

# DINWIDDIE COUNTY PERSONNEL MANUAL

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## I. PURPOSE

The objective of this Manual is to provide a uniform system of personnel administration for the staff of the County of Dinwiddie (“County”), based on merit principles, equitable compensation, open competition in hiring and advancement, and equal employment opportunities.

It is the policy of the County to establish reasonable rules of employment conduct (i.e., guidelines for management and employees to follow) and to ensure compliance with these rules through a program consistent with the best interests of the County and its employees. THIS MANUAL IS NOT, AND SHALL NOT BE CONSTRUED AS, AN EXPLICIT OR IMPLIED CONTRACT, SHALL NOT MODIFY ANY EXISTING AT-WILL STATUS OF ANY COUNTY EMPLOYEE, AND SHALL NOT CREATE ANY DUE PROCESS REQUIREMENT IN EXCESS OF FEDERAL OR STATE CONSTITUTIONAL OR STATUTORY REQUIREMENTS. THE TERM AT-WILL MEANS EMPLOYEES CAN TERMINATE OR BE TERMINATED AT WILL. EXCEPTIONS ARE EMPLOYEES HAVING WRITTEN CONTRACTS SIGNED BY THE BOARD OF SUPERVISORS.

Additionally, it is the policy of the County to strive for safety in all activities and operations and to carry out the commitment of compliance with health and safety laws applicable to the County by enlisting the help of all employees to ensure that public and work areas are free of hazardous conditions.

The County Administrator has the authority and responsibility for administering the personnel system established under these policies and for rendering interpretations.

Whenever responsibilities fall to the County Administrator under these Policies, those duties may be delegated.

## II. DEFINITIONS

- A. **Exempt Employee** – a salaried employee who performs executive, administrative or professional duties and certain computer professionals as defined under the Fair Labor Standards Act and its regulations and is exempt from the overtime provisions of the FLSA.
- B. **Full-time Employee** – an individual hired on either a salary or wage basis for an established position for an indefinite term who is hired to work a minimum of (40) forty hours a week.
- C. **Part-time Employee** – an individual hired on either a salary or wage basis for an established position for an indefinite term who is expected to work an established period of time that is less than (40) forty hours per week.
- D. **Probationary Employee** – a full or part-time employee who has not completed their probationary period. (See Section IV.C for more information.)

- E. **Regular Employee** – An employee hired into a position that was established to perform duties of a continuing nature.
- F. **Restricted Employee** – An employee who serves in a specially funded or otherwise restricted position. Employees who serve in such positions may not have the same benefits afforded regular employees nor may they have the right to grieve a termination or the end of the funded position.
- F. **Temporary Employee** – an individual hired on a term basis, *e.g.*, day, week, period of months or on a project basis.
- G. **County Administrator** – the County Administrator or another individual designated by him or her to fulfill the responsibilities given to that Office in these policies.
- H. **Human Resources Office** – The office that provides guidance on these policies and that maintains the personnel and timekeeping reports.
- I. **Work Week** – For the purpose of calculating entitlements for overtime, the County’s work week begins at 12:01 a.m. Sunday and ends at 12:00 midnight Saturday; fire protection and law enforcement may have different work periods.

### **III. EQUAL EMPLOYMENT OPPORTUNITY**

#### **A. Policy Statement**

It is the policy of the County to provide equal opportunity in employment and to administer employment policies without regard to race, color, religion, gender, age, national origin, marital status, sexual orientation, pregnancy, or disability. This policy applies to every aspect of employment practices including, but not limited to the following:

1. Recruiting, hiring and promoting in all job classifications without regard to race, color, religion, gender, age, national origin, marital status, sexual orientation, pregnancy, or disability, except where such a factor can be demonstrated as a bona fide occupational qualification.
2. All decisions for hiring or promotion shall be based solely upon each individual's qualifications for the position to be filled.
3. Other personnel actions such as compensation, benefits, transfers, layoffs, training, and/or assignments, will be administered without regard to race, color, religion, national origin, gender, age, marital status, sexual orientation, pregnancy, or disability.

## **B. Harassment**

The County is committed to having a diverse workforce with all employees being valued for their individual capabilities and contributions, complying with all federal, state, and local laws on equal employment opportunity, and providing a workplace free from interpersonal conduct that does not relate to the County's business. In particular, the hostile atmosphere created by remarks and/or animosity based on ethnicity, race, sexual orientation, gender, national origin, marital status, disability, religious traits, pregnancy, unwelcome sexual advances, requests for sexual favors, or other similar conduct is not permitted.

Harassment based on race, gender, color, national origin, religion, age, marital status, sexual orientation, pregnancy, or disability will not be tolerated. Harassment arises from the dynamics of the workplace and can be based on nuances, subtle perceptions, and implicit communications. Conduct that may rise to the level of harassment includes verbal remarks (epithets, derogatory statements, slurs, jokes), physical contact (assaults, physical interference with movement or work, touching), visual displays (displaying of printed or photographic materials, objects), and other actions that are demeaning or hostile.

## **C. Sexual Harassment**

Sexual harassment is unwelcome advances, requests for favors, or other verbal or physical conduct of a sexual nature when:

1. submission to such conduct is either explicitly or implicitly made a term of condition of employment;
2. submission or rejection of such conduct is used as a basis for employment decisions;
3. the conduct is severe or pervasive enough to create an intimidating, hostile, or offensive work environment.

Examples of sexual harassment are:

1. physical assaults;
2. subtle or overt pressures or direct requests for sexual favors
3. inappropriate displays of sexually suggestive objects or pictures;
4. a pattern of unwelcome conduct of a sexual nature that would be offensive to a reasonable person such as unnecessary touching, abusive or demeaning language or gestures (including remarks about another's clothing, body or body movements, or sexual activities), or teasing or joking.

No supervisor or coworker shall explicitly or implicitly communicate that an employee's submission to or rejection of sexual advances will in any way influence any personnel decision regarding that employee's employment, evaluation, wages, advancement, assigned duties, shifts, or any other conditions of employment.

**D. Accommodating Individuals with Disabilities**

The County provides equal employment opportunities to qualified individuals with disabilities. Reasonable accommodations will be provided to a qualified employee or applicant with a disability when that employee or applicant requests an accommodation. A qualified employee or applicant is one who is able to perform the essential functions of the job with or without accommodation. A request for an accommodation will be denied if the accommodation is not shown to be effective, places an undue burden on the County, or if the employee poses a direct threat to health and safety.

**E. Violations**

An employee who believes that the Equal Employment Opportunity policy is being violated should (1) inform the offending person(s) that the conduct is unwelcome and (2) should report the conduct immediately to the County Administrator or Human Resources Officer/Risk Manager. The report should be made in writing; however, a report will also be accepted by phone or in person.

Charges will be promptly and thoroughly investigated and corrective actions taken if the charge is founded. If it is determined that a violation has occurred, appropriate relief for the employee(s) bringing the complaint and appropriate disciplinary action, up to and including discharge, against the person(s) who violated the policy will follow.

A non-employee who subjects an employee to harassment in the workplace will be informed of the County's policy and appropriate actions will be taken to protect the employee from future harassing conduct.

An employee violating this policy will be subject to disciplinary action, up to and including termination. The employee who brought the complaint will be provided information on the outcome of the investigation.

**F. Retaliation**

Retaliation is illegal and contrary to the policy of the County. Employees who bring complaints of discrimination or who identify potential violations, witnesses interviewed during the investigation, and others who may have opposed discriminatory conduct are protected from retaliatory acts.

If an employee believes that he or she is being retaliated against, a report, preferably in writing, should be made to the County Administrator. Those who are found to be acting in a retaliatory manner will be disciplined for such conduct.

## IV. RECRUITMENT AND SELECTION

### A. Open Positions

All positions shall be open to all individuals who meet the minimum requirements for the position. The recruitment objective is to obtain well-qualified applicants for all vacancies and selection shall be based on the best-qualified person available at the salary offered for the particular position.

First consideration will be given to current employees who desire to fill an open position, provided that the current employee is qualified for the position and the placement best serves the needs of the County. The County Administrator, at his discretion, may elect to recruit through open competition and not through the internal hiring process for any vacancy.

### B. Hiring of Relatives

No family member shall directly or indirectly supervise another member of the same family. A selection of a family member of a department head or higher County official shall be reviewed and approved by the County Administrator prior to their employment. A family member of the Board of Supervisors shall not be hired by the County in any capacity.

A family member is defined for the purposes of this section as spouse, parent, spouse's parent, son, daughter, brother, sister, son-in-law, daughter-in-law, sister-in-law, brother-in-law, grandparents, grandchildren, step-children, guardian, and step-parents.

### C. Probationary Period

Every employee must serve a probationary period in the position. During this period the employee must show that he or she is capable and willing to perform the job satisfactorily. At three (3) months and at the end of the probationary period the employee will be evaluated to determine satisfactory performance. If satisfactory performance is attained the employee will be entitled to all the benefits of non-probationary status. The probationary period and date is extended for all leaves without pay that were taken during the period.

1. All new full-time and part-time employees serve a six (6) month probationary period.
2. All employees who apply for and obtain another position within the County will serve a three (3) month probationary period in the new position.
3. Employees who are transferred, demoted, or who otherwise are placed in a new position at the direction of management do not have to serve a probationary period.

4. In establishing a probationary period, the County does not abrogate or modify in any way the employment-at-will status that applies to its employment relationship with all employees.

**D. Hiring Authority**

The County Administrator has complete authority for hiring, promoting and discharging employees in accordance with these policies.

**V. EMPLOYEE COMPENSATION**

**A. Pay and Classifications**

1. The compensation plan for employees shall consist of:
  - a. A classification system for all regular positions.
  - b. A paygrade that sets a salary range for each regular position.
2. The rates of pay for each employee within a paygrade shall be set by the County Administrator.
3. The compensation plan may be amended by the County Board of Supervisors or by the County Administrator within the limits of appropriations by the Board of Supervisors.
4. New employees should be placed on the minimum pay step for the position. Placement on the minimum step is based upon the assumption that a new employee meets the minimum qualifications stated in the class specification. Exceptions may be made in the following cases:
  - a. When a new employee's qualifications are less than the minimum, the employee shall enter service at one or two steps below the minimum rate of the class;
  - b. When a new employee more than meets the minimum qualifications,<sup>1</sup> the employee may be appointed at a higher pay step.

**B. Salary**

Salary is a predetermined amount of compensation regularly received each pay period. The following are the number of hours that are to be worked for the salary received:

1. Exempt Employees: employees who perform duties exempt from the overtime requirements of the Fair Labor Standards Act receive a salary for however many hours they work in a work week. Full-time exempt employees are expected to work

a regular work week of at least forty (40) hours.

2. Non-Exempt Employees: employees who perform duties that are not exempt from the overtime requirements of the Fair Labor Standards Act receive a salary for forty (40) hours of work in a work week.
3. Law Enforcement Employees: employees who perform law enforcement protection duties have a work period of fourteen (14) consecutive days. These employees receive a salary for 80 hours worked before straight time or time and a half overtime is due in the established work period.<sup>2 3</sup>
4. Fire Protection Employees: employees who perform fire protection duties have a work period of twenty-eight (28) consecutive days. These employees receive a salary for 216 hours before time and a half overtime is due in the established work period. Fire protection employees will receive half time payment for all hours worked or on any form of paid leave between two hundred twelve (212) and two hundred sixteen (216) hours in the established work period.<sup>4</sup>
5. There is nothing in these policies that prohibits an employee receiving hourly wages in lieu of a salary.

### **C. Hours of Work**

#### 1. Hours of Work

The County Administrator shall establish the hours of work for all County employees. It is a condition of employment that each employee strictly adheres to the work schedule.

#### 2. Standard Schedule

The standard scheduled workweek for which salary is paid consists of 40 hours during a seven day work period, with the exception of law enforcement and fire protection employees. Most schedules are for Monday through Friday, but schedules may be adjusted to include weekend or evening hours as may be necessary. This does not preclude the establishment of specified schedules other than 40 hours in a given work period if approved by the County Administrator. For law enforcement employees, the schedule is established for a period of fourteen (14) days<sup>5</sup>; the schedule is established for twenty-eight (28) days for fire protection employees.

#### 3. Meal Breaks

Employees are required to take a 30 minute meal break. The meal break does not count in the hours worked (unless the employee is scheduled to work through the meal break).

4. Flexible Scheduling

Flexible work scheduling may be used, with the approval of the supervisor, for the purpose of extending a meal break or for adjusting the day's scheduled hours; if such adjustment in schedule is made, the employee will be required to adjust the hours worked in that day so that there will be no missed work time. Under no circumstances may the time be made up during another workweek.

5. Late Arrivals

If an employee is unable to report for work or expects to be late, the employee must contact his supervisor as soon as possible but no later than the beginning of his or her scheduled work hour and provide the reason for his absence or tardiness. Paid leave may or may not be approved for such tardiness. If an employee has difficulty reaching his supervisor, he should leave a message on the supervisor's telephone reporting his absence; after a message is left the employee must continue to attempt to contact the supervisor. The responsibility to notify a supervisor(s) about absences or about tardiness always rests with the employee.

6. Adjustments to Work Schedules

Hours of work, schedules, and duty assignments within a work period are to be established by the Department Head. They may vary among employees and work units. Schedules may also be adjusted to meet FMLA and ADA requirements.

7. Absence Without Leave

Absence without leave is defined as the failure to report for work without the approval of the employee's supervisor or Department Head. In addition, it includes the failure of an employee to report for work as expected at the end of an authorized leave. If the employee is unable to provide an adequate explanation upon the return to work for failing to get the proper approval for the absence, the employee may be subject to disciplinary action in accordance with the standards of conduct listed in this manual. All absences without leave will result in an hour for hour deduction in salary for non-exempt employees. Exempt employees may receive a one day suspension without pay.

8. Time Reports

Every employee is required to complete reports for hours or days worked. Employees exempt from overtime must report total days worked and any leave taken during each week. All other employees must keep daily time reports showing hours worked each day.

The accuracy of the reports is the responsibility of each employee. The County will

provide forms to be used for reporting.

**D. Performance Increases**

The County promotes excellence in its workforce. Salary increases within budget constraints may be given to that end. Each employee's performance will be reviewed annually during the period of May 1 – June 15 and based on satisfactory performance and contributions to the organization, pay increases may be given. In exceptional circumstances an employee's pay may be increased in less than a year for meritorious service or enhanced responsibilities, per County Administrator's approval. Pay increases are not automatic or guaranteed.

**E. Overtime Compensation**

Employees who are not in exempt positions under the Fair Labor Standards Act, with the exception of law enforcement and fire protection employees, will be compensated in wages at the rate of time and a half for all hours actually worked in excess of forty (40) hours a work week.

Law enforcement employees will be compensated in wages at the rate of straight time for all hours worked or on paid annual or holiday leave between eighty (80) and eighty-six (86) in a 14 consecutive day pay period. Law enforcement employees will be compensated in wages at the rate of time and a half for all hours worked or on paid annual or holiday leave in excess of eighty-six (86) hours in a 14 consecutive day pay period.<sup>6</sup>

Fire protection employees will be compensated in wages at the rate of half time for all hours worked or on any form of paid leave between two hundred twelve (212) and two hundred sixteen (216) hours in a 28 consecutive day pay period. Fire protection employees will be compensated in wages at the rate of time and a half for all hours worked or on any form of paid leave in excess of two hundred sixteen (216) hours in a 28 consecutive day pay period.

Unless authorized to do so, employees should not work over their scheduled work hours during a workweek. If an employee works over the scheduled hours for a particular day without advanced authorization, the employee should inform the supervisor immediately on the day following.

Exempt employees who are required to work beyond normal hours or on weekends and holidays may be given Special Duty Leave at the discretion of the County Administrator.

An employee who believes that a provision of the Fair Labor Standards Act has been violated (the position is misclassified as exempt, overtime compensation is due, improper deductions from wages, etc.) or that there has been retaliation for bringing a complaint or asserting a right under the Act, may file a complaint with the County Administrator or the Human Resources Officer/Risk Manager. Complaints will be promptly and thoroughly investigated and corrective action, including the payment of additional compensation, will

be taken if a violation is founded.

**F. Benefits**

1. Benefits Available to Regular Full-Time Employees

Regular full-time employees are eligible for the following benefits:

a. Group Health Plan Coverage

Health plan coverage is provided through a program established by the Board of Supervisors. The terms of such plan(s) are subject to change as the Board may determine. The County requires that the payment for health care coverage be made as a payroll deduction; employees will have to authorize this deduction from their paycheck.

b. Group Health Plan Continued Coverage

Employees who leave employment with the County may elect to continue health care coverage for themselves and their family members, if the family members were enrolled at the time of termination, under the terms of COBRA. Health plan coverage for retirees is provided through a program established by the Board of Supervisors.<sup>7</sup> The terms of such plan(s) are subject to change as the Board may determine.

c. Group Life Insurance

The Virginia Retirement System group life insurance program is provided at no cost to the employee. The plan provides life insurance and accidental death and dismemberment coverage during active employment. The coverage amount for natural death is the employee's salary, rounded to the next highest thousand dollars, then doubled. The accidental death benefit is double the natural death benefit. In addition, any member of the Group Life Insurance plan is eligible to purchase additional life insurance at a value of up to four-times his/her salary through the program's optional life insurance program and may elect coverage for the spouse and children.

d. Other Benefits Deductions

In addition to the above benefits, employees may have other voluntary deductions withheld from their paychecks for any additional programs that have been approved by the County.

e. Retirement and Disability Retirement <sup>8</sup>

Dinwiddie County participates in the Virginia Retirement System (“VRS”). VRS requires each active employee in a covered position to contribute five percent (5%) of his or her salary to VRS each pay period. “Covered positions” include (1) state employees, including employees of institutions of higher education; (2) political subdivision employees, including employees of local governments, non-professional employees of public school boards, and other entities that choose to join VRS; (3) state police officers; (4) law enforcement officers; (5) judges; and (6) public school board employees, including teachers, administrators, supervisors, managers, nurses and clerical personnel. Historically, Dinwiddie County has contributed the prescribed amount on behalf of its employees.

Effective July 1, 2010, Chapter 737 of the 2010 Acts of Assembly established two plans within the Virginia Retirement System. Employees qualify as either “Plan 1 Employees” or “Plan 2 Employees” as described below:

PLAN 1:

- Employees hired into covered positions before July 1, 2010.
- Employees hired into covered positions on or after July 1, 2010 whose membership date in VRS is before July 1, 2010, who have not retired and who retain VRS service credit or an account balance in a Virginia optional retirement plan (ORP) earned prior to July 1, 2010.

PLAN 2:

- Employees hired into covered positions on or after July 1, 2010 who join VRS on or after July 1, 2010.
- Employees hired into covered positions on or after July 1, 2010, whose membership date in VRS is before July 1, 2010, who have not retired and who have withdrawn all their plan contributions in VRS or a Virginia ORP earned prior to July 1, 2010.

As of July 1, 2010, Plan 2 Employees will be required to contribute the prescribed amount to VRS each pay period *from their own salaries*. Plan 1 Employees will continue to have their required contributions made by the County.

The Virginia Retirement Systems plans offer disability retirement.

2. Benefits Available to All Employees

All employees receive the following benefits:

a. Social Security/Medicare

A portion of an employee's salary or wages is withheld each pay period for Social Security/Medicare contributions in accordance with the prevailing federal contribution schedule. The County, as employer, is required to match the amount that is withheld from the employee for these purposes.

b. Workers' Compensation

Workers' Compensation benefits are provided to all employees. In the event of a work-related illness or injury, an employee should notify the Department Head immediately. The County Administrator's Office should be notified the same day so that the necessary information may be verified and the required forms completed. Additional information on Workers' Compensation is found in the section IX.A of this policy.

**G. Pay Days<sup>9</sup>**

Pay days occur semi-monthly with paychecks issued on the fifteenth and final day of the month. When a pay day occurs on a County holiday, employees normally are paid the day before the holiday. If a pay day occurs on a weekend, employees normally are paid on the Friday before.

**VI. HOLIDAYS AND LEAVE**

**A. Holidays<sup>1011</sup>**

Employees are entitled to days designated as holidays by the Board of Supervisors. The County typically observes the following holidays on the following dates. Holidays which fall on a Saturday or Sunday typically are observed the previous Friday or following Monday, as applicable.

**General:** 40-hour week employees receive paid leave on all County-designated holidays.

New Year's Day	January 1
Lee-Jackson Day	Friday preceding 3 <sup>rd</sup> Monday of January
Martin Luther King, Jr.'s Birthday	3 <sup>rd</sup> Monday of January
Presidents' Day	3 <sup>rd</sup> Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	1 <sup>st</sup> Monday in September
Columbus Day	2 <sup>nd</sup> Monday in October
Veterans' Day	November 11
Thanksgiving Day	4 <sup>th</sup> Thursday in November
Day after Thanksgiving	4 <sup>th</sup> Friday in November

Christmas Day

December 25

**Public Safety Employees:** 12- and 24-hour employees in public safety (Fire, EMS, Sheriff's Department and Dispatch) accrue four (4) hours of holiday leave per pay period (96 hours annually) for the first twelve (12) County-designated holidays which may be used for the same purposes as annual leave. 12- and 24- hour employees receive cash in lieu of holiday leave for all County holidays observed in excess of 12. Use of holiday leave by public safety employees is covered in Section B(8), Holiday Leave.

**B. Leave<sup>12</sup>**

**1. Annual Leave<sup>13</sup>**

Annual leave is paid leave that may be used for personal purposes. Annual leave may not be used in lieu of sick leave unless pre-approved by the immediate supervisor. If approved, the employee may be required to submit a signed physician's note to his/her immediate supervisor.

Full-time employees earn annual leave each payday according to years of full-time service to the County, as shown in the following charts. In the event employees transition from 40-hour week or law enforcement employment to fire protection employment or vice versa, their leave balance will remain the same and the applicable accrual rate will take effect the pay period the transfer occurs. Employees on unpaid leave during any portion of a pay period will not earn annual leave for that pay period. Annual leave balances may not be transferred from another employer.

40-hour week and law enforcement employees will earn annual leave at the following rates:

<u>Full-Time Years of Service to the County</u>	<u>Hours earned per pay period</u>	<u>Hours earned per year</u>
0 – 5 yrs. inclusive	4 hours	96 hours
6 – 10 yrs. inclusive	5 hours	120 hours
11 – 15 yrs. inclusive	6 hours	144 hours
16 yrs. or more	7 hours	168 hours

Fire protection employees will earn annual leave at the following rates:<sup>14</sup>

<u>Full-Time Years of Service to the County</u>	<u>Hours earned per pay period</u>	<u>Hours earned per year</u>
0 – 5 yrs. inclusive	5.5 hours	132 hours
6 – 10 yrs. inclusive	7 hours	168 hours
11 – 15 yrs. inclusive	8.5 hours	204 hours
16 yrs. or more	10 hours	240 hours

Employees must schedule annual leave with their immediate supervisor and/or Department Head in advance. Annual leave requests will be granted if the request does not conflict with the needs or objectives of the department. Management's decision with respect to leave is final.

An employee may carry over all annual leave to the next year. However, the County will pay out only a limited amount of accrued annual leave at termination of employment. The maximum payout may be calculated by multiplying the employee's pay period accrual rate in December times twenty-four (24). Upon death of an employee, the County will remit the payment of accrued annual leave to the employee's estate. If such estate has not been qualified, payment shall be made pursuant to Section 64.1-123 of the Code of Virginia.

2. **Sick Leave**<sup>15,22</sup>

Sick leave is paid leave that an employee may use when he or she is unable to work due to 1) an illness or injury incapacitating the employee; 2) exposure to a contagious diseases such that presence on duty would jeopardize the health of fellow workers or the public; or 3) a medical or dental appointment for examination or treatment. Upon approval by the employee's immediate supervisor, an employee may also use their accrued sick leave if the employee is unable to work due to an illness, injury or medical appointment of the employee's child, stepchild, spouse, or parent, regardless of residence, or any relative residing in the employee's home. *Requests for family sick leave must include the name and relationship of the family member for whom leave is needed.*

Full-time, 40-hour week and law enforcement employees earn four (4) hours of paid sick leave each pay day. Full-time, fire protection employees earn five and one half (5.5) hours of paid sick leave each pay day. Employees on unpaid leave during any portion of a pay period will not earn sick leave for that pay period.

An employee should request sick leave as soon as is practicable, but no later than two hours before the designated reporting time. Failure to request sick leave timely may result in the reclassification of sick leave used to unpaid leave. An employee who has used sick leave may not have it reclassified as to annual leave.

An employee who uses sick leave for three or more consecutive business days **must** provide a signed doctor's note/physician's statement explaining the reason for sick leave and the employee's anticipated date of return. Failure to provide a satisfactory signed doctor's note/physician's statement may result in reclassification of sick leave used to unpaid leave. Requiring a signed doctor's note/physician's statement for continuing medical conditions that have been substantiated previously is at the immediate supervisor or Department Head's discretion. Notwithstanding the above, the County reserves the right, at any time, to require an employee who is using or has used sick leave to provide a signed doctor's note/physician's statement

certifying the reason for the employee's absence. At the County's discretion, an employee may be required to provide a signed doctor's note/physician's statement certifying that the employee is able to fulfill all the responsibilities of his or her position.

All accrued sick leave may be carried over to the next year. Accrued sick leave shall not be paid out upon termination of employment.

3. **Family and Medical Leave** <sup>16</sup>

Employees are entitled to participate in the benefits of the Family and Medical Leave Act ("FMLA"). Eligible employees are provided with twelve (12) weeks of job protected leave in a twelve (12) month period. FMLA is unpaid leave; however, the County may require an employee to use accrued paid leave on an hour for hour basis in conjunction with FMLA leave until the paid leave balances are exhausted.

a. Eligible Employees

To be covered under the FMLA, an employee must have worked for the County for twelve (12) months (which do not have to be consecutive) and must have worked at least 1,250 hours within the twelve (12) months preceding the start of the leave. Part-time and temporary employees who meet these requirements are eligible for FMLA leave.

Key employees (determined at the time the leave is requested) are eligible for FMLA leave. However, a key employee may not have job restoration rights if keeping the positions open would cause a "substantial and grievous economic injury". (A key employee must be salaried and fall within the highest paid 10% of the workforce.)

b. Purposes for which FMLA Leave May Be Taken

FMLA leave may be used:

- 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 or 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.

c. Military Family Leave Entitlements

Eligible employees with a spouse, son, or daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation 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 a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active military duty that may render the servicemember medically unfit to perform his or her duties for which the servicemember is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list. *The serious injury or illness must have been incurred in the line of military duty while on active duty status and must have rendered the service member medically unfit to perform the duties of his or her office, grade, rank or rating. The leave is only available to care for the spouse, parent, child, or next of kin of the employee.*

d. 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 continuous 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 (employee's spouse, son or daughter, or parent) 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.

To qualify for leave due to the serious health condition of

- (1) a family member – the family member must be incapable of self-care (leave to care for a child with a serious health condition is only available if the child is (1) under the age of 18 or (2) over age 18 and incapable of self-care because of a physical or mental disability; or
- (2) the employee – the employee must be incapacitated or unable to work at all or unable to perform any of the essential functions of the employee’s position.

e. 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 the County’s normal call-in procedures.

Employees must provide sufficient information for the County to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include but not be limited to the employee is unable to perform essential 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.

f. 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. Applicable forms are located in Human Resources.

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.

g. Certification form Health Care Provider:

Employees may obtain a health care provider certification for all absences for which FMLA benefits are being requested in the Human Resources office. There are four certification forms:

- Leave for the employee's own serious health condition (WH-308E),
- Leave to care for a family member (WH-380F),
- Leave for the serious illness of a military service member (WH-385),
- Military exigency leave (WH-384)

Employees will have 15 calendar days to return the **completed** certification form after receipt of the employer's notice. This 15-day period may be extended if the employee is unable to return the form within that time period. For certain chronic conditions that extend beyond a year, certification may be requested on an annual basis. The County will notify the employee in writing, if the certification form contains incomplete or insufficient information. The employee will have 7 calendar days to cure the identified deficiencies. If not practicable under the circumstances or if the employee is unable after due diligence and good faith efforts, to obtain the additional information within 7 days, the period may be extended. If the deficiencies in the certification are not cured, the County may deny the FMLA leave.

The County may require the employee or the employee's family member to obtain certification from a second health care provider, and if the first and second certifications do not agree, the County may require a certification from a third health care provider. The County will pay for second and third health care provider certifications.

A health care provider may be a doctor of medicine or osteopathy, podiatrist, dentist, clinical psychologist, optometrist, chiropractor, nurse practitioners, nurse mid-wives, clinical social workers, or any other health care provider recognized by the County's health plan(s). Christian Science practitioners are also included within this definition.

h. FMLA Benefits

(1) Leave:

An eligible employee is entitled to use twelve weeks of unpaid leave during a twelve-month period. The twelve month period begins on

January 1 and terminates on December 31 of each year. Employees may be required to use accumulated paid leave (sick, vacation, compensatory, annual, etc.) on an hour for hour basis concurrently with the FMLA leave. If FMLA leave is exhausted before the end of the twelve month period, the employee will not be entitled to further FMLA leave.

An employee is required to request FMLA leave in writing at least thirty days before the leave is to start if the need for the leave is foreseeable. In circumstances when the leave is not foreseeable thirty days in advance, an employee must request the leave as soon as practicable or when the County has knowledge that an employee's leave may be for a FMLA purpose.

FMLA leave taken for a serious health condition of the employee or family member may be taken intermittently or on a reduced hour's basis. Certification from a health care provider for the need for intermittent or reduced hours will be required when the leave is not for the serious health condition of the employee. An employee must "make a reasonable effort" not to unduly disrupt the County's operations when scheduling FMLA leave.

FMLA leave taken for birth, adoption, placement, or foster care can not be taken intermittently unless the County agrees. If both parents work for the County, the total FMLA leave that may be taken for this event is twelve weeks, pro-rated between the parents as they choose. FMLA leave taken for the birth, adoption, placement, or foster care of a child must be taken within the twelve months following the event.

(2) Job Restoration:

Upon return from FMLA leave, an employee is entitled to be restored to the same position that was held before the start of the FMLA leave, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. Key employees are entitled to FMLA leave but are not entitled to job restoration if re-employment after the conclusion of the leave will cause a substantial and grievous economic injury to the County.

A key employee is a salaried employee who is among the highest paid ten percent of the County's workforce. A key employee will be notified in writing of his or her status in response to the employee's notice of intent to take FMLA leave, unless circumstances do not permit such notice. If a key employee is already on FMLA leave when the key employee notice is received, the employee will be

given a reasonable time to return to work before losing the right to job restoration.

(3) Health Benefits:

During designated FMLA leave, the employer must maintain the employee's health coverage under the "group health plan" on the same terms as if the employee had continued to work. If paid leave is used for FMLA purposes, an employee will maintain the same benefits as if working. If the employee is on unpaid leave, participation in the health care plan will continue, provided that the employee pays for his share of the premiums. If the employee fails to make the premium payments, the employee will be provided written notice of this failure and will be given an additional fifteen days to make payment in full. If payment is not made after this notice, health coverage will cease. If an employee does not return to work after the conclusion of the FMLA leave, the employee is responsible for reimbursing the County for the County's share of the health care premiums paid.

4. **Civil Leave**<sup>17</sup>

Civil leave is paid leave for "civil service," defined as time spent serving on a jury, attending court or an administrative proceeding as a witness in a matter in which the employee is not a party, and reasonable travel time associated with such service. Civil service time required as part of an employee's job with the County shall count as hours worked. County grievance proceedings are considered a job requirement for purposes of civil leave. An employee participating in five or fewer hours of civil service in a work day is expected to work the remaining hours in the work day.

Civil leave may not be used for any personal judicial or administrative hearings. Also, civil leave may not be used if the employee receives compensation for civil service (not including expense reimbursement) unless the employee remits the compensation to the County.

5. **Bereavement Leave**<sup>18</sup>

Bereavement leave is defined as leave with pay provided by the County that is granted to employees upon the death of a member of the immediate family. Immediate family for the purposes of bereavement leave is defined as: spouse, parent, son, daughter, brother, sister, grandparents, grandchildren, step-children, step-parents, guardian, and same relatives of spouse.

An employee may request to use bereavement leave for a period not to exceed twenty-four (24) hours of leave per death. If more than the twenty-four (24) hours of leave are needed, or if leave is desired for a death other than for a member of the

immediate family, another type of leave must be requested.

Bereavement leave must be approved by the Department Head. In the event of multiple deaths in the employee's immediate family, each death shall be treated separately and bereavement leave shall be granted accordingly.

6. **Military Leave**

An employee in a regular position who is called for active duty, or as a member of the reserve components, of the United States Army, Navy, Air Force, Marines Corps, and Coast Guard will have job restoration rights if (1) notice of the call for duty is provided to the County, (2) the employee has not previously used five years of military leave during his course of employment with the County, (3) the employee is honorably discharged, and (4) the employee upon the conclusion of military service reports back to work within the statutorily established time periods.

An employee must give the County advanced notice, either orally or in writing, of the call to military service. The County requests that an employee complete a leave request form and provide a copy of the military orders prior to departure. If an employee without justification fails to provide this notice, the employee will not be entitled to be restored to his job at the conclusion of the leave. If military orders were not provided prior to departure, in order to assure job restoration rights, an employee must provide such orders or evidence of military service.

An employee desiring to return to his position after military service must report back to work within these periods of time (travel time not included):

- a. Less than 30 days of service - within 8 hours of the first regularly scheduled work day after returning home
- b. 31-180 days of service - within 14 days of completing military service
- c. Over 181 days of service - no later than 90 days of completing military service.
- d. If the employee is incapacitated, injured, or ill from an illness or injury incurred during military service, the days allotted to report to work commences at the date that the employee recovers from such incapacity or illness provided that two years have not lapsed since discharge.

An employee on military leave who is in a regular position will receive fifteen days of paid leave per federal fiscal year; the remainder of the leave will be without County pay unless the Board of Supervisors decides to provide a supplement to military pay. The period of military service will count for the purposes of benefits as if the employee had remained employed in County employment, e.g. seniority and leave entitlements. To supplement the military pay received, an employee may

use accrued annual leave.

When an employee is called to military service, the employee has the right to elect under COBRA continuation of health plan coverage for up to eighteen months or for the duration of the military leave whichever is shorter. The County will provide the election forms in order that the employee and other covered individuals receive notice of their right to elect continuation coverage.

Upon return from military service the employee will be placed in the position he would have held if he had been continually employed. If the employee is no longer qualified to perform the duties of the former position, the employee may be placed in a position of like seniority status and pay. The County, at its election, may fill on a temporary basis, the position vacated by the employee on military leave.

7. **Special Duty Leave**<sup>19</sup>

Special Duty leave is an authorized hour-for-hour absence with full pay for hours worked on a holiday, rest day, or when the County offices are closed. The County Administrator, at his sole discretion, may provide exempt employees with special duty leave for hours worked on holidays and weekends. Employees whose normal schedule requires work on weekend days will not receive special duty leave for those days but only for work on a holiday.

**Public Safety Employees:** 12- and 24-hour employees in public safety (Fire Protection, EMS, Sheriff's Department, and Dispatch) will accrue four (4) hours of holiday leave per pay period (96 hours annually) for the first twelve (12) County observed holidays. Special duty leave may be used in lieu of annual leave and shall be taken for time approved by the employee's immediate supervisor or the Department Head. 12- and 24-hour employees will receive pay in lieu of special duty/holiday leave for all County holidays observed in excess of 12. Special duty leave hours lapse at the end of the calendar year. There is no payment for special duty leave at separation or termination. Holiday leave accrued each year must be used by June 30<sup>th</sup> of the following year or the balance will be forfeited. Notwithstanding the above, holiday leave balances existing at 1/1/11 must be used by 12/31/12 or the balance shall be forfeited.

8. **Unpaid Leave**<sup>20</sup>

Unpaid leave is leave without pay, and for which benefits and job restoration rights are at the discretion of the County Administrator. It does not include FMLA- or military-related leave without pay; for information on those types of leave; see "Family and Medical Leave" and "Military Leave," respectively. An employee must apply in writing to the immediate supervisor or Department Head to take unpaid leave. An employee may take a maximum of two (2) months of unpaid leave for reasons other than FMLA leave and military leave, unless otherwise granted by the County Administrator in his discretion, or unless otherwise required

by law. If an employee cannot return to work before the end of the two months, the employee will be separated from County service, unless otherwise required by law.

While an employee is on unpaid leave, the County will not contribute to the employee's health care coverage, retirement, life insurance, and other benefits, except at the discretion of the County Administrator. While the employee is on unpaid leave, an employee may elect to continue his or her health insurance coverage under COBRA, but the County will not contribute its share of the employee's health insurance premium. The employee must pay the entire premium in order to remain covered. If the employee fails to pay the amount due, the County will send written notice to the employee of this failure. If the employee fails to pay the amount due within fifteen (15) calendar days after receipt of this notice, the employee's health coverage will cease.

9. **Compensatory Leave**<sup>21 22</sup>

Compensatory leave is leave earned for overtime work. An employee may accrue compensatory leave in lieu of cash overtime at the County's sole discretion. The County, at its sole discretion, at any time, may pay cash overtime rather than compensatory leave and may cash out compensatory leave time.

The compensatory time accrual rate for non-public safety non-exempt employees who actually work over forty (40) hours in a workweek is one and a half hours of compensatory time for each hour, or part thereof, worked in excess of 40 hours.

Employees who regularly work periods of longer than 40 hours will receive overtime consistent with the Fair Labor Standards Act.

The County desires employees to use compensatory time in as close proximity to the date it was earned as possible. Employees are encouraged to request the use of this time from their supervisor during the following week. Supervisors should be flexible in permitting the use of compensatory leave and should deny it only when the demands of the workplace require it. An employee will be compensated for all unused compensatory leave upon separation from employment with the County.

10. **Leave Donation**<sup>23</sup>

Under the County's Leave Donation Program, County employees may be permitted to donate annual leave ("leave donors" or "applicants") to full-time, eligible County employees who are unable to work due to their own serious health condition or the serious health condition of an immediate family member ("recipients").

For purposes of leave donation, "serious health condition" has the same meaning as in "Family and Medical Leave," above. Donated leave may only be used for qualifying circumstances, however, if qualifying circumstances change, other leave may be applicable.

The Leave Donation Program works as follows:

1. *Awareness of need for leave.* Leave donation shall be coordinated through the Human Resource Office. Potential recipients **shall not** solicit leave donations through e-mail, flyers, or memorandums.
2. *Application to donate leave.* Potential leave donors shall submit a Leave Donation Form, available from Human Resources, to the applicable department head indicating their leave balance, the number of hours they want to donate (in increments of eight), and the intended recipient's name and department.
3. *Review of donation application.* The department head shall review the request and forward to Human Resources. Human Resources shall contact the potential recipient's department head to ensure they are supportive and, if all criteria are satisfied, approve the request. Any leave donation approval shall be subject to health provider certification of the serious health condition of the potential recipient, as provided in "Family and Medical Leave," above.
4. *Transfer of donated leave.* Human Resources shall instruct Payroll to subtract the donated leave from the Leave Donor's annual leave balance and make the donated leave available to the Recipient.
5. *Use of donated leave.* Recipients may begin to use donated leave in the pay period following the pay period in which the donated leave is made available. The leave request form should indicate that the type of leave used will be "donated leave." Recipients may receive a maximum of 10 workweeks of donated leave in a 12-month period, no more than four workweeks of which may be used to care for an immediate family member. If the recipient does not use any donated leave, the entire amount of donated leave will be transferred back to the leave donor.

Potential leave donors may donate as much leave as desired, except that (1) leave must be donated in eight hour increments, (2) no more than 10 workweeks of leave may be donated to any one recipient in any 12-month period, and (2) after donation, the leave donor must have an annual leave balance of at least 40 hours.

Recipients who are unable to work because of their own serious medical condition shall exhaust all sick leave, compensatory leave, holiday leave and must use all but 10 hours of their annual leave before using donated leave. Recipients who are out of work due to the serious medical condition of an immediate family member shall exhaust all family sick leave (if applicable), compensatory leave, holiday leave and annual leave before using donated leave. Employees receiving workers' compensation wages are not eligible to receive donated leave.

For benefits purposes, recipients will not accrue annual or sick leave and will not receive holiday leave or cash in lieu while using donated leave. Recipients using donated leave who are able to take full paid leave for a paid period will have benefit

expenses withheld as if the recipient was on sick leave. If a recipient's pay is not sufficient to cover the benefit deductions, Payroll will contact the employee to set up payment arrangements. Recipients will not receive credit with the Virginia Retirement System ("VRS") for time spent on donated leave, and contributions to VRS will be discontinued while the recipient is on donated leave.

Donated leave will not be available to a recipient after the end of the pay period in which Human Resources receives notification of approval of VRS disability retirement. Disability benefits will not begin until donated leave is exhausted.

Donated leave must be used within 12 months of the date first used; any donated leave remaining after 12 months will be forfeited. In cases where the recipient did not use any Donated Leave, the Donated Leave will be refunded to the donors in the exact number of hours donated. Accrued donated leave will not be paid out at termination.

## **VII. EMPLOYEE DEVELOPMENT**

It is the policy of the County to encourage employees to obtain training designed to develop the employee's value to the organization.

### **A. Required Training**

The cost of training and related expenses undertaken at the direction of the County will be paid in full by the County and the hours spent in training are considered work time and the employee will receive salary or wages for this time.

### **B. Education Leave**

Education leave is time off from work for educational pursuits taken for personal or professional development. An employee may request leave and / or reimbursement of tuition costs in accordance with the County's tuition reimbursement plan.

## **VIII. PERFORMANCE APPRAISALS**

The work of each employee will be evaluated at least annually by the immediate supervisor. The supervisor will meet with the employee to discuss the year's performance. A written report of the appraisal will be prepared with a copy provided to the employee being appraised and a copy for the personnel files. If the employee believes that the report is unfair, he or she may prepare comments to be attached to the supervisor's appraisal report.

## **IX. HEALTH AND SAFETY**

### **A. Workers' Compensation**

Workers' Compensation may provide benefits for an employee in the event of certain work related injuries, diseases or deaths. If the injury or disease is compensable the medical and disability benefits may be awarded.

A job related injury or disease, no matter how insignificant, must be reported to the supervisor as soon as possible, but within 24 hours. The supervisor is responsible for obtaining from the employee, co-workers, and/or the attending physician the cause(s) and effect(s) of the injury or disease and reporting, in a manner prescribed by the County Administrator, the following information:

- Employee's name and classification
- Nature of injury
- Date and time of injury
- Cause of injury
- Place where injury occurred
- Nature of any medical services required
- Any known or projected time lost from work as a result of injury

Such report shall be completed and submitted to the County Administrator by the close of business that day, but no later than twenty-four (24) hours after the accident, injury, or illness.

The County has selected a panel of physicians to whom employees must go for all work-related injuries. In the event an injury requires immediate medical attention, the employee may go directly to the nearest hospital emergency room; follow-up care must be with a doctor included in the panel of physicians. All time away from work must be authorized by the panel physician.

If an employee is unable to report to work because of a compensable Workers' Compensation injury or disease, the employee will be paid as provided by law. Workers' Compensation payments for lost work time do not begin until after the first (7) seven calendar days; if the disability continues for three weeks, the employee will be compensated for the first seven days of lost salary or wages.

To avoid a loss of pay, an employee absent Workers' Compensation may use accrued paid leave to cover the first seven days. If the employee receives compensation for the first seven days, and has used paid leave balances for that period, the employee can have the leave balances restored by paying the County the full amount of the hours used.

Workers' Compensation benefits pay up to 66 2/3% of the full amount of the salary or wages that the employee would have earned. Full-time employees may use their accrued paid leave to supplement the compensation received under Workers' Compensation up to an amount equal to full after tax salary.

## **B. Occupational Safety and Health**

The County attempts to provide a safe and healthy working environment for all employees by providing the necessary safety education and training. Employees shall follow all prescribed safety procedures when performing their daily activities and shall further

exercise all reasonable and prudent judgment to ensure safety. If an employee does not know, or is uncertain, on how to properly operate equipment, before doing so they should seek training from the supervisor or Safety Coordinator.

Each supervisor has the responsibility for ensuring that the various work centers are free from any recognized hazards that might lead to death or injury. Further, it is the responsibility of each employee to perform all work in a safe manner. All hazards, deaths, injuries, and illnesses that occur on County property or while performing work duties off-site must be reported to the County Administrator by the close of business that day, but no later than twenty-four (24) hours after the accident, injury, illness or of discovery of the safety violation.

Employees are directed to utilize all applicable safety procedures and to perform all work in a safe manner. Employees are responsible for bringing to their supervisor's attention any potential hazards that might exist within their workstation. Supervisors are responsible for developing and maintaining work safety rules and for providing these rules in writing to their subordinates.

Specifically, employees shall:

1. Report all injuries, regardless of severity, to the supervisor immediately but no later than twenty-four (24) hours. If the supervisor is not available, the injury must be reported to the County Administrator before medical treatment is sought unless the injury is one requiring emergency treatment;
2. Report and, if possible, correct all unsafe conditions or acts;
3. Avoid horseplay and mischief, which could cause injury;
4. Take all standard safety precautions to prevent injury; and
5. Follow all safety rules.

### **C. Operation Of A Motor Vehicle When Performing Job Duties**

Any applicant or employee who will operate a motor vehicle in the course of performing job duties must possess and maintain a valid Virginia driver's license with a driving record that is acceptable to the County. Generally negative points on a driver's license may disqualify the employee from using such vehicle in the performance of the job duties. Driving records will be checked prior to hiring and periodically during employment. Consent to this driving record check is a condition of employment.

The Department Head is responsible for notifying the County Administrator's Office of any employee who will operate a County-owned vehicle. Motor vehicle operators required to possess a commercial driver's license (CDL) will be subject to drug testing in accordance with federal law.

Employees provided with County-owned vehicles are to use them on official business only. Travel to and from an employee's home and the place of employment must be approved by the County Administrator and the value of such personal use of the vehicle will count as income to the employee. Any other use of the vehicle is not authorized.

Employees, who are assigned County vehicles, are responsible for assuring that the vehicles are properly operated, maintained, and the interiors kept clean. Smoking is not permitted in County vehicles. Employees are required to check their vehicles at least weekly to determine if they are operating properly, tires are properly inflated, etc., and report any problems promptly to their supervisor for attention.

The use of seat belts is required at all times when the vehicle is in operation. If weather conditions are such that the use of windshield wipers is required, employees are required to use headlights while operating the County vehicle.

#### **D. Vehicle Accident Investigation**

Accidents involving any County vehicle or equipment must be reported to the Human Resources Officer/Risk Manager immediately.

A review of the circumstances surrounding any vehicle accident will be made by the Human Resources Officer/Risk Manager utilizing reports of the accident including those filed by the employee and by the appropriate law enforcement agency. If an accident is found to be the result of employee negligence, the employee may be required to pay the costs of repairing or replacing the vehicle as well as any other damages to the County and third-parties. Additionally, the employee may be subject to disciplinary action.

#### **E. Workplace Violence**

The County has no tolerance for violence. If an employee displays any violence in the workplace or threatens violence in the workplace, the employee will be subject to immediate discipline, up to and including discharge, and criminal charges. The County defines violence to include physically harming another, shoving, pushing, harassment, intimidation, coercion, brandishing weapons and threats or talk of violence.

Employees can help prevent violence in the workplace by reporting what they see in the workplace that could indicate that a coworker is in trouble. Employees often are in a better position than management to know what is happening with those with whom they work. Concerns may be presented to the employee's supervisor or the Department Head.

Employees may not carry weapons on their person either inside the workplace or in the parking areas. In addition, when working outside their normal work area, employees are prohibited from carrying weapons on their person, unless the carrying of weapons is a part of their position.

Weapons include guns, knives, explosives and other items used to threaten harm to another person. Appropriate disciplinary action, up to and including discharge, will be taken against any employee who is in violation of this policy.

## **X. ELECTRONIC COMMUNICATIONS**

### **A. Communication Equipment and the Internet**

The County provides electronic, digital and wire communications equipment for business purposes. The use of this equipment is not for personal use. Messages received, sent, and stored on this equipment will be subject to monitoring from time to time and in the course of this monitoring may be read for content. Employees should be aware that there are stored records of all communications including images and sounds. There should be no expectation of privacy in any communications received, sent, or stored on equipment or on the Internet service provided by the County. The County will have access to a log of all usage, including a list of employees who have used the Internet and the sites they visited.

The County may provide unlimited access to the Internet and the World Wide Web to its employees as one of the many resources available to assist them in doing their jobs better and more efficiently. Therefore, the County may establish an Internet account that may be accessed by employees.

Employees may be provided with passwords and e-mail addresses to enable them to use the account; these addressees and passwords are not provided to make employees' usage confidential or private. E-mails, sound and image recordings generated on County work time or on County property are business records of the County. The usage of electronic, digital, or wire communication devices, including the Internet (whether it is used on the County's account or the employee's personal account), is subject to the same code of conduct which applies to all other actions in the workplace. Using the County's communications equipment and Internet account in a manner that violates any rules or regulations constitutes grounds for disciplinary action, up to and including discharge.

The Information Technology Department and the supervisor will have access to employee's passwords and may use such password to log on to the computer at any time for purposes of monitoring. Employees must not share their passwords with any other individual, including other employees or outsiders. Nor is it appropriate to attempt to subvert network security either by accessing the Internet without using your password or by seeking to discover other passwords to gain access.

Employees are representatives of the County when using the County's Internet account. Accordingly, they are expected to act and to communicate professionally on the Internet, not to engage in any commercial or illegal activities, or to use the account for personal business.

Using the Internet for personal reasons may result in disciplinary action. The following applies to Internet usage:

1. Acceptable Activities: – Activities that conform to the purpose, goals, and mission of the County and to each user’s authorized job duties and responsibilities. The following list, although not all-inclusive, provides some examples of acceptable uses:
  - Communication with federal, state, or local government personnel, vendors and other private businesses;
  - Communications, including information exchange, for professional development or to maintain knowledge or skills;
  - Activities involving university-association, government-advisory, or standards activities; and
  - Communications for administrative purposes.
  
2. Unacceptable Activities – Activities that do not conform to the purpose, goals, and mission of the County and to each user’s authorized job duties and responsibilities. The following list, although not all-inclusive, provides some examples of unacceptable uses:
  - Private or personal, for-profit, business activities (e.g., consulting for pay, sale of goods such as Avon and Amway products, etc.);
  - Use for any illegal purpose, including communications, which violate any laws or regulations;

**B. Consent to Monitoring**

Before using electronic, digital, and wire communications equipment employees will be required to consent to the monitoring of all communications sent, received and stored on equipment provided by the County or an electronic, wire, or digital services provided by the County.

**XI. ALCOHOL AND DRUG FREE WORKPLACE**

**A. General Overview**

All County workplaces shall be free from drugs and alcohol. The unlawful manufacture, distribution, dispensation, possession, or use of an illegal drug, controlled substance, or alcohol is prohibited in any County workplace. A “controlled substance” is any illegal drug or any controlled substance listed in Schedule I through V of Section 202 of the Controlled Substances Act (21 U.S.C. § 801). Employees shall not be involved with activities involving the unlawful application, possession, market, or transfer of controlled substances in any manner.

An employee who has reason to believe that the performance of another employee is impaired by a controlled substance or alcohol shall immediately notify the supervisor or County Administrator. If an employee is using any prescribed or over-the-counter medication that may impair performance of his or her duties, the employee shall report that

fact to the supervisor.

**B. Employee Responsibilities**

1. No employee shall unlawfully manufacture, dispense, possess, use, or distribute any controlled substance, prescribed medication, or alcohol.
2. No employee shall dispense, possess, use, or distribute any controlled substance, prescribed medication or alcohol while at work
3. Any employee convicted under a federal or state statute regulating controlled substances shall notify their supervisor and the County Administrator within five days after the conviction.
4. No employee shall consume alcoholic beverages immediately before work, during work hours, or while at work during breaks or lunches.
5. No employee shall be impaired by alcoholic beverages or illegal drugs during work hours, or consume such while at work during breaks or lunches.
6. No employee shall represent the County in an official capacity while impaired by alcohol, illegal drugs, or medication.
7. No employee using medication that may impair performance shall operate a motor vehicle or engage in safety sensitive functions while on duty for the County.
8. If an employee is using prescription or non-prescription medication that may impair performance of duties; the employee shall report the nature of the impairment to his or her supervisor.
9. An employee who has reason to believe that the performance of another employee is impaired by alcohol, illegal drugs, and/or medication shall immediately notify the supervisor or County Administrator.
10. Because of the serious nature of illegal use or abuse of alcohol, controlled substances, and/or non-prescribed use of medication, appropriate employee disciplinary action, up to and including termination, will be taken if an employee uses, distributes, or reports to work impaired by such substances.

**C. Drug & Alcohol Screening**

1. All Positions<sup>24</sup>

The County reserves the right to test all employees, regardless of position, for the presence of controlled substances and/or alcohol under the following situations:

- a. prior to hiring;
- b. on a random basis;
- c. upon reasonable suspicion that an employee is using a controlled substance and/or alcohol or is under the influence of a controlled substance and/or alcohol; and
- d. upon returning to work after a serious on-duty or off-duty accident that involved the use of alcohol and/or a controlled substance or after the employee has tested positive for controlled substance or alcohol use while on duty.

2. Safety Sensitive Positions Not Requiring a Commercial Drivers License

The County reserves the right to test all employees and applicants of safety sensitive positions for the presence of controlled substances and/or alcohol under the following situations:

- a. Prior to hiring;
- b. On a random basis;
- c. Upon reasonable suspicion that an employee is using a controlled substance and/or alcohol or is under the influence of a controlled substance and/or alcohol; and
- d. Upon returning to work after a serious on-duty or off-duty accident that involved the use of alcohol and/or a controlled substance, or after the employee has tested positive for controlled substance or alcohol use while on duty.

3. All Positions Requiring a Commercial Drivers License

Pursuant to the Omnibus Transportation Employee Testing Act of 1991 and the implementing regulations (49 C.F.R., Parts 40 and 382, et. al.) and this policy, the following applicants and employees for positions requiring a Commercial Drivers License (CDL) will be tested for controlled substances and/or alcohol under the following situations:

- a. Prior to hiring, if the position is safety-sensitive;
- b. On a random basis;
- c. Post-accident testing for accidents involving an employee:

- (1) Who was performing safety sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or
- (2) Who receives a citation within eight hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if the accident involved:
  - (a) bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
  - (b) one or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.
- d. Upon reasonable suspicion; and
- e. Upon return-to-duty and follow-up testing in accordance with 49 C.F.R. part 40, subpart O.

**D. Refusal to Submit to Test**

Applicants for safety sensitive positions who refuse to submit to a pre-employment controlled substance and/or alcohol test shall be removed from consideration for employment. Employees who refuse to submit to a controlled substance and/or alcohol test will be subjected to disciplinary action, including termination.

**E. Consequence of Positive Controlled Substance or Alcohol Test**

1. When a controlled substance or alcohol test is positive, or when the employee engages in the prohibited conduct by this policy, the employee may be disciplined for such conduct. The discipline may be a suspension or termination depending upon the circumstances. In lieu of termination for a first positive test, and with the concurrence of the County Administrator, an employee may be placed on leave without pay if the employee elects to participate in an approved rehabilitation program at the employee's expense. Upon the satisfactory completion of the rehabilitation program the employee will be permitted to return to work under the following conditions: (1) the employee presents adequate documentation that the rehabilitation program was successfully completed; (2) the employee consents to having the documentation verified through consultation with the rehabilitation program; (3) the employee submits to and passes a controlled substance or alcohol test; and (4) the employee consents to subsequent testing on a random basis for a period of a year.
2. Notwithstanding the requirements above, no employee required to have a

Commercial Drivers License (CDL) who has engaged in conduct prohibited by Section II may perform safety-sensitive functions, including driving a commercial motor vehicle, unless the employee has met the requirements of 49 C.F.R. part 40, subpart O.

**F. Reporting Requirements**

Employees must notify the County Administrator in writing of a conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction. The County shall inform any federal contracting or granting agency from which the County has received a grant or award of financial assistance within ten (10) calendar days after receiving actual notice that an employee covered under the federal Drug-Free Workplace Act, has been convicted of a criminal drug statute violation occurring in the workplace.

**XII. POLITICAL ACTIVITY**

**A. General Rules**

1. An employee shall not be asked or coerced to support a political activity, whether funds or time are involved.
2. An employee shall not engage in political activity on work premises during work hours.
3. An employee shall not use County-owned equipment, supplies or resources, and other attendant material (diskettes, paper, computer online and access charges, etc.) when engaged in political activities.
4. An employee shall not use, discriminate in favor of or against, any person or applicant for employment based on political activities.
5. An employee shall not use the employee's title or position while engaging in political activity.

**B. Federally Funded Positions**

Employees who work in positions that receive federal funding must abide by the provisions of the federal Hatch Act. The Hatch Act restricts certain political activities of employees in the agency. This policy is to set forth what activities fall within this Act.

1. Prohibited Activities
  - a. An employee may not
    - (1) be a candidate for public office in a partisan election (an election in

which one of more of the candidates was elected as or is a representative of a political party whose presidential candidates received votes in the preceding presidential election).

- (2) use official authority or influence for the purpose of interfering with or affecting the results of an election or a nomination for office
  - (3) directly or indirectly, coerce, attempt to coerce, command, or advise an employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes.
- b. These prohibitions are aimed at activities such as threatening to deny promotion to any employee who does not vote for certain candidates, requiring employees to contribute to a political fund, influencing an employee to buy tickets to a political fund raising event or similar event, or advising employees to take part in a political activity.

## 2. Permissible Activities

- a. An employee may take an active part in
  - (1) Political management which includes membership in as well as holding office in political parties, attendance and participation at political conventions, volunteer work for partisan candidates, political parties, etc..
  - (2) Political campaigns which includes campaigning for candidates in partisan elections by making speeches, writing letters, drafting speeches, and soliciting voters to support or oppose a candidate as well as attending political meetings or rallies.
  - (3) Fundraising which includes making financial contributions and soliciting and collecting voluntary political contributions.
- b. An employee may hold an office if appointed to a vacancy but cannot campaign for that office if it is in a partisan election.
- c. An employee may serve as an election official at the polls and may serve as a poll watcher, checker, or challenger for a political party or candidate in a partisan election.

## 3. Penalties for Violating the Law

If the federal Merit System Protection Board finds that the offense warrants dismissal from employment, the County will terminate the employee.

4. Further Information

The full text of the federal regulations is found in Title 5 of the Code of Federal Regulations part 151.

### **XIII. OUTSIDE EMPLOYMENT**

No employee may engage in any other employment, nor in any private business, nor in the conduct of a profession or other remunerative activity, during work hours or while engaged in work for the County. Additionally, employees may not engage in such remunerative activities outside work hours in a manner or to an extent that affects or is deemed likely to affect the employee's work productivity. In engaging in such activities, employees must adhere to the Virginia Conflict of Interest Act.

Any employee who wishes to work outside work hours must obtain prior written approval from the County Administrator.

### **XIV. CONFLICT OF INTEREST**

Employees are in a position of public trust; therefore, they may not engage in any activity, either privately or officially, where a conflict of interest may exist. Employees should never accept gifts, gratuities, or rewards for any services which they perform in their jobs. Additionally, County employees are prohibited from using information gained while performing their job to influence or further their own personal interests. All employees are subject to the Virginia Conflict of Interest Act, § 2.2-3100 et. seq. of the Code of Virginia, which prohibits an employee from engaging in a transaction or a contract in which the employee has a financial interest which comes to him or her directly or through an immediate family member. It is a crime to violate this Act and therefore every employee should read the act and seek advice prior to engaging in an activity for which a conflict of interest may exist.

### **XV. PERSONAL CONDUCT**

#### **A. Personal Appearance**

An important aspect of the County's public image is conveyed in an employee's personal appearance, as people tend to judge employees and any organization they may represent by their appearance. Respect to the people served by the County is reflected in part by personal appearance. Accordingly, employee's dress, grooming, and personal hygiene should be appropriate to the work situation. Employees are expected to dress in a manner that is presentable in a business environment. Employees are encouraged to talk with their supervisors when they have questions about proper appearance.

#### **B. Personal Finances**

Employees should manage their personal finances so that they do not adversely impact job

performance. The failure of employees to meet financial obligations may impose an administrative and financial burden on the County in terms of extra bookkeeping and the need to respond to, and comply with, court processes.

No employee will be terminated because of the fact that wages or salary has been subjected to garnishment for one indebtedness. However, repeated garnishments for more than one indebtedness may result in discipline, up to and including discharge, depending on the circumstances of the case.

**C. Telephone Usage**

1. Personal Local Calls

All personal telephone calls should be kept to a minimum number and length. Monthly telephone bills may be monitored by the Department Head and the County Administrator. The employee will be notified of any abuse of this policy for corrective action.

2. Personal Long Distance Calls

Personal long distance calls are not to be made from Department telephones unless charges are reversed or charged to the employee's personal telephone number or personal credit card account. Calls may not be charged to a Department account with the intent of reimbursing the Department unless prior approval has been obtained from the County Administrator and the County is reimbursed by the employee.

3. Personal Cellular Calls

Personal calls are not to be made on County cellular telephones unless prior approval has been obtained from the County Administrator. These telephones are provided to employees for work-related calls. If it becomes necessary to use the cellular phone for a personal call, the employee will be required to reimburse the County for the call.

**D. Performance of Job Duties**

Employees are expected to report to work on time and to work their full scheduled hours. While at work employees are expected to diligently perform the duties of the job without taking time for non-county business or activities.

**XVI. PERSONNEL RECORDS**

Each personnel file will contain, at a minimum, an application form, payroll change notice forms, employee performance review forms, emergency contact information, written disciplinary notices, and any other information pertinent to an employee's status.

Each personnel file is to be kept current for tax and benefit deduction purposes and, therefore, any change affecting an employee's personnel record (name, marital status, address, number of Federal and State exemptions claimed, retirement, insurance, etc.) must be reported to the Human Resources Office immediately.

Personnel records are filed in the Human Resources Office and are maintained in confidence. An employee may have access to his/her personnel file upon written request to the Human Resources Officer/Risk Manager.

Medical records and other documentation such as the federal Immigration and Naturalization I-9 forms will be kept in separate, confidential files. Information from these files will be released in accordance with law and policies.

## **XVII. MISCELLANEOUS**

### **A. Child Care**

Although discouraged, there may be times when an employee does not have child care arrangements. At such times, an employee whose presence is necessary for the operations of the department may bring a child to work for however long work duties are required. Approval must be obtained from the County Administrator prior to any employee bringing his/her child to work.

### **B. Citizen Satisfaction**

The County is judged by the professionalism and the quality of services or product it provides. Therefore, the citizens are "The Boss" and must always be treated in a courteous and respectful manner.

Realizing that County staff is often responsible for enforcing regulations that may not be popular with those that must comply with them, employees still must continually strive to satisfy the citizens. When the job is done well, everyone will feel that they have been treated fairly and given a receptive ear.

Any dissatisfaction, whether the problem is real or perceived on the part of the citizen, must be dealt with immediately and courteously. Every reasonable effort should be made to satisfy the citizen.

### **C. Inclement Weather Conditions**

There are times when weather conditions are such that it is necessary to close County offices to protect the health and safety of employees. Such circumstances are referred to as inclement weather conditions.

The decision to close offices will be made by the County Administrator. Employees will

be notified by their supervisor if offices are closed during working hours. Employees are advised to listen to local radio/TV announcements for notice if offices have not yet opened for the day. If you have any doubt, call your supervisor.

Some employees may be designated to work during an authorized closing or a holiday. These designated emergency personnel are required to report to work unless otherwise notified by their supervisor.

Except as otherwise noted when there is an authorized all-day closing, an employees' pay will not be deducted for such absence. However, in order to qualify for payment, an employee must be scheduled to work on the day of the all-day closing. Exception: employees whose scheduled rest day falls on a day when the offices are closed will not receive any extra compensation.

When inclement weather conditions result in authorized changes in the work schedule for just a portion of the day, such as late openings or early closings, full-time employees will be paid for such authorized absences. To qualify for payment, however, these employees must work all or part of their work schedule not affected by the authorized change.

When inclement weather conditions create transportation difficulties that result in late arrival of a non-designated full-time employee for work, such lost time need not be applied to leave balances nor should the employee otherwise experience loss of pay, if, in the judgment of the County Administrator, the lost time was justifiable in view of weather conditions.

**D. Information Dissemination**

Information obtained and disseminated in the workplace is the property of the County and may not be released except after approval through appropriate channels. Much of the information the County receives is confidential under the law and may not be released or disclosed to others.

**E. Right to Inspect Property**

Desks, telephones, lockers, and computers are the property of the County. The County reserves the right to enter or inspect an employee's work area including, but not limited to, desks and computer storage disks, with or without notice. Such searches will be for work-related purposes and will be reasonable in their inception and reasonable in the scope of the intrusion.

**F. Layoffs**

There may be a time when the County needs to adjust the size of the workforce. If the Board of Supervisors decides that an adjustment necessitates a reduction in the number of employees, a layoff will result. Layoffs may be the result of economic conditions, lack of work, programmatic changes, reorganization, or position abolishment. Employees will be

given advanced notice of any pending layoff and the policies and procedures that will be implemented to affect the layoff. In choosing among employees to be selected for layoff, some of the factors which will be used include past performance ability to satisfactorily perform in newly configured position and seniority.

#### **G. Employee Utilization in Major Emergency Situations<sup>25</sup>**

Purpose and Need: The County, in response to a major emergency, either natural or man-made, will need additional manpower to fulfill its emergency response capabilities. The primary area of support needed is in the area of the public sheltering system. The County, and specifically the Department of Social Services, and the Red Cross are responsible for the staffing and operation of public shelters. The nature of emergencies is also such that there are additional manpower requirements in the areas of public information, damage assessment, recovery operations, etc., which may be needed in response to a major emergency. The following policy has been developed to provide such capability by utilization of its human resources in emergency situation.

Directive/Policy: All Dinwiddie County employees are required to participate in emergency operations, as directed, as a condition of their employment with the County and are subject to being required to work during emergency situations. Assignments during an emergency situation may or may not be related to an employee's normal daily position. Necessary training for specific duties will be provided. Duties and assignments will be based on specific needs during the emergency and for the duration required. Compensation of employees will be based on the established policy for regular and overtime hours to include any required training for a specific task. Employees not otherwise assigned to emergency duties may be assigned to emergency