. Completion of Required Report(s)

Within the first 24 hours following injury, the employee shall be responsible for completing a report of the incident by calling the Company Nurse at 888-770-0925. Accurate and detailed completion of this required report is very important. In addition, the employee must notify his/her supervisor immediately if possible.

4. Immediate Supervisor Responsibility

a. Human Resources Department Notification

The Company Nurse will send the incident report to Human Resources. The immediate supervisor shall contact, or designate someone within the department to contact, the Human Resources Department to advise of an employee's return to work or change in work status.

b. Completion of Required Report(s)

The supervisor shall assist the employee, when necessary, to complete all required information. In addition, the immediate supervisor shall call the Company Nurse if the seriousness of the injury/illness precludes the employee from doing so, and shall later, when able, get a written statement from the incapacitated employee.

5. Department Director/Constitutional Officer Responsibility

Following the procedures outlined herein in no way relieves the Department Directors or Constitutional Officers of their responsibility to decrease the number of injuries and accidents in their respective departments. It shall be the Department Director/Officer's responsibility to determine causes of injuries and accidents and to take any necessary corrective actions to reduce the costs and lost work hours resulting from accidents. The County Safety Committee shall review accidents as well and provide feedback to Department Directors/Officers.

6. Human Resources Department Responsibility

a. The Human Resources Department shall initiate the procedures necessary to ensure timely and accurate reporting and distribution of workers' compensation programs.

- b. The Company Nurse will forward all accident reports to the County's insurance carrier.
- c. During the period of injury or illness, the Human Resources Department shall maintain contact with the injured employee and the treating physician to monitor his/her medical status and any possible changes in the return-to-work date, advising the Department Director or Constitutional Officer of information received.
- d. The Human Resources Department shall also be responsible for maintaining separate files of all County on-the-job injury and accident reports, and for posting required notices.

C. Medical Treatment

1. Panel of Physicians Program

The Virginia Workers' Compensation Act allows for the establishment of a panel of physicians from which an employee who suffers from a work-related injury or illness must choose a treating physician. The County hereby establishes the Panel of Physicians Program. The Human Resources Department shall maintain and update as needed the list of physicians authorized by the County (attached as Appendix D to these policies) to treat occupational injuries and illnesses from which the employee shall select a physician. The employee is responsible for the cost of treatment if treatment is sought from a physician not on the County's Panel of Physicians list.

2. Procedure For Receiving Medical Treatment

- a. If medical attention is necessary, the injured employee shall notify his/her immediate supervisor, if available, or higher level supervisor as soon as practical. The supervisor shall provide the Panel of Physicians list so the employee may choose a treating physician.
- b. Once the treating physician is selected, the employee is obligated to keep all medical appointments and to accept treatment recommended by that physician, as well as any specialty physician (e.g., orthopedic physician for a broken bone) to whom he/she may be referred by the initial treatment physician.
- c. Failure to seek treatment from a panel physician, to accept medical treatment, or to keep appointments with the treating physician, may result in loss of payment of medical expenses and suspension of compensation payments as long as refusal continues.
- d. All authorized medical expenses deemed to be related to a compensable injury or illness shall be paid by the County's insurance carrier unless otherwise provided by law. All medical expenses, including reimbursement to the employee for out-of-pocket costs incurred, shall be submitted to the Human Resources

Department, who is responsible for payment to the County's workers' compensation carrier.

- e. Employees are advised that work-related medical expenses, including the costs of prescriptions, are paid under workers' compensation insurance and not covered by group health insurance (e.g., Anthem).

D. Amount of Compensation During Incapacity

1. An employee who is covered by workers' compensation and who is unable to work due to a work-related injury or illness, as diagnosed by the treating physician, is eligible to receive two-thirds (2/3) of his/her average weekly salary, including average overtime, beginning on the eighth day of incapacity, as long as it does not exceed the maximum weekly salary established by the VWCC. The employee is paid full salary by the County for the first seven days the employee is off work due to the compensable injury. A Hybrid employee who has a work-related injury or illness will be eligible for Short-Term Disability benefits on the 8<sup>th</sup> calendar day, but will not be double paid. Workers' compensation benefits will be primary.
2. The employee is not entitled to use accrued sick, annual or compensatory leave while off work on Workers' Compensation benefits, except Deputies who may use their accrued leave to bring their net pay to 100%.

E. Use of Leave Pending Claim for Workers' Compensation

1. If a workers' compensation claim is initially denied by the VWCC and later, after a VWCC hearing, the claim is subsequently determined to be compensable under the Act, a leave adjustment shall be made to credit the employee's leave balance(s) for the portion of Workers' Compensation awarded.
2. An employee who is ineligible for or has been denied workers' compensation by the VWCC shall apply to use sick, compensatory, or annual leave, or leave without pay, as outlined in Chapter 8.

F. Modified Work Assignment

1. The County actively supports a selective return-to-work program. For claims deemed compensable by the workers' compensation insurance carrier, every effort shall be made within the employee's department, to find a suitable modified work assignment for an employee unable to perform his/her regular duties. Any return to work action taken by the County shall be in accordance with Virginia compensation laws.
2. The modified work assignment shall be based upon the treating physician's medical evaluation (including information on required medical treatments, recovery prognosis, work restrictions, and time frames). The Department Director and Human Resources Director shall carefully consider the medical report(s) and the availability of suitable modified duty prior to initiating a modified work assignment.

3. An injured employee who refuses any suitable employment, shall not be entitled to any compensation at any time during the continuance of such refusal, unless in the opinion of the VWCC the refusal was justified.

G. Non-Return to Work

1. If an injured employee is not able to return to work within one year following the injury, the employee may be removed from the County's payroll at that time. Leave payout procedures are outlined in the applicable sections of these policies.

## 9.5 SOCIAL SECURITY

- A. All County employees are covered under the Federal Old-Age, Survivors, and Disability Insurance Program, commonly referred to as Social Security. Federal Insurance Contribution Act (FICA) taxes are paid both by the County and employee in equal amounts to fund Social Security.
- B. Several booklets outlining current Social Security benefits and the "Request for Earnings and Benefit Estimate Statement" forms are available in the Human Resources Department.

## 9.6 UNEMPLOYMENT COMPENSATION

All employees are covered under the Virginia Unemployment Compensation Act. County employees who are laid off, dismissed, or otherwise terminated by the County for reasons other than gross misconduct or improper acts shall be entitled to apply for unemployment compensation under the rules and regulations of the Virginia Employment Commission (VEC). Application eligibility is determined by the VEC on an individual case-by-case basis. Constitutional Officers and other elected officials are not eligible for unemployment compensation.

## 9.7 EFFECT OF EMPLOYMENT STATUS CHANGE ON BENEFITS

A. Termination of Employment

1. Health Insurance

- a. The Federal Consolidated Omnibus Budget Reconciliation Act (COBRA) gives employees and their qualified beneficiaries the opportunity to continue health insurance coverage under the County's health plan when a "qualifying event" would normally result in the loss of eligibility. Some common qualifying events are: termination of employment (i.e., resignation, retirement); death of an employee; a reduction in an employee's hours from full-time to part-time; an employee's divorce or legal separation; or when a dependent child no longer meets eligibility requirements. Termination for gross misconduct is not a qualifying event under COBRA.

- b. Under COBRA, the employee or beneficiary pays the full cost of coverage at the County's group rates plus an administration fee.
- c. Employees shall notify the Human Resources Department of any qualifying events.
- d. The Human Resources Department provides each eligible employee with a written notice describing benefits available under COBRA when the employee becomes eligible for coverage (upon termination or other "qualifying event") and during Orientation with the County, as follows:

### ***COBRA General Notice***

This notice contains important information about rights to COBRA continuation coverage, which is a temporary extension of coverage under the health insurance plan. The right to COBRA continuation coverage was created by a federal law, the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA). COBRA continuation coverage can become available to employees and/or to other members of their family who are covered under the plan when they would otherwise lose the group health coverage. This notice gives only a summary of COBRA continuation coverage rights. ***This notice generally explains COBRA continuation coverage, when it may become available to employees and their family, and what the employee needs to do to protect the right to receive it.*** For more information about rights and obligations under the plan and under federal law, employees should either review the plan's Summary Plan Description or contact the Human Resources Director.

#### **COBRA Continuation Coverage and "Qualifying Events"**

COBRA continuation coverage is a continuation of plan coverage when coverage would otherwise end because of a life event known as a "qualifying event." Specific qualifying events are listed later in this notice. COBRA continuation coverage must be offered to each person who is a "qualified beneficiary." A qualified beneficiary is someone who will lose coverage under the plan because of a qualifying event. Depending on the type of qualifying event, employees, spouses of employees, and dependent children of employees may be qualified beneficiaries. Certain newborns, newly-adopted children and alternate recipients under qualified medical child support orders may also be qualified beneficiaries. Under the plan, qualified beneficiaries who elect COBRA continuation coverage must pay for this continuation coverage.

Covered ***employees*** will become a qualified beneficiary if they lose their coverage under the plan because either one of the following qualifying events happens:

- Hours of employment are reduced, or
- Employment ends for any reason other than your gross misconduct.

***Spouses of covered employees*** will become a qualified beneficiary if they lose their coverage under the plan because any of the following qualifying events happens:

- Spouse dies;
- Spouse's hours of employment are reduced;
- Spouse's employment ends for any reason other than his or her gross misconduct;
- Spouse becomes enrolled in any part of Medicare (it is extremely rare for coverage of an employee's dependents to be terminated on account of the employee's Medicare enrollment); or
- Employee becomes divorced or legally separated from his/her spouse. Note that if the spouse cancels your coverage in anticipation of a divorce or legal separation and a divorce or legal separation later occurs, then the divorce or legal separation will be considered a qualifying event even though coverage was actually lost earlier. Timely notice to Human Resources of a divorce or legal separation is required in order to be able to obtain COBRA coverage after the divorce or legal separation. See the rules in the box below, under the heading entitled, "*Notice Requirements*," regarding the obligation to provide notice, and the procedures for doing so.

*Dependent children* will become qualified beneficiaries if they lose coverage under the plan because any of the following qualifying events happens:

- The parent-employee dies;
- The parent-employee's hours of employment are reduced;
- The parent-employee's employment ends for any reason other than his or her gross misconduct;
- The parent-employee becomes enrolled in any part of Medicare
- The parents become divorced or legally separated; or
- The child stops being eligible for coverage under the plan as a "dependent child."

### **Notice Requirements**

The plan will offer COBRA continuation coverage to qualified beneficiaries only after the Human Resources Director or designee has been *timely notified (within 60 days)* that a qualifying event has occurred. When the qualifying event is:

- the end of employment or reduction of hours of employment,
- death of the employee, or
- enrollment of the employee in any part of Medicare,

the Human Resources Director shall notify the Plan Administrator of the qualifying event within 30 days following the date coverage ends.

### ***IMPORTANT:***

*For the other qualifying events (divorce or legal separation of the employee and spouse or a dependent child's losing eligibility for coverage as a dependent child), the employee (or someone on their behalf must notify the Human Resources Director or designee in writing within 60 days after the qualifying event occurs, using the procedures specified below. If these procedures are not followed or if the notice is not provided in writing to the Plan Administrator or its designee during the 60-day notice period, any spouse or dependent child who loses coverage will not be offered the option to elect continuation coverage.*

### **NOTICE PROCEDURES:**

Any notice provided must be ***in writing***. Oral notice, including notice by telephone, is not acceptable. Employees must mail, fax or hand-deliver their notice to the Human Resources Department at 755 Roanoke Street, Suite 2-D, Christiansburg, VA 24073-3180.

If mailed, the notice must be postmarked no later than the last day of the required notice period. Any notice provided must state:

- the ***name of the plan or plans*** under which you lost or are losing coverage,
- the ***name and address of the employee*** covered under the plan,
- the ***name(s) and address(es) of the qualified beneficiary(ies)***, and
- the ***qualifying event*** and the ***date*** it happened.

If the qualifying event is a ***divorce or legal separation***, the notice must include ***a copy of the divorce decree or the legal separation agreement***.

Once the Plan Administrator or designee receives ***timely notice*** that a qualifying event has occurred, COBRA continuation coverage will be offered to each of the qualified beneficiaries. Each qualified beneficiary will have an independent right to elect COBRA continuation coverage. Covered employees may elect COBRA continuation coverage for their spouses, and parents may elect COBRA continuation coverage on behalf of their children. For each qualified beneficiary who elects COBRA continuation coverage, COBRA continuation coverage will begin on the date of the qualifying event. ***If the employee, spouse or dependent children do not elect continuation coverage within the 60-day election period described above, they will lose their right to elect continuation coverage.***

#### **Duration of COBRA Coverage**

COBRA continuation coverage is a temporary continuation of coverage. When the qualifying event is the death of the employee, enrollment of the employee in any part of Medicare, your divorce or legal separation, or a dependent child losing eligibility as a dependent child, COBRA continuation coverage lasts for up to ***36 months***.

When the qualifying event is the end of employment or reduction of the employee's hours of employment, COBRA continuation coverage lasts for up to ***18 months***.

There are ***three ways*** in which the period of COBRA continuation coverage can be extended...

#### ***1. Disability extension of 18-month period of continuation coverage.***

If employees or anyone in their family covered under the plan is determined by the Social Security Administration to be disabled as of the date of the qualifying event or at any time during

the first 60 days of COBRA continuation coverage **and the Plan Administrator or designee is notified in writing and in a timely fashion**, the employee and his/her entire family can receive up to **an additional 11 months** of COBRA continuation coverage, for a total maximum of **29 months**.

**Employees must make sure that the Plan Administrator or designee is notified in writing of the Social Security Administration's determination within 60 days after (i) of the date of the determination or (ii) the date of the qualifying event or (iii) the date coverage is lost due to the qualifying event, whichever occurs last. But in any event the notice must be provided before the end of the 18-month period of COBRA continuation coverage.** The plan requires employees to follow the procedures specified in the box above, under the heading entitled "Notice Procedures." In addition, the notice must include

- the name of the disabled qualified beneficiary,
- the date that the qualified beneficiary became disabled, and
- the date that the Social Security Administration made its determination.

The notice must also include a copy of the Social Security Administration's determination. **If these procedures are not followed or if the notice is not provided in writing to the Plan Administrator or designee within the required period, then there will be no disability extension of COBRA continuation coverage.**

## **2. Second qualifying event extension of 18-month period of continuation coverage.**

If an employee's family experiences **another qualifying event** while receiving COBRA continuation coverage, the spouse and dependent children in the family can get additional months of COBRA continuation coverage, up to a maximum of **36 months (including the initial period of COBRA coverage)**.

This extension is available to **the spouse and dependent children** if, while they and the covered former employee are purchasing COBRA coverage, the former employee:

- dies,
- enrolls in any part of Medicare, or
- gets divorced or legally separated.

The extension is also available to a **dependent child** when that child stops being eligible under the plan as a dependent child.

**In all of these cases, the employee must make sure that the Plan Administrator or designee is notified in writing of the second qualifying event within 60 days after (i) the date of the second qualifying event or (ii) the date coverage is lost, whichever occurs last.** The plan requires you to follow the procedures specified in the box above, under the heading entitled "Notice Procedures." The notice must also **name the second qualifying event and the date it happened**. If the second qualifying event is a divorce or legal separation, the notice must include **a copy of the divorce decree or legal separation agreement**.

If these procedures are not followed or if the notice is not provided in writing to the Plan Administrator or designee within the required 60-day period, then there will be no extension of COBRA continuation coverage due to the second qualifying event.

### ***3. Medicare Extension for Spouse and Dependent Children.***

If a qualifying event that is a termination of employment or reduction of hours occurs within 18 months after the covered employee becomes entitled to any part of Medicare, then the maximum coverage period for the spouse and dependent children is **36 months** from the date the employee became entitled to Medicare (but the covered employee's maximum coverage period will be 18 months).

### **Shorter Maximum Coverage Period for Health Flexible Spending Accounts**

The maximum COBRA coverage period for a health flexible spending arrangement (health "FSA") maintained by the employer ends on the last day of the cafeteria or flexible benefits plan "plan year" in which the qualifying event occurred. In addition, if at the time of the qualifying event the employee has withdrawn (during the plan year) more from the FSA than the employee has had credited to the FSA, no COBRA right is available at all relative to the FSA.

Other rules and requirements may be found in the full notice text located in the Human Resources Office, a copy of which has been distributed to all employees, and is incorporated and made part of these Personnel Policies and Procedures by reference.

### **Address Changes**

*Employees should keep the Human Resources Director/designee or Plan Administrator or designee informed of any changes in the addresses of family members in order to protect individual and family rights under COBRA.* The employee should also keep a copy of any notices sent to the Director or Plan Administrator.

### **Plan and Plan Contact Information:**

#### **Anthem Blue Cross Blue Shield**

2015 Staples Mill Rd  
Richmond, VA 23220  
Phone (804)354-5671  
Fax (888)511-0106

<http://www.anthem.com/health-insurance/plans-and-benefits/pb-overview/va>

#### **Delta Dental**

4818 Starkey Road, S.W.  
Roanoke, VA 24014  
(800) 237-6060

**Flexible Benefit Administrators**

509 Viking Drive, Suite F  
P.O. Box 8188  
Virginia Beach, VA 23450  
(757) 340-4567

**Health Savings Administrators**

10800 Midlothian Turnpike  
Suite 240  
Richmond, VA 23235

**United Healthcare Insurance Company**

Lockbox – Regular Mail  
22703 Network Place  
Chicago, IL 60673-1227

**9.8 HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA)**

It is the County’s policy to fully comply with HIPAA’s privacy rules and to require that all health plans providing services to the County also comply. This policy applies to all members of the County’s workforce, including employees, officers, directors, volunteers, contractors or agents of the County who have access to protected health information (PHI) maintained or transmitted by the health plans. HIPAA privacy rules restrict the health plans’ ability to disclose protected health information and restrict the uses that the County may make of protected information obtained from the health plans. The County Administrator will serve as the Privacy Official and has primary responsibility for enforcing the terms of the HIPAA policy. Persons who violate this policy will be subject to disciplinary action. This policy is summarized for inclusion in these Personnel Policies and Procedures; a full policy, which is incorporated and made a part of these Personnel Policies and Procedures by reference, has been distributed to all employees and is available in the Human Resources office.

**9.9 FITNESS FACILITY**

All County employees and/or health insurance participants who are currently employed or retired are eligible to use the County fitness facility. The room is open at 6:00 a.m. and closes at 9:00 p.m. Monday-Friday. It is not open to the user’s dependents or the general public. Accessibility to the room on weekends is dependent upon the individual’s building access. All exercisers are responsible for appropriate use of the equipment and keeping the room in good order.

Montgomery County is not responsible for any injuries sustained while using the fitness equipment.

## **9.10 OTHER BENEFITS**

### **EMPLOYEE ASSISTANCE PROGRAM -**

The County offers free of charge to all employees a confidential counseling service for the employee and his/her immediate family. This service is available 24 hours per day, 7 days per week. The County pays for this benefit for its employees.

### **CREDIT UNION -**

The County is a member of the Montgomery County/Tech Federal Credit Union. All associated member privileges are available to County employees.

### **SHORT AND LONG-TERM DISABILITY INSURANCE – HYBRID LEAVE**

Hybrid employees receive Short and Long-Term Disability Insurance through a County selected provider. Short-Term Disability begins on the 8<sup>th</sup> calendar day following a work-related illness, condition, or accident in which the employee is not able to work. Workers compensation benefits are primary. There is a one-year waiting period for Short-Term Disability benefits for a non-work related illness, condition, or accident. The Short-Term Disability benefit is 60% of the employee's income at the time of disability and protects the employee's job for up to 125 workdays. The employee may use PTO to bring his/her salary to 100% of net salary. The employee is eligible for Long-Term Disability benefits at the expiration of Short-Term Disability benefits. The County pays for Short-Term Disability benefits for Hybrid employees. Both Short and Long-Term Disability benefits must be approved by the insurance carrier.

A Hybrid employee hired on or after July 28, 2014, may request up to 40 hours of additional leave for illness or accident that meets the Short-Term Disability criteria during their first year of employment. This request must be approved by the Human Resources Director.

### **LONG-TERM DISABILITY INSURANCE – TRADITIONAL LEAVE**

The County offers a long-term disability insurance plan to its employees. This plan would become effective upon approval of the applicant and after 90 days of disability and missed time from work has passed. The benefit amount is 60% of the employee's income at the time of disability. The County pays for this benefit for employees.

### **OPTIONAL LIFE INSURANCE –**

The County offers the opportunity to purchase additional life insurance at the employee's cost through the Virginia Retirement System.

### **OPTIONAL WHOLE LIFE INSURANCE –**

The County offers a whole life insurance product to employees at their cost.

### **CANCER/INTENSIVE CARE INSURANCE –**

Cancer and Intensive Care policies are available to employees at their cost.

**DEFERRED COMPENSATION PLANS –**

401K and 457 deferred compensation plans are available to employees at their cost. For all Hybrid employees, a mandatory contribution to a Hybrid 401A is required and a 1%-4% voluntary contribution to a Hybrid 457 plan is available. All Hybrid employees making voluntary contributions may receive a County match up from 1% to 2.5%.

**FLEXIBLE BENEFITS PROGRAM –**

The County offers a pre-tax premium conversion, as well as a pre-tax Medical Spending and Dependent Care Account opportunities.

**HEALTH REIMBURSEMENT ARRANGEMENT (HRA) –**

The County provides pre-tax Medical Spending benefit dollars in an HRA to all employees eligible for the County's health benefits program.

**HEALTH SAVINGS ACCOUNT (HSA) –**

The County provides pre-tax Medical Spending benefit dollars in an HSA to all employees eligible for the County's health benefits program.

**LEGAL SERVICES –**

Legal services are available to employees at their cost.

**9.11 AMENDMENTS TO BENEFITS**

Current benefits may be amended, modified, added, or eliminated by the County Administrator or the Board of Supervisors at any time.

## CHAPTER 10

### *TRAINING AND EMPLOYEE RELATIONS*

#### 10.1 TRAINING POLICY

##### A. Policy

1. It is County policy to encourage employees to increase their technical and professional skills in order that they may perform their duties to the best of their abilities.
2. Training opportunities shall be made equitably without regard to race, sex, age, marital status, religion, disability, national origin or veteran status. In addition, efforts shall be maintained to distribute training assignments to provide maximum benefits to all eligible employees.
3. Approval of any training activity outlined in this policy is dependent upon appropriate budgeted funds being available.

##### B. General Training Program

1. The County's general training program shall be developed and coordinated by the Human Resources Director.
2. The County's general training program shall be supported through the use of departmental training plans designed to target training needs and developed as part of the annual budget process.
3. The training program shall include opportunities in the following areas:
  - a. In-service training programs to meet specifically identified needs. These programs shall be planned, coordinated, and conducted to achieve maximum use of training funds. Where subject matter and available resources do not permit the use of in-service training, training by outside resources may be utilized.
  - b. General training programs offered through the Human Resources Department shall include, but not be limited to, the following:
    - 1) New employee orientation program;
    - 2) Employee use of training tapes and aids which are available from the Human Resources Department;
    - 3) Any training program needed as a result of legal mandates; and
    - 4) Training needs identified by department(s) which apply to a large enough segment of employees to justify developing an in-service program.

- c. Eligible employees may be reimbursed for tuition upon completing job-related educational courses offered through accredited educational institutions.

4. Definitions

- a. Short-term Training Assignment – Training seminars, short courses, educational conferences, and institutes.
- b. Part-time Training Assignment – A training activity conducted during a part of the employee’s regular work hours.
- c. Training Assignment After Working Hours – Any training activity conducted outside of the employee’s regular work hours.

C. Eligibility

Regular full and part-time employees (including probationary employees unless otherwise specified) shall be eligible to participate in any training activity outlined in this policy.

- D. Employees may be required to successfully complete special training courses as a condition of employment. Payment for such courses may be considered as part of employment negotiations with the Department Director or Constitutional Officer and should follow procedures described in this policy.

E. Approval of any training activity shall meet the following criteria:

- 1. Be of necessary and direct value to the County and relevant to the employee’s general field of work;
- 2. Be limited to knowledge and skills which cannot be acquired through available in-service training; and
- 3. Cover subject matter not sufficiently or recently encompassed in the employee’s previous education and experience, or which the employee normally would not be expected to know prior to appointment to his/her present position.

F. Procedures

- 1. Participation in training activities outlined in this policy shall meet the following conditions and requirements.
  - a. A Department Director or Constitutional Officer may assign an employee, and consider for approval an employee’s request for training, in accordance with this policy and the administrative regulations of the County;
  - b. All assignments, provisions for reimbursement, and direct payment of registrations and related expenses shall be subject to budget constraints. All approved training-related expenditures shall be charged to the appropriate account within the departmental budget.
  - c. Training assignments shall be subject to authorization by the Human Resources Director prior to enrollment; and

- d. Each employee on approved training assignment, as outlined in this policy, shall maintain continuous satisfactory performance in the prescribed course of study.

2. Application Approval Process

- a. The appropriate training request form shall be completed by the employee and submitted to the Department Director for review.
- b. If approved by the Department Director, the application shall be forwarded to the Human Resources Director. The Department Director must advise the requesting employee of the application approval or disapproval.
- c. Upon the Human Resources Director's review, copies of the approved or disapproved training request shall be sent to the employee (form to be used and completed as part of the reimbursement procedure).
- d. In special instances and with the recommendation of the Department Director, when the distance to be traveled or other conditions warrant, the Human Resources Director may authorize direct payment by the County of all or part of the cost of registration, lodging, and travel, and advance payment to the employee of sufficient funds for eligible expenses.
- e. All training reimbursements shall be contingent upon verification of successful completion (C or above). Verification documents include an official transcript for formal courses; a certificate or other official completion verification for seminars and workshops.
- f. Reimbursement of eligible expenses shall be made upon receipt of the following:
  - 1) Copy of the approved training request form;
  - 2) Copy of the official document verifying successful completion of training;
  - 3) Receipt(s); and
  - 4) Payment voucher.

G. The Human Resources Department shall ensure that copies of the documentation received for all completed training activities are placed in the employee's personnel file.

H. Uncompleted Assignments

The employee or his/her estate may be reimbursed for all or part of the cost of eligible expenses if the training assignment is terminated prior to completion due to either:

- 1. The convenience of the County provided that such employee has not been dismissed for cause and that the training facility reports satisfactory

performance by the employee in the prescribed course of study during the assignment; or

2. Death, prolonged illness, disability, or similar occurrence beyond the control of the employee, as determined by the Human Resources Director and supported by the recommendation of the Department Director.

## **10.2 TUITION REIMBURSEMENT**

- A. Regular full-time employees, who have successfully completed their initial probationary period, are eligible to apply for tuition reimbursement for job-related classes and/or classes required for job-related degree programs. Tuition reimbursement would be at a rate of 90% of tuition cost. Exceptions to this eligibility period may be made by the County when needed to meet specific operational requirements. Non-job-related classes, which are not considered a requirement in a job-related degree program, are not eligible for tuition reimbursement.
- B. Upon application and approval by the Department Director or Constitutional Officer, an employee shall be reimbursed for full or partial cost of tuition, subject to department and/or Human Resources budget constraints, provided that a grade of B or better is earned. Reimbursement where less than a B is earned will be subject to approval by the County Administrator. Related costs (i.e., registration and books) are not eligible for reimbursement. Department Directors should forward their application to the County Administrator for authorization. Requests in Constitutional Offices for tuition reimbursement are subject to approval of the Constitutional Officer.
- C. Attendance is open to any accredited college and university (undergraduate and graduate), technical/vocational school, business secretarial school, and high school provided the coursework is directly job-related.
- D. Reimbursement may also be made for the cost of GED or other job-related trade and professional certification examinations through valid certifying institutions and upon presentation of definitive documentation.
- E. Employees who are eligible for educational assistance from other sources including, but not limited to, veterans benefits, scholarships, and grants, must exhaust those funding sources before applying for reimbursement under the County's program.
- F. Procedure for Tuition Reimbursement
  1. Reimbursement for eligible course(s) is dependent upon advance approval of enrollment in accordance with this policy and contingent upon the availability of funds.
  2. Upon course completion, evidence of successful course(s) completion shall be forwarded to the Human Resources Department.
  3. Upon verification of successful course(s) completion, the Human Resources Director shall authorize reimbursement of eligible expenses. In

special instances and with the recommendation of the Department Director, when the distance to be traveled or other conditions warrant, the Human Resources Director may also authorize payment of all or part of the cost of related travel and supplies.

4. All tuition reimbursements shall be contingent upon the employee's continued service with the County for a period of 12 months from the course(s) completion date. An employee who voluntarily or involuntarily terminates employment within 12 months of course(s) completion shall reimburse the County, on a prorated basis, the amount received through the Tuition Reimbursement Program.
5. Employees should be recognized on merit evaluations for successfully completing and attempting educational endeavors. Department Directors may reward individuals who attain professional and educational development achievements.

## CHAPTER 11

### *CONDUCT*

#### **11.1 CONDUCT STANDARDS**

- A. To ensure orderly operation and provide the best possible work environment, the County expects employees to follow the conduct standards which are designed to protect the interests and safety of all employees and the County. The following standards may be described in more detail elsewhere in these policies. They are not all-inclusive but are illustrative of the minimum expectations for acceptable work performance and workplace behavior:
1. Reporting to work as scheduled;
  2. Satisfactory work performance;
  3. Reporting circumstances that affect work performance;
  4. Compliance with all County and departmental policies;
  5. Following prescribed workplace safety practices; and
  6. Respectful treatment of and effective communication with citizens, fellow employees, and all customers of County government.
- B. It is not possible to list all the forms of behavior that are considered unacceptable in the workplace. Examples of infractions of the conduct standards which may result in disciplinary action up to and including suspension or dismissal are listed under Section 12.7.F Discipline.
- C. Employment with the County is at the mutual consent of the County and the employee, and either party may terminate this relationship at any time.

#### **11.2 GIFTS AND GRATUITIES TO COUNTY EMPLOYEES**

- A. Employees shall not solicit or accept any money, loan, gift or gratuity, favor, or service from any contractor, firm, consultant, individual, or others which may relate to County business or services provided in such a way that reasonably tends to or may have the perception of influence over the officer or employee in the performance of official duties, or results in personal gain for one or more employees for non-work purposes or non-County business.
- B. No one seeking employment or promotion to a County position or appointed office shall directly or indirectly give any money, service, or other item to any person in connection with their appointment or proposed appointment.
- C. Employees are not prohibited from accepting occasional social courtesies which promote good public relations for the County, such as gifts of food which can be shared by all employees or those within a given work area, and/or will be used for County business or work purposes on behalf of the County.

- D. No County department, agency, office, or employee shall solicit from any contractor, firm, consultant, individual, business or others on behalf of employees for the personal benefit of employees, even if only for small amounts or tokens of appreciation. Such prohibited solicitation would include for food and other gifts for employee parties or recognition, discounts off services, or related benefits.
- E. Solicitation may occur for County benefit when the resulting gift or item(s) is used for County purposes and no portion of the gift or item(s) is used for employee personal gain.

### **11.3 SOLICITATION ON COUNTY PROPERTY**

- A. Persons not employed by the County shall not solicit or distribute literature in the workplace at any time for any purpose, unless specifically authorized by the County Administrator or Constitutional Officer. The list of authorized vendors, including those representing County employee benefit programs, and items of general interest to a majority of employees, can be obtained from the Human Resources Department.
- B. The County recognizes that employees may have interests in events and organizations outside the workplace. However, any activities during work hours, such as selling, soliciting or distributing literature concerning these outside interests, are subject to the approval of the Department Director and must not disrupt the ongoing operations of the County government.
- C. The posting of written solicitations on County bulletin boards is prohibited. Bulletin boards are reserved for official County communications.

### **11.4 CONFLICT OF INTEREST**

Employees shall comply with the Virginia State and Local Government Conflict of Interests Act. An employee or anyone with questions concerning interpretation or the application of the Act may contact the County Attorney or the employee may request, a written opinion from the Commonwealth Attorney.

### **11.5 POLITICAL ACTIVITY**

All County employees are encouraged to exercise their right to vote and to express private opinions of candidates and issues. To ensure and to maintain employees' individual rights free from interference or solicitation by fellow employees, supervisors, or officials, political activities during working hours or when officially representing the County are prohibited.

### **11.6 APPROPRIATE WORK ATTIRE**

- A. Dress, grooming, and personal cleanliness standards contribute to the morale of all employees and affect the business image we present to the public. During work

hours, employees are expected to present a clean and neat appearance and to dress according to the requirements of their positions.

- B. Upon accepting employment, employees shall accept an obligation to conduct themselves at all times as representatives of the County. This is especially important for those employees required to be in uniforms or operate County vehicles, as these employees are more visible to the public.
- C. Employees who are provided County uniforms shall wear them at all times during work hours.
- D. Employees who arrive to work inappropriately dressed shall be sent home and directed to return to work in proper attire. Under such circumstances, employees shall not be paid for time away from work.
- E. Employees shall consult their immediate supervisor or Department Director if they have questions as to what constitutes appropriate work attire.

#### **11.7 PERSONAL USE OF COUNTY TIME AND EQUIPMENT**

- A. Telephone/Fax Usage
  - 1. The County provides telephones for all employees who need them to conduct County business.
  - 2. Costs for the personal use of telephones and fax machines for long-distance and toll calls must be reimbursed to the County. The use of calling cards for personal use is encouraged.
  - 3. Employees shall practice discretion in using County telephones when making local personal calls.
  - 4. Personal calls shall not be made or received that interrupt or interfere with the employee's work, or either prevent or hinder the use of the telephone for County business.
- B. The use of County-paid postage for personal correspondence is prohibited.
- C. Unauthorized removal of County equipment or property from the premises, or the use of County equipment or property for personal reasons is prohibited.
- D. Employees are expected to report to work and make every effort to use time wisely in the completion of assigned duties. Employees shall not use County time for personal reasons. Asking another employee to perform personal typing or any other unrelated work, and "visits" between departments or offices while working which prevents other employees from completing their duties are examples of inappropriate use of County time.

#### **11.8 ELECTRONIC MAIL/INTERNET USAGE/SOCIAL NETWORKING**

The use of County computing facilities or networks to access the Internet shall be for County business.

Use of County computing resources to access the Internet and social media (i.e., non-work related websites, such as chat rooms, games, travel, shopping, stock trading, entertainment, Facebook, Twitter, blogs, etc.) for personal purposes is permissible so long as (1) It does not interfere with an employee's work or that of others; (2) It does not burden the County with incremental identifiable costs; (3) It does not preempt any County business activity or interfere with the efficient operation of the County's computing facilities or networks. Extended use of these resources for personal purposes requires prior written approval by a director.

Use of County computing resources to access the Internet and social media for business purposes to collaborate, engage, address current issues and projects and provide emergency information is encouraged to further the goals of the County and the missions of its departments where appropriate. All requests for social media sites must be coordinated through your department and Public Information.

Staff using the Internet and social media for business purposes must indicate their affiliation with the County in bulletin board discussions, chat sessions, Facebook, Twitter, blogs and other offerings on the Internet. This may be done by explicitly adding certain words, or it may be implied for instance via an e-mail address.

Whenever staff provide personal, not professional, opinions, and are affiliated with the County (either explicitly or implied), they must also clearly indicate that the opinions expressed are their own, and not necessarily those of the Montgomery County Government.

Employees are encouraged to use discretion and courtesy when communicating through electronic mail and other social media. Improper use of e-mail (e.g., spreading offensive or derogatory remarks, jokes or references) is prohibited. Examples of inappropriate remarks would include racist or sexual language, obscenities, or comments referring to a person's age, religious beliefs, national origin, or disability.

Inappropriate use of the internet or other social media is also prohibited, including viewing, posting, transmitting or downloading material that involve or are related to the following:

- Nonpublic information of any kind;
- Private/personal matters of yourself or others;
- Personal, sensitive or confidential information of any kind to unauthorized individuals;
- Illegal or banned substances or narcotics; or is
- Discriminatory, defamatory, libelous; offensive, insulting; demeaning material, harassing or combative, pornographic or obscene.

Staff using County information systems and/or the Internet have no expectation of privacy and should realize that their communications are not protected from viewing by the County or other third parties.

At any time and without prior notice, the County reserves the right to examine e-mail, personal file directories, and other information stored on County computers for any legitimate business purpose. This examination assures compliance with County policies, supports the performance of internal investigations, promotes supervision, control and efficiency in the workplace and assists with the management of County information systems. Employees who violate this policy are subject to a disciplinary action.

#### **11.9 CONFIDENTIALITY OF RECORDS**

- A. Many County employees work in capacities where confidential data is handled. Employees shall not discuss such information with persons not authorized to have access to it.
- B. An employee who has worked with confidential information during County employment shall honor such confidentiality even after termination of employment.
- C. If there is a question as to whether or not the information should be released, the inquirer shall be referred to the appropriate Department Director or other County official.

#### **11.10 ADMINISTRATIVE INVESTIGATIONS AND GRIEVANCES**

Employees are required to cooperate with and participate in administrative investigations and grievance procedures involving themselves and others when requested. Failure to do so could result in disciplinary action, up to and including dismissal. No one is allowed to record or tape any conversation or investigation procedure without the knowledge of all parties involved in that conversation or procedure.

## CHAPTER 12

### *SEPARATIONS AND DISCIPLINE*

#### **12.1 SEPARATIONS**

- A. An employee may be separated from County service by any one of the following methods:

Resignation – Voluntary separation initiated by an employee who chooses to leave County service

Layoff – A temporary or indefinite reduction in the workforce due to economic conditions, lack of work or funds, County or department reorganization, or other appropriate reasons, initiated by the County.

Dismissal – Involuntary separation initiated by the County as a result of an employee's unsatisfactory work performance or misconduct.

- B. Regular full-time employees may be eligible to apply for:

Retirement – The provisions of the Virginia Retirement System shall apply.

Employees hired prior to July 1, 2010, are Plan 1 employees; those hired after July 1, 2010, are Plan 2 employees.

Disability Retirement – Separation initiated by the employee or by the County when an employee is unable, for health reasons, to continue to work. Depending on the circumstances, the employee may be eligible for disability retirement in accordance with the provisions of the Virginia Retirement System.

Beginning January 1, 2014, all new employees (excluding sworn Deputies) hired under the State Virginia Retirement System Hybrid status will not be eligible for Disability Retirement. These employees will be covered under the related Short-Term and Long-Term Disability programs through an agency contracted by Montgomery County. Plan 1 and Plan 2 employees are eligible for the Virginia Retirement System Disability Retirement program, which requires approval by VRS.

#### **12.2 RESIGNATION**

- A. An employee desiring to resign in good standing shall submit a signed written notice, to include the reason for resignation, the effective date and signed by the employee to the employee's supervisor at least fourteen (14) calendar days prior to the effective date of resignation. Certain employees may be required to give a 30-day notice. The Department Director/Constitutional Officer and the employee resigning by mutual consent, may waive or modify the advance notice requirements.
- B. An employee who has submitted his/her resignation may be continued in his/her position as though the resignation had not be filed, on his/her written request for authorization to withdraw the resignation, filed before the effective date thereof or

within seven (7) days thereafter, with the approval of the County Administrator or Constitutional Officer, unless the position has been filled in the meantime.

Failure to comply with Section 12.2.A of this policy may be entered on the employee's personnel records and may be grounds for refusal to re-employ the employee.

### **12.3 RETIREMENT**

- A. There shall be no mandatory retirement age. An employee's ability to perform work is evaluated in accordance with normal County work performance evaluation procedures without regard to age. A Department Director may request the Human Resources Director to require an employee to undergo a medical examination when there is reasonable belief that an employee's fitness to perform job duties may be impaired.
- B. Eligible employees who are planning to retire from County service shall submit written notification to their Department Director, through their immediate supervisor, at least three (3) months prior to the retirement effective date. The written notice shall be forwarded to the Human Resources Director and then to the County Administrator or Constitutional Officer for approval.
- C. Retirement benefits are stipulated in the County's retirement plan.

### **12.4 LAYOFF**

The County Administrator has the right and obligation to manage the workforce to best serve the interests of the County and may require implementation of this reduction in workforce procedure. Unless specific instruction is received from the County Administrator, the following shall serve as the general procedure for a reduction in workforce for positions funded in total by the County. With respect to Constitutional Offices, the County Administrator will confer with the Constitutional Officer regarding any reduction necessitated by a fiscal crisis.

- A. When a reduction in the workforce necessitates the actual removal of personnel because of reduced appropriations, lack of sufficient work or funds, or County-wide or departmental reorganization, layoffs may be ordered by the County Administrator in the following order:
  - 1. The order of the layoffs shall be inverse to the relative value of the employees to the County as determined by the County Administrator. Such determinations would be based on an evaluation of the qualifications, years of service, and performance evaluation scores of employees within the affected classification(s).
  - 2. No regular full-time employee shall be laid off from any position while any temporary employee's employment is continued in the same position classification.

3. No regular part-time employee shall be laid off from any position while any temporary part-time employee's employment is continued in the same position classification.
- B. The Human Resources Director is responsible for executing the necessary written notices and notifying management of layoff decisions and correspondence. Department Directors shall immediately advise the County Administrator or Human Resources Director of any personnel problems arising from a layoff.
  - C. Notice of Layoff
    1. Insofar as practical, all employees to be laid off shall be provided a minimum written notice of sixty (60) calendar days.
    2. Department Directors shall personally meet with each affected employee to inform the employee of the layoff decision.
  - D. Recall Lists
    1. All employees who are laid off as a result of this policy shall be placed on a Recall List for their position classification and within their department until a job offer is made or for one (1) year from the date of separation, whichever comes first. Once a job offer is made, whether accepted or refused, the laid off employee shall be removed from the Recall List.
    2. Individuals recalled to fill the same position from which they were originally removed shall be restored to regular employment status and not serve a probationary period. In addition, their employment status shall be restored to include salary appropriate for the position classification to which they return, length of service and applicable fringe benefits.
  - E. Employee Responsibility
 

Any employee laid off and placed on a Recall List is responsible for notifying the Human Resources Department of any change in address or telephone number. Employees shall be notified to return to work by registered mail. Any individual who fails to report to work as directed within five (5) workdays following receipt of notification to return to work shall be removed from the Recall List and no additional efforts shall be made to contact the individual. Employees returning to the workforce will be given a new anniversary date based on the date of recall.
  - F. Aid to Employees
 

Employees who are laid off under a reduction in force directive are eligible to apply to the Virginia Employment Commission for unemployment compensation. Laid off employees shall be paid for earned annual, compensatory leave, and sick leave as provided in these policies.

## **12.5 SEPARATION DATE**

- A. When an employee resigns or is dismissed from County service, the effective date must be the last day that such employee is physically on the job. The County will

not be liable for matters affecting the employee following his/her physical absence from the job. It is not permissible to delay the effective date of termination by any amount of accumulated annual or compensatory leave due the terminated employee. Pay for an annual leave balance due to eligible employees shall be paid on a lump sum basis.

- B. When an employee retires, the effective date of separation may be delayed by an amount of accumulated annual or compensatory leave, if the employee so chooses. The retirement date must be the 1<sup>st</sup> day of the month.
- C. If an employee is on approved sick leave, workers' compensation leave, or leave without pay when separated, the effective date of separation shall be the actual date of separation as given by the employee and approved by the County Administrator or Constitutional Officer and not the last day physically on the job.
- D. When the effective separation date immediately precedes a holiday, the employee shall not be paid for the holiday since he/she is no longer an employee.

## **12.6 RETURN OF COUNTY PROPERTY**

- A. Employees are responsible for all property, materials, and written information issued to them or in their possession or control. Employees must return all County property that is in their possession or control in the event of termination of employment, or immediately upon request to the designated supervisor or other County authorized designee.
- B. Items to be returned include, but are not limited to, the County identification card; keys to buildings, offices, files and vehicles; uniforms; safety equipment; tools; manuals; computers and software.
- C. The County may withhold from the employee's paycheck the cost of any items that are not returned in proper condition. The County may also take all action deemed appropriate to recover or protect its property.

## **12.7 DISCIPLINE**

- A. Disciplinary action may take the form of an informal counseling session or formal written notice, or other disciplinary action as set forth herein depending upon the severity of the situation. Counseling is not mandatory prior to taking formal disciplinary action, depending on the circumstances.
- B. The Department Director shall consult with the Human Resources Director when considering disciplinary action beyond verbal reprimand.
- C. All disciplinary actions beyond verbal reprimand are initiated by the County Administrator based upon the justification(s) and recommendation(s) of the Department Director and the Human Resources Director. In the case of employees in Constitutional Offices, all disciplinary actions are initiated by the respective Constitutional Officer.

- D. All disciplinary actions are always documented in writing to the employee with a copy to the employee's personnel file.
- E. Disciplinary action includes:
1. Verbal Reprimand: A discussion between the supervisor and the employee where the employee is advised and cautioned with reference to unsatisfactory work performance or misconduct.  
  
The supervisor shall maintain departmental records to document that such discussion took place, when it took place, what was discussed and who was present; depending on the severity of the offense, such documentation shall be placed in the employee's personnel file.
  2. Written Reprimand: A reprimand reduced to writing which documents the unsatisfactory work performance or misconduct and recommends specific guidance for corrective action.
  3. Suspension: A temporary removal from duty of an employee for cause where the case is not sufficiently grave to merit dismissal. The length of time shall depend on the seriousness of the offense.
    - a. An employee may be suspended without pay. An employee holding a position exempt under FLSA shall not be subject to a suspension without pay for less than one full workday.
    - b. An employee may be suspended with pay for the purpose of completing investigatory and administrative processes concerning allegations against the employee.
    - c. For any suspension without pay in excess of seven (7) calendar days, the Department Director shall provide the employee with an explanation of the reason for the County's action and an opportunity to present his/her side of the story.
    - d. Where an employee is charged with a criminal act, the outcome of the criminal case shall not necessarily affect the outcome of the administrative investigation. The fact that a person is acquitted of the charge does not necessarily mean the suspension or other disciplinary action will be revoked.
  4. Withholding of Merit Salary Increase: The denial or postponement of a merit increase within the pay range of a class which is normally awarded upon the employee's completion of a prescribed period of successful job performance.
  5. Administrative Decrease: A reduction within the pay range of a class as a disciplinary action resulting from unsatisfactory job performance or misconduct.
  6. Disciplinary Demotion: Demotion of an employee, for disciplinary reasons, may occur when it is determined that the employee's work has not been satisfactory after providing the opportunity and guidance for improvement, and the County wishes to retain the employee. The

employee shall meet the qualification requirements of the new, lower pay range, position prior to appointment. If the demotion is specified as temporary, the length of the demotion shall be so stated.

7. Dismissal: An employee may be dismissed from County service upon the recommendation of the Department Director, subject to the review and approval of the Human Resources Director and County Administrator, or in the case of Constitutional Office employees, the respective Constitutional Officer.

Before any employee may be dismissed, the Department Director shall provide the employee with an oral and written explanation of the reason for the County's action and an opportunity to present his/her side of the story. If the employee is dismissed, such dismissal shall take effect immediately.

#### F. Causes for Disciplinary Action

It is not possible to list all the forms of behavior that are considered unacceptable in the workplace. The following are some examples of unsatisfactory work performance and misconduct which may result in disciplinary action up to and including suspension or dismissal, categorized by Group One, Group Two, and Group Three offenses described below:

##### GROUP ONE OFFENSES

These offenses include unacceptable conduct which is less severe in nature, but which require corrective action in the interest of maintaining a well-managed, productive workforce. Examples are:

- . Excessive absenteeism or excessive tardiness;
- . Abuse of leave;
- . Absent without approved leave;
- . Disruptive behavior;
- . Unauthorized time away from work area;
- . Minor preventable accidents, such as damage to bumpers, damage to vehicle mirrors, scraping the rims of tires, tire punctures, damage to ladders or equipment, damage to County property of less than \$250 and which does not involve personal lost time injury;
- . Failure to wear proper safety apparel and/or assigned safety equipment, such as seat belts in County vehicles and assigned safety shoes or other protections;
- . Or any incidents of a minor nature related to performance or compliance with County policies.

##### Corrective Action

A supervisor must discuss a Group One offense with the employee and advise the employee of the need for correction prior to documentation of the offense. If the condition is not resolved by verbal discussion, the employee must be given a

written reprimand to document the occurrence and stress compliance. Referral to the County's Employee Assistance Program for counseling may occur.

### GROUP TWO OFFENSES

Incidents which are more severe in nature constitute Group Two offenses. The accumulation of two Group One offenses within twelve (12) consecutive months will constitute a Group Two offense. Other examples of Group Two offenses are:

- . Smoking in prohibited areas;
- . Unauthorized use of telephones, mail system, computers, faxes, or other County-owned property (inappropriate or excessive application of Section 11.7 of these policies);
- . Failure to report to work as scheduled without proper notice to supervisor(s);
- . Conviction for a moving traffic violation while operating a County vehicle;
- . Failure to notify the immediate supervisor within one (1) workday of a conviction for a moving violation by an employee whose position requires him/her to hold a Commercial Driver's License (CDL) and/or to drive a County vehicle in the performance of duties;
- . A preventable accident while operating County equipment, damage to County property that involves personal lost time injury, or damage to property of \$250 or more;
- . Safety violations where there is not a threat to life excluding those outlined in Group One Offenses;
- . Use of profanity or obscene or abusive language when communicating with the public, co-workers, employees or supervisors;
- . Or any incidents of a more severe nature related to performance or compliance with established policy.

### Corrective Action

Group Two offenses require a written reprimand and may call for administrative suspension or other higher level of disciplinary action, depending on the situation. A trend or pattern of unacceptable behavior for Group Two offenses may result in disciplinary action, up to and including dismissal. Corrective action may include referral to the County's Employee Assistance Program for counseling.

### GROUP THREE OFFENSES

Offenses included in this group are the most serious in nature. Management review by the County Administrator is required before corrective action is taken. Three Group Two offenses of any kind within a 12-month period and trends of offenses listed previously shall constitute a Group Three offense. The following shall constitute a Group Three offense:

- . Failure to follow instructions of immediate supervisor;

- . Possession, distribution, sale, transfer, or use of alcohol or illegal drugs in the workplace, during hours, or while operating County-owned vehicles or equipment;
- . Deliberate or grossly negligent or improper conduct endangering the safety of self or others, or which leads to damage of County-owned or public property;
- . Theft, unauthorized use, unauthorized removal, possession of or vandalism of County records or property, or employees' property;
- . Falsification of or damage to County records (i.e., employment application and supporting documents, timekeeping records, safety records and reports, expense reports);
- . Unauthorized leave for three consecutive days;
- . Unauthorized disclosure of County records and information;
- . Participating in a work slowdown, sit down, or strike;
- . Unlawful conduct, on or off duty, when the conduct impairs the efficiency of the County service or brings it into public disrepute;
- . Willfully violating safety or health rules where there is a threat to life or health;
- . Boisterous or disruptive activity, fighting, or threatening violence in the workplace;
- . Sexual or other unlawful harassment;
- . Possession or use of dangerous or unauthorized materials, such as firearms, weapons, or explosives in the workplace;
- . Gross negligence in performing duties including, but not limited to: exceeding the speed limit by 15 or more miles per hour in a County vehicle; complete disregard for the safety, rights and well-being of another person; flagrant violation or disregard of County policies, procedures, ordinances, interests, or applicable federal/state regulations; failure to perform duties properly, resulting in extensive damage to County equipment, vehicles, or property;
- . Improper use of authority or position;
- . Use of abusive or threatening language toward employees, supervisor(s), or the public;
- . Abandonment of job or accumulation of unexcused absences or tardiness;
- . Sleeping while on duty;
- . Willfully damaging or defacing County property or private property;
- . Driving a County vehicle without a valid Department of Motor Vehicles driver's license or failure to report the suspension or revocation of the driver's license in positions where driving a County vehicle is required;

. Twelve or more negative points on an official Department of Motor Vehicles Driver's History Report within a 24-month period or eight or more negative points in a 12-month period in positions where driving a County vehicle is required as part of the employee's duties;

. Or a criminal or civil conviction that would make the employee unavailable for work or is of such a nature that to continue the employee in the assigned position would pose a risk to the public or to other County employees.

Dismissals may be warranted in other circumstances where the employee does not meet the conditions of employment for the position, such as unsatisfactory job performance; failure to maintain valid licenses or other qualifications necessary to perform the job; or inability to perform the work required, with or without reasonable accommodation.

#### Corrective Action

Due to the serious nature of these offenses, a first occurrence usually warrants dismissal. Before final action is taken, the employee will be placed on administrative leave pending review by the County Administrator.

## CHAPTER 13

### *GRIEVANCE PROCEDURE*

#### **13.1 GRIEVANCE PROCEDURE**

##### A. Purpose

The purpose of the Montgomery County Grievance Procedure is to afford an immediate and impartial method for the resolution of disputes that may arise between the County government and County employees.

##### B. Coverage

All regular full-time and regular part-time County employees, excluding probationary employees, are eligible to file grievances as provided in this policy with the following exceptions (unless superseded by written agreement):

1. The County Administrator, his/her deputies and assistants, and assistants to the County Administrator;
2. Constitutional officers and their employees;
3. All personnel of the Department of Social Services; and
4. The General Registrar and his/her employees.

The County Administrator shall determine the officers and employees excluded from this Grievance Procedure and shall be responsible for maintaining a current list of the affected positions.

##### C. Definition of Grievance

A grievance shall be a complaint or dispute by a covered employee relating to his/her employment, including but not necessarily limited to:

1. Disciplinary actions – including dismissals, disciplinary demotions and suspensions. Dismissals shall be grievable whenever resulting from formal discipline or unsatisfactory job performance.
2. The application or interpretation of personnel policies, procedures, or rules and regulations.
3. Acts of reprisal as the result of utilization of the Grievance Procedure, or of participation in the grievance of another County employee.
4. Complaints of discrimination on the basis of race, color, gender, national origin, marital status, age, religion, political affiliation, disability or veteran status.
5. Acts of retaliation because the employee has complied with any law of the United States or of the Commonwealth, has reported any violation of such law to a governmental authority, or has sought any change in law before the Congress of the United States or the General Assembly.

D. Non-Grievable Complaints

Management reserves the exclusive right to manage the affairs and operations of the County government. Accordingly, complaints regarding the following are not grievable:

1. The establishment and revision of wages or salaries, including periodic pay adjustments, position classifications or general benefits.
2. Work activity accepted by the employee as a condition of employment or work activity which may reasonably be expected to be a part of the job content.
3. The contents of ordinances, statutes or established personnel policies, procedures, rules and regulations.
4. Failure to promote except where the employee can show the County Administrator that established promotional policies were not followed or applied fairly.
5. The methods, means and personnel by which such work activities are to be carried on.
6. Termination, layoff, demotion or suspension from duties because of lack of work, reduction in force, or job abolishment, except where such action affects an employee who has been reinstated within the previous six months as the result of the final determination of a grievance. In any grievance brought under this exception, the action shall be upheld upon a showing by the County that there was a valid business reason for the action and the employee was notified of such in writing prior to the effective date of the action.
7. The hiring, evaluation, promotion, transfer, assignment and retention of employees within the County service.
8. The relief of employees from duties in emergencies.

E. Standing to Pursue a Grievance

A grievant must be personally and directly affected by an occurrence or condition before he/she shall be permitted to pursue a grievance. No employee may grieve another employee's job performance unless such job performance directly or adversely affects the grievant's own employment. Disputes as to an employee's standing to file a grievance shall be determined as shall any other disputes as to grievability as set forth in Section F.

F. Grievability

1. Decisions regarding whether or not a matter is grievable under this procedure shall be made by the County Administrator as set forth below. Decisions as to grievability shall be made at the request of the grievant, the grievant's Department Director, or the Human Resources Director within ten (10) days of such request. A copy of

the ruling shall be sent to the grievant, to the grievant's Department Director, and to the Human Resources Director. Decisions by the County Administrator that an issue is not grievable may be appealed by the grievant to the Montgomery County Circuit Court for a hearing de novo on the issue of grievability as provided in Section 15.2-1507 of the 1950 Code of Virginia, as amended. Proceedings for the review of the decision of the County Administrator shall be instituted by the grievant by filing notice of appeal with the County Administrator within ten (10) calendar days after the date of his/her decision as to grievability and by giving a copy of such notice to all other parties of the grievance. Within ten (10) calendar days after receiving notice of appeal, the County Administrator shall transmit to the Clerk of the Montgomery County Circuit Court a copy of his/her decision, a copy of the notice of appeal, and any exhibits which may have been provided in connection with the resolution of the issue of grievability. A list of the evidence furnished to the Court shall also be furnished to the grievant. The failure of the County Administrator to transmit the record within the time allowed shall not prejudice the rights of the grievant. The Circuit Court, on motion of the grievant, may issue a writ of certiorari requiring the County Administrator to transmit the record on or before a certain date. Within 30 days of receipt by the Clerk of such records, the Court, sitting without a jury, shall hear the appeal on the record transmitted, and such additional evidence as may be necessary to resolve any controversy as to the correctness of the record. The Court, in its discretion, may receive such other evidence as the ends of justice require. The Court may affirm, reverse or modify the decision of the County Administrator. The Court's decision shall be rendered no later than the fifteenth day from the date of the conclusion of the hearing. The decision of the Court is final and is not appealable.

2. All matters from the institution of a request that the County Administrator determine the issue of grievability, through the notation of appeal of an adverse decision by the County Administrator, shall be recorded on forms provided for those purposes by the Human Resources Director.
3. The issue of grievability may be raised at any step of the Grievance Procedure prior to the panel hearing provided in Section L of this procedure; but once raised, the issue must be resolved before further processing of the grievance. In any event, the issue of grievability must be resolved prior to the panel hearing or it shall be deemed to have been waived by all parties. A request that grievability be determined shall toll the time limits under this procedure. Time limits shall begin to run again the day after the decision that a matter is or is not grievable is made by the County Administrator or the Circuit Court.

4. The classification of a complaint as non-grievable by either the County Administrator or the Circuit Court shall not be construed to restrict any employee's right to seek, or management's right to provide, customary administrative review of complaints outside of the scope of the Grievance Procedure.

G. Policy Generally

1. All stages of the Grievance Procedure beyond the First Step provided in Section I shall be reduced to writing on forms supplied by the Human Resources Director.
2. The grievant is entitled to representation at the Third Step as provided in Section K. Such representation shall be at the grievant's expense. Nothing in this section shall preclude the presence of witnesses for either party being present at Step Two.
3. Once an employee reduces the grievance to writing, the grievant shall specify on the appropriate form the specific relief he/she expects to obtain through the use of this procedure. When the employee expresses his/her grievance in writing, he/she shall first obtain the required forms from the Human Resources Department. That office shall thereupon open a file on the grievance, assign it a number, and shall assist the grievant, the Department Director, and the County Administrator in ensuring that all papers are transmitted throughout this process in a timely fashion.
4. After the initial filing of a written grievance, failure of either party to comply with all substantial procedural requirements of the Grievance Procedure, including the panel hearing, without just cause shall result in a decision in favor of the other party on any grievable issue, provided the party not in compliance fails to correct the noncompliance within five (5) working days of receipt of written notification by the other party of the compliance violation. Such written notification by the grievant shall be made to the County Administrator.
5. The County Administrator may require a clear written explanation of the basis for a just cause extension or exception. The County Administrator shall determine compliance issues. Compliance determinations made by the County Administrator shall be subject to judicial review by filing petition with the Circuit Court within 30 days of the compliance determination.
6. Time limits in the Grievance Procedure may be extended by mutual agreement of the County Administrator and the grievant.

H. Consolidation of Grievances

In the event that an employee files more than one grievance, the County Administrator may, at any time prior to a panel hearing, consolidate those grievances for joint processing. If the grievances are consolidated, the processing of the first grievance shall be suspended until such time as the last filed grievance

proceeds to the same point in this procedure. Once consolidated, the grievances shall be processed at the same time.

I. First Step – Immediate Supervisor Level

1. Within 20 calendar days after the occurrence or condition giving rise to the grievance, the employee affected shall identify the grievance verbally to his/her immediate supervisor. Within five (5) calendar days of such presentation, the immediate supervisor shall have a face-to-face meeting with the grievant to review the grievance. At this meeting, the immediate supervisor shall give his/her response orally to the employee with respect to the particular grievance, or shall advise the employee that additional time is needed, the immediate supervisor must render the decision verbally within three (3) calendar days after notice of the need for additional time is given.
2. If a satisfactory resolution is not reached by this informal process, the employee shall reduce his/her grievance to writing, identifying specifically and in detail the nature of the grievance and the requested remedy, on a form provided for that purpose by the Human Resources Director. Grievants shall be entitled, should they prevail in their grievance, only to the relief specifically requested. Such grievance shall be presented to the immediate supervisor within three (3) working days of the supervisor's verbal reply to the oral grievance. The supervisor shall then reply in writing within three (3) working days to this written grievance.
3. In the event that an employee's immediate supervisor is the Department Director, then the grievant shall pass the second step of this procedure and proceed immediately to Step Three.
4. In the event the grievant is a Department Director, then the grievant shall pass the second step of this procedure and proceed immediately to Step Three.

J. Second Step – Department Director Level

1. If a satisfactory resolution of the grievance is not reached at the First Step, the employee may so indicate on the grievance form provided and submit the grievance to his/her Department Director within five (5) working days. Within five (5) working days of such submission, a face-to-face meeting shall be held with the grievant by the Department Director to review the grievance. This time may be extended by the mutual agreement of the Department Director and the grievant.
2. At the meeting provided for above, the only persons who may be present are the grievant, one (1) person representing the appropriate management level at which the grievance is being heard, and appropriate witnesses for each side. Witnesses shall be present only while actually providing testimony. The meeting may

be adjourned to another time or place by agreement of the parties. The Department Director shall provide the employee with a written reply to the grievance within five (5) calendar days after the meeting.

3. In the event that an employee's Department Director is the County Administrator, then the grievant shall pass the Second Step of this procedure and proceed immediately to Step Three.

K. Third Step – County Administrator Level

If a satisfactory resolution of the grievance has not been reached at the termination of the Second Step, the employee may submit the grievance to the County Administrator. Submission to the County Administrator must occur within five (5) working days following receipt of the response from the Department Director. The County Administrator shall then meet face to face with the employee within three (3) working days or indicate that an extension is necessary. The extension shall not exceed three (3) additional days, except by mutual agreement. The employee, at his/her option, may have a representative of his/her choice at the Third Step meeting. If the employee is represented by legal counsel, the County Administrator likewise has the option of being represented by counsel. The County Administrator shall render a written response to the grievance within five (5) working days following the Third Step meeting. The Human Resources Director shall ensure that a tape recording of such meeting is made and retained in his/her custody for not less than 12 months. The grievant shall be entitled to a copy of the tape recording upon payment of a reasonable fee. The County Administrator may designate in writing that the grievance shall be heard by the Assistant County Administrator except in grievances filed by Department Directors which shall be heard by the County Administrator.

L. Fourth Step – The Grievance Panel

1. If a satisfactory resolution to the grievance is not reached at the Third Step, the grievant may submit the grievance to an impartial grievance panel. The request for a hearing before a grievance panel shall be indicated by the grievant on a form provided for that purpose of the Human Resources Director and submitted to the County Administrator within five (5) calendar days of receipt of the written response by the grievant under the Third Step of the Grievance Procedure.
2. The County Administrator shall then immediately submit the request form with a copy of the grievance form to the Human Resources Director, who shall arrange for the grievance panel selection and who shall schedule the grievance panel hearing. In the event that the Human Resources Director is a party to the grievance, or in his/her absence, the County Administrator shall make the necessary arrangement.

M. Composition of Grievance Panel

1. The Grievance Panel shall be composed of three (3) impartial members who shall be chosen in the following manner: one (1) member shall be appointed by the grievant, one (1) member shall be appointed by the County Administrator, and the third member shall be appointed by the first two members. To ensure an impartial panel, such panel shall not be composed of any person having direct involvement with the grievance being heard by the panel, or with the complaint or dispute giving rise to the grievance. Managers who are in a direct line of supervision of a grievant, persons residing in the same household as the grievant, and the following relatives of a participant in the grievance process or participant's spouse are prohibited from serving as panel members: spouse, parent, child, descendants of a child, sibling, niece, nephew, and first cousin. No attorney having direct involvement with the subject matter of the grievance nor a partner, associate, employee or co-employee of such attorney shall serve as a panel member. In the event that an agreement cannot be reached as to the final panel member, the Chief Judge of the Montgomery County Circuit Court shall select the third panel member.

In an employee termination case, an administrative hearing officer shall serve as the third panel member. The administrative hearing officer shall be appointed by the Executive Secretary of the Supreme Court. The appointment shall be made from the list of administrative hearing officers maintained by the Executive Secretary pursuant to Section 2.2-4024 of the Code of Virginia, 1950, as amended and shall be made from the appropriate geographical region on a rotating basis. The County shall bear the expense of such officer's services.

2. Both the grievant and the County Administrator shall select the first and second members of the panel within five (5) calendar days after the request for a panel hearing shall have been filed. These members shall, in turn, select the third member within ten (10) calendar days after the request for a panel hearing shall have been filed.

In the event that the first two members cannot reach an agreement as to the third member within such ten (10) calendar day period, then the Human Resources Director shall at the expiration of the ten (10) calendar day period, request the County Attorney's Office to immediately file the necessary court documents requesting the Chief Judge of the Circuit Court to appoint a third member to the particular grievance panel. In termination cases, the Human Resources Director shall within five (5) calendar days of the first two members being selected, send a letter to the Executive Secretary of the Supreme Court requesting the appointment of an administrative hearing officer as the third panel member.

3. The third member of the grievance panel shall serve as Chairperson, shall set the time for the hearing, and notify the grievant and the County Administrator thereof. The hearing shall be held within twenty (20) calendar days after selection of the third panel member or as soon thereafter that the Chairperson can schedule a date agreeable to all three panel members. Any party may have present at this hearing a representative of his/her choice. The Human Resources Director shall ensure that each panel member has copies of all written materials and forms submitted in connection with the grievance and shall attend the hearing for the purpose of recording the proceedings.
4. The majority decision of the grievance panel shall be final and binding as to any grievance submitted to it and shall be consistent with provisions of law and written policies.
5. The grievance panel is constituted solely for the purpose of determining whether a grievance filed by an employee is merited and what remedy, if any, should be provided. The grievance panel shall not formulate or change policy, rules or procedures. The grievance panel shall determine whether the grievant has demonstrated, by a preponderance of the evidence, that the action complained of was without cause, or done in violation of a law, rule, regulation or other policy. It shall not otherwise substitute its judgment for that of management.

N. Rules for Grievance Panel Hearings

1. The grievance panel does not have the authority to formulate policies or procedures or to alter existing policies or procedures.
2. The grievance panel shall have the discretion to determine the propriety of attendance at the hearing of persons not having a direct interest in the hearing. However, at the request of either party, the hearing shall be private.
3. The Human Resources Director shall provide the grievance panel with copies of all documents and records germane to the grievance prior to the hearing and provide the grievant with a list of the documents furnished to the grievance panel. The grievant and his/her attorney, at least ten (10) calendar days prior to the scheduled panel hearing, shall be allowed access to and copies of all relevant files intended to be used in the grievance proceeding.
4. The grievance panel has the authority to determine the admissibility of evidence without regard to the burden of proof, or the order of presentation of evidence, so long as a full and equal opportunity is afforded to all parties for the presentation of their evidence.
5. All evidence shall be presented in the presence of the grievance panel and the parties except by mutual consent of the parties.

6. Documents, exhibits and lists of witnesses shall be exchanged between the parties in advance of the hearing.
7. The majority decision of the grievance panel, acting within the scope of its authority, shall be final, subject to existing policies, procedures, and law.

O. Conduct of Grievance Panel Hearings

The grievance panel shall conduct the hearing as follows:

1. The grievance panel may at any time ask the parties or their representatives for statements clarifying the issues involved in the grievance.
2. Exhibits, when offered by the grievant or the Department Director, may be received in evidence by the panel and when so received shall be marked and made a part of the record.
3. The parties may offer evidence and cross examine witnesses and shall produce such additional evidence as the panel may deem necessary to form an understanding and determination of the dispute. There shall be no formal rules of evidence for the panel; however, the panel shall be the judge of relevancy and materiality of any evidence offered. The grievant shall proceed first and shall bear the ultimate burden of persuasion. The County shall proceed next.
4. The Chairperson shall specifically inquire of all parties whether they have any further proof to offer or witnesses to be heard. Upon receiving negative response, the Chairperson shall permit the parties to summarize their cases and shall then declare the hearing closed.
5. The hearings may be reopened by the panel on its own motion or upon application of a party for good cause shown at any time before a final decision is made.
6. In all matters not otherwise covered by this section, the panel shall determine the procedures to be followed.
7. The Human Resources Director shall ensure that a tape recording of the hearing is made and retained in his/her custody for not less than 12 months. The grievant shall be entitled to a copy of such tape recording upon payment of a reasonable fee.

P. Decision of Grievance Panel

1. The decision of the grievance panel shall be filed in writing by the panel Chairperson with the County Administrator, the Human Resources Director, and the grievant, not later than fifteen (15) days after the completion of the hearing. The decision shall summarize the grievance and the evidence, shall make specific findings of fact, and shall state in full the reasons for the decision

and the remedy to be granted. Decision shall be made by majority vote of the entire panel.

2. The grievant shall bear any cost involved in employing representation and in preparing his/her case.
3. If the panel determines that the grievance is meritorious in whole or part it may (as to that portion which is meritorious):
  - a. Order that an employee be reinstated to a former position; order expungement of information contained in the employee's personnel files, or other files maintained by the County; or render opinions as to the application or interpretation of the personnel management system for the County or rules and regulations adopted thereunder, as they may relate to the specific facts of the case before it.
  - b. If the panel finds that the County failed to follow established procedures governing promotion, demotion, transfer, hiring or layoff, it shall remand the grievance with the instructions that the action taken by the County Administrator be rescinded, and proper procedures be followed for the matter at issue. In connection with such remand, the panel may make provisional orders governing the case (i.e., a person improperly promoted to a position may continue to serve temporarily in the position to which he/she was promoted, pending compliance with appropriate procedures).
  - c. The panel may affirm or modify any decision reached by any supervisor at any previous stage of the grievance proceedings.
4. The question of whether the relief granted by a panel is consistent with written policy shall be determined by the County Administrator unless such person has a direct personal involvement with the event or events giving rise to the grievance, in which case, the decision shall be made by the Commonwealth Attorney of Montgomery County.

Q. The Implementation of Remedy

1. The County Administrator shall implement any remedy which may be ordered by the panel, provided that such decision is consistent with law and written policies.
2. Either party may petition the Montgomery County Circuit Court for an order requiring implementation of the decision of the panel.

R. Computation of Time

1. Except where otherwise provided, time periods under these regulations shall be deemed to begin on the day following that on which any action is to be taken or response rendered and to run without regard to weekends or holidays. If a time period herein provided ends on a weekend or holiday, the last day of the time

period shall be deemed to be the end of the business day of the first working day following.

2. Time limits established under this procedure are intended to be strictly construed and enforced. Time limits may be extended by mutual agreement of all parties; provided however, that if the County Administrator consolidates grievances under Section H of this procedure, the employee's consent need not be obtained.

CERTIFICATION

The undersigned signatories hereby certify that the Grievance Procedures for the County of Montgomery, Virginia, adopted by the Board of Supervisors of the County of Montgomery Virginia on this \_\_\_\_\_ day of \_\_\_\_\_, 2011, are in compliance with the requirements contained in Section 15.2-1507 of the 1950 Code of Virginia, as amended and that a copy of the Grievance Procedure along with the Certification have been filed with the Clerk of the Circuit Court of Montgomery County, Virginia.

\_\_\_\_\_  
Martin M. McMahon  
County Attorney  
County of Montgomery, Virginia

\_\_\_\_\_  
F. Craig Meadows  
County Administrator  
County of Montgomery, Virginia

(Signed copy on file in Human Resources and in all County departments and agencies.)

**APPROVED FY15 CLASSIFICATION AND COMPENSATION PLAN - FULL-TIME  
COUNTY OF MONTGOMERY**

<b>Grade</b>	<b>Minimum</b>	<b>Market</b>	<b>Maximum</b>	<b>ClassTitle</b>
<b>UNIFIED</b>				
105	\$20,333	\$25,823	\$31,517	CUSTODIAN
107	\$22,418	\$28,470	\$34,747	COOK
108	\$23,538	\$29,894	\$36,485	LABORER SOCIAL WORK ASSISTANT I
109	\$24,715	\$31,389	\$38,309	MAINTENANCE WORKER PUBLIC FACILITIES MAINTENANCE WORKER SOCIAL WORK ASSISTANT II UTILITY OPERATOR IV
110	\$25,951	\$32,958	\$40,224	DSS AIDE LIBRARY SERVICE SPECIALIST OFFICE ASSISTANT
111	\$27,249	\$34,606	\$42,235	ASSISTANT REGISTRAR CUSTOMER SERVICE REPRESENTATIVE CUSTOMER SERVICE REPRESENTATIVE - Unfunded DEPUTY COURT CLERK LIBRARY TECHNICIAN PUBLIC INFORMATION SPECIALIST SANITATION EQUIPMENT OPERATOR SENIOR OFFICE ASSISTANT TAX TECHNICIAN UTILITY EQUIPMENT OPERATOR UTILITY OPERATOR III
112	\$29,069	\$36,336	\$46,510	ANIMAL CONTROL OFFICER DISPATCHER MAINTENANCE CREW LEADER MAINTENANCE MECHANIC/CARPENTER MAINTENANCE CREW LEADER - PARKS SENIOR DEPUTY COURT CLERK SENIOR TAX TECHNICIAN CUSTODIAL SUPERVISOR
113	\$30,522	\$38,153	\$48,836	ELIGIBILITY WORKER HR TECHNICIAN PROGRAM ASSISTANT PSA CREW LEADER TAX SPECIALIST TV MULTI-MEDIA SPECIALIST UTILITY OPERATOR II
114	\$32,049	\$40,061	\$51,278	DISPATCH SUPERVISOR MECHANIC
115	\$33,651	\$42,064	\$53,842	DEPUTY ASSISTANT REGISTRAR ELIGIBILITY INTAKE WORKER

**APPROVED FY15 CLASSIFICATION AND COMPENSATION PLAN - FULL-TIME  
COUNTY OF MONTGOMERY**

<b>Grade</b>	<b>Minimum</b>	<b>Market</b>	<b>Maximum</b>	<b>ClassTitle</b>
116	\$35,334	\$44,167	\$56,534	FRAUD INVESTIGATOR
				LEGAL ASSISTANT
				MULTI-MEDIA SPECIALIST
				COURT CLERK SUPERVISOR
				DEPUTY
				EMPLOYMENT SERVICES WORKER
				PROCUREMENT TECHNICIAN
				SENIOR ELIGIBILITY WORKER
				SENIOR PROGRAM ASSISTANT
				FAMILY SERVICES SPECIALIST
117	\$37,100	\$46,375	\$59,360	UTILITY OPERATOR I
				PSA MAINTENANCE SUPERVISOR
				ACCOUNTANT
				ASSISTANT BRANCH LIBRARY SUPERVISOR
				BENEFITS COORDINATOR
				BUILDING INSPECTOR
				COMPUTER TECHNOLOGY SPECIALIST
				LIBRARY PROGRAMS COORDINATOR
				SECRETARY TO THE BOARD
				TAX SUPERVISOR
118	\$38,955	\$48,694	\$62,328	TECHNOLOGY SUPPORT SPECIALIST
				TECHNOLOGY SUPPORT SPECIALIST - Unfunded
				ADMINISTRATIVE MANAGER
				BRANCH LIBRARY SUPERVISOR
				CHIEF ANIMAL CONTROL OFFICER
				ELIGIBILITY SUPERVISOR
				LIBRARY ACQUISITION MANAGER
				LIBRARY BUSINESS MANAGER
				MAINTENANCE MANAGER
				MASTER DEPUTY
119	\$40,903	\$51,129	\$65,445	RECREATION PROGRAM SUPERVISOR
				ASSISTANT COUNTY ASSESSOR
				ASSISTANT TO CO ADMINISTRATOR
				CHILD PROTECTIVE SERVICES WORKER
				DEPUTY - LIDS
				GIS ANALYST
				LEAD IT CUSTOMER SERVICE SPECIALIST
				MASTER DEPUTY TREASURER
				PAYROLL SUPERVISOR
				WATER OPERATIONS SPECIALIST
120	\$42,948	\$53,685	\$68,717	HUMAN SERVICES MANAGER
				LIBRARY SERVICES MANAGER
				LIBRARY YOUTH SERVICES MANAGER
				PLANNER-COMPREHENSIVE AND DEVELOPMENT
				FAMILY SERVICES SUPERVISOR
121	\$46,204	\$56,369	\$74,851	DEPUTY/INVESTIGATOR
				DEPUTY-EMT

**APPROVED FY15 CLASSIFICATION AND COMPENSATION PLAN - FULL-TIME  
COUNTY OF MONTGOMERY**

<b>Grade</b>	<b>Minimum</b>	<b>Market</b>	<b>Maximum</b>	<b>ClassTitle</b>
				EMPLOYMENT SERVICES MANAGER
				SERGEANT
				WASTEWATER MANAGER
122	\$48,515	\$59,188	\$78,594	
				ASSISTANT DSS DIRECTOR
				ASSISTANT GENERAL SERVICES MANAGER
				CHILD PROTECTIVE SERVICES SUPERVISOR
				LIBRARY SYSTEMS ADMINISTRATOR
				PSA COORDINATOR
				BUSINESS AUDITOR
123	\$50,940	\$62,147	\$82,523	
				BUILDING OFFICIAL
				HVAC TECHNICIAN
				PROJECT MANAGER - ECONOMIC DEVELOPMENT
				PSA ENGINEER
				SENIOR IT APPLICATIONS SPECIALIST
124	\$53,487	\$65,255	\$86,650	
				CHIEF DEPUTY CLERK OF CIRCUIT COURT
				CHIEF DEPUTY COM OF REVENUE
				CHIEF DEPUTY TREASURER
				COUNTY ASSESSOR
				FINANCE MANAGER
				LIEUTENANT
				PROCUREMENT MANAGER
				SENIOR SYSTEMS ENGINEER
125	\$56,162	\$68,517	\$90,982	
				GIS MANAGER
				PLANNING AND ZONING ADMINISTRATOR
126	\$58,970	\$71,943	\$95,531	
				ASSISTANT COMMONWEALTH ATTORNEY
				CAPTAIN
				GENERAL SERVICES MANAGER
				LEAD SYSTEMS ENGINEER
				MASTER CHIEF DEPUTY TREASURER
				WEB ARCHITECT
127	\$62,950	\$75,540	\$103,868	
				LEAD IT APPLICATIONS SPECIALIST
128	\$66,098	\$79,317	\$109,061	
				CHIEF DEPUTY COMMONWEALTH ATTORNEY
				CHIEF DEPUTY SHERIFF
<b>EXECUTIVE</b>				
223	\$51,789	\$62,147	\$85,452	
				EMERGENCY SERVICES COORDINATOR
				HUMAN SERVICES DIRECTOR
224	\$54,379	\$65,255	\$89,725	
				PUBLIC INFORMATION DIRECTOR
226	\$59,953	\$71,943	\$98,922	
				BUDGET MANAGER
				GENERAL REGISTRAR
				PARKS & RECREATION DIRECTOR
228	\$66,098	\$79,317	\$109,061	
				COMMISSIONER OF THE REVENUE

**APPROVED FY15 CLASSIFICATION AND COMPENSATION PLAN - FULL-TIME  
COUNTY OF MONTGOMERY**

<b>Grade</b>	<b>Minimum</b>	<b>Market</b>	<b>Maximum</b>	<b>ClassTitle</b>
				COUNTY TREASURER
				LIBRARY DIRECTOR
				SOCIAL SERVICES DIRECTOR
229	\$69,403	\$83,283	\$114,514	
				HUMAN RESOURCE DIRECTOR
				PLANNING DIRECTOR
				GENERAL SERVICES DIRECTOR
230	\$72,873	\$87,447	\$120,240	
				ECONOMIC DEVELOPMENT DIRECTOR
				FINANCIAL & MANAGEMENT SERVICES DIRECTOR
				INFORMATION TECHNOLOGY DIRECTOR
				ENGINEERING AND REGULATORY COMPLIANCE DIRECTOR
235	\$93,006	\$111,608	\$153,460	
				CLERK OF CIRCUIT COURT
				SHERIFF
				DEPUTY COUNTY ADMINISTRATOR
237	\$102,539	\$123,047	\$169,190	
				SHERIFF - CAREER DEVELOPMENT
239	\$113,050	\$135,660	\$186,532	
				COMMONWEALTH'S ATTORNEY

**APPROVED FY15 CLASSIFICATION AND COMPENSATION PLAN - PART-TIME  
COUNTY OF MONTGOMERY**

Grade	Minimum	Market	Maximum	Class Title
<i>UNIFIED</i>				
104PT	\$8.81	\$11.19	\$13.65	SITE ATTENDANT
105PT	\$9.25	\$11.75	\$14.34	ANIMAL CONTROL AIDE CUSTODIAN VAN DRIVER
106PT	\$9.71	\$12.33	\$15.05	LIBRARY COURIER LIBRARY PAGE
107PT	\$10.20	\$12.95	\$15.80	COOK
110PT	\$11.80	\$14.99	\$18.30	LIBRARY SERVICE SPECIALIST
110PT	\$11.80	\$14.99	\$18.30	DIGITAL SERVICES SPECIALIST
115PT	\$15.31	\$19.13	\$24.49	CHILDREN'S PROGRAM SPECIALIST
116PT	\$16.07	\$20.09	\$25.71	DEPUTY
117PT	\$16.88	\$21.09	\$27.00	ACCOUNTANT

**APPENDIX B**  
**MONTGOMERY COUNTY, VIRGINIA**  
**FLSA EXEMPT POSITIONS**

Administrative Manager (A) – Sheriff’s Office	County Treasurer (E)
Assistant Commonwealth Attorney (LP)	Court Clerk Supervisor (A)
Assistant County Assessor (A)	Deputy Assistant Registrar (A)
Assistant Director – DSS (A)	Deputy County Administrator (E)
Assistant General Services Manager (E)	Economic Development Director (E)
Assistant to County Administrator (A)	Eligibility Supervisor (A)
Benefits Coordinator (A)	Emergency Services Coordinator (A)
Branch Library Supervisor (A)	Employment Services Manager (A)
Budget Manager (A)	Engineering and Regulatory Compliance Director €
Building Official (A)	Finance and Management Services Director (LP)
Captain (A)	Finance Manager (LP)
Chief Animal Control Officer (A)	General Registrar (E)
Chief Deputy Clerk of Circuit Court (A)	General Services Director (E)
Chief Deputy Commissioner of the Revenue (A)	GIS Manager (A)
Chief Deputy Commonwealth Attorney (LP)	Human Resources Director (E)
Chief Deputy Sheriff (A)	Human Services Director (E)
Chief Deputy Treasurer (A)	Human Services Manager (A)
Chief Information Officer (E)	Lead IT Applications Specialist (C)
Child Protective Services Supervisor (A)	Lead IT Customer Service Specialist (C)
Clerk of the Circuit Court (E)	Lead Systems Engineer (C)
Commissioner of the Revenue (E)	Library Acquisition Manager (A)
Commonwealth Attorney (LP)	Library Business Manager (A)
County Assessor (A)	Library Director (E)
County Engineer (LP)	Library Youth Services Manager (A)

Library Programs Coordinator (A)  
Library Systems Administrator (C)  
Lieutenant (A)  
Parks and Recreation Director (E)  
Payroll Supervisor (A)  
Planner - Comprehensive (A)  
Planner - Development (A)  
Planning and Zoning Administrator (A)  
Planning Director (E)  
Procurement Manager (A)  
Project Manager – Economic Development (A)  
PSA Coordinator (A)

Public Information Director (E)  
Recreation Program Supervisor (A)  
Sheriff (E)  
Senior Applications Specialist (C)  
Senior Systems Engineer (C)  
Social Services Director (E)  
Social Work Supervisor (A)  
Senior Applications Specialist (C)  
Tax Supervisor (A)  
Wastewater Manager (A)

*E = Executive, A = Administrative,  
LP= Learned Professional, CP = Creative  
Professional; C = Computer Professional*

# EMPLOYEE RIGHTS AND RESPONSIBILITIES UNDER THE FAMILY AND MEDICAL LEAVE ACT

## Basic Leave Entitlement

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for the following reasons:

- for incapacity due to pregnancy, prenatal medical care or child birth;
- to care for the employee's child after birth, or placement for adoption or foster care;
- to care for the employee's spouse, son, daughter or parent, who has a serious health condition; or
- for a serious health condition that makes the employee unable to perform the employee's job.

## Military Family Leave Entitlements

Eligible employees whose spouse, son, daughter or parent is on covered active duty or call to covered active duty status may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered servicemember during a single 12-month period. A covered servicemember is: (1) a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness\*; or (2) a veteran who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran, and who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness.\*

**\*The FMLA definitions of "serious injury or illness" for current servicemembers and veterans are distinct from the FMLA definition of "serious health condition".**

## Benefits and Protections

During FMLA leave, the employer must maintain the employee's health coverage under any "group health plan" on the same terms as if the employee had continued to work. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

## Eligibility Requirements

Employees are eligible if they have worked for a covered employer for at least 12 months, have 1,250 hours of service in the previous 12 months\*, and if at least 50 employees are employed by the employer within 75 miles.

**\*Special hours of service eligibility requirements apply to airline flight crew employees.**

## Definition of Serious Health Condition

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and

a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

## Use of Leave

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

## Substitution of Paid Leave for Unpaid Leave

Employees may choose or employers may require use of accrued paid leave while taking FMLA leave. In order to use paid leave for FMLA leave, employees must comply with the employer's normal paid leave policies.

## Employee Responsibilities

Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days notice is not possible, the employee must provide notice as soon as practicable and generally must comply with an employer's normal call-in procedures.

Employees must provide sufficient information for the employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the employer if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

## Employer Responsibilities

Covered employers must inform employees requesting leave whether they are eligible under FMLA. If they are, the notice must specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, the employer must provide a reason for the ineligibility.

Covered employers must inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the employer determines that the leave is not FMLA-protected, the employer must notify the employee.

## Unlawful Acts by Employers

FMLA makes it unlawful for any employer to:

- interfere with, restrain, or deny the exercise of any right provided under FMLA; and
- discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

## Enforcement

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer.

FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

**FMLA section 109 (29 U.S.C. § 2619) requires FMLA covered employers to post the text of this notice. Regulation 29 C.F.R. § 825.300(a) may require additional disclosures.**



For additional information:  
1-866-4US-WAGE (1-866-487-9243) TTY: 1-877-889-5627  
[WWW.WAGEHOUR.DOL.GOV](http://WWW.WAGEHOUR.DOL.GOV)

U.S. Department of Labor | Wage and Hour Division



WHD Publication 1426 - Revised February 2013

**APPENDIX D**  
**MONTGOMERY COUNTY**  
**WORKERS' COMPENSATION PANEL OF PHYSICIANS**

Carilion Family Medicine of Blacksburg 901 Plantation Road Blacksburg, Virginia 24060	William Hendricks, M.D. David Hudgins, M.D. Lucian Robinson, M.D. Chad Thompson, M.D. Christopher Mertes, MD Camilla Tsui, M.D. Richard Shephard, M.D. Lori Foster, Nurse Practitioner Chris Whitaker, Nurse Practitioner	(540) 951-0352
Carilion Clinic Family Medicine 1420 North Main Street Blacksburg, Virginia 24060	Robert Stockburger, M.D. Jeremy H. Freeman, M.D.	(540) 951-8380
Christiansburg Family Medicine 6 Hickok Street Christiansburg, Virginia 24073	Carl Hannah, M.D. Kenneth Jones, M.D. Serge Depret-Guillaume, MD	(540) 382-6148
Carilion Family Medicine 701 Randolph Street, Suite 120 Radford, Virginia 24141	Daniel Kelly, M.D. Scott Kincaid, M.D. Carolyn Walter, Nurse Practitioner	(540) 731-3200
Medical Associates of Southwest Va 810 Hospital Drive Blacksburg, VA 24060	J. Michael Payne, M.D. Greg C. Beato, MD Carol Ballard, Nurse Practitioner	(540) 951-3311 Fax: (540) 552-8564
Dr. Thaddeus Lee 600 E. Main St, Suite D Radford, VA 24141	Thaddeus Lee, MD	(540) 633-3980 Fax: (540) 633-3985
New River Internal Medicine 2460 Lee Highway Pulaski, Virginia 24301	Dr. Ehikioya O. Osemobor, MD	(540) 980-8804 www.nrmedicine.com
MedExpress Urgent Care Facility	Christiansburg Urgent Care Center 100 Spradlin Farm Drive; Christiansburg	(540) 381-2745
Velocity Care Urgent Care Center	434 Peppers Ferry Rd NW; Christiansburg	(540) 381-9540 or (540)382-6000
Velocity Care by Carilion	4035 Electric Rd, Ste. A; Roanoke, Va 24018	(540) 772-8670

**THE CLOSEST EMERGENCY FACILITY MAY BE USED IN AN EMERGENCY SITUATION. ONCE THE EMERGENCY TREATMENT IS COMPLETED, A PANEL PHYSICIAN MUST BE CHOSEN FOR YOUR FOLLOW-UP CARE.**

\_\_\_\_\_ **I agree** to select a doctor from the above panel.

\_\_\_\_\_ **I decline** to select a doctor from the above panel. I understand that I will have to pay for any medical treatment or doctor bills, and that I may be denied worker's compensation for any absence based on disability which is not certified by an approved panel doctor.

\_\_\_\_\_  
EMPLOYEE (Please Print)

\_\_\_\_\_  
DATE

## MONTGOMERY COUNTY - SPECIALISTS PANEL

### **ORTHOPAEDICS**

Radford Orthopaedic Center 601 Harvey Street Radford, VA 24141	Kerry B. Donnelly, M.D. Kenneth W. Gray, M.D.	(540) 639-9315
1940 Braeburn Circle Salem, VA 24153 (Spinal Surgery Only)	James Leipzig, M.D.	(540) 725-9771

### **CHIROPRACTIC**

McClelland Chiropractic Clinic 155 Walters Drive Christiansburg, VA 24073	Dr. Mark Hunley <i><u>(Spinal Treatment Only)</u></i>	(540) 382-3333
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### **REHABILITATION**

Ability Physical Medicine and Rehabilitation, Inc. 3706 South Main Street, Suite A Blacksburg, VA 24060	Richard L. Wilson, Jr., M.D.	(540) 951-9000
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### **NEUROLOGIST**

Dr. Steven Nack 210 Professional Park Drive Blacksburg, VA 24060	Dr. Steven Nack <i><u>(Nerve Conductions and EMG's Only)</u></i>	(540) 961-0410
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COUNTY OF MONTGOMERY, VIRGINIA

DATE: \_\_\_\_\_

STATEMENT OF ACKNOWLEDGEMENT

I have received a copy of the Montgomery County Personnel Manual (Policies and Procedures) that outlines my privileges and obligations as an employee of this County. I understand that it is my responsibility to familiarize myself with the information in this manual. The plans, policies, and procedures described are regarded as conditions of employment. I understand that the County of Montgomery reserves the right to modify, revoke, suspend, terminate or change any or all such plans, policies, or procedures, in whole or in part, at any time with or without notice. I also understand that the language which appears in this manual is not intended to create nor is it constructed to constitute a contract between the County of Montgomery and any one or all of its employees.

\_\_\_\_\_  
PRINTED NAME

\_\_\_\_\_  
SIGNATURE OF EMPLOYEE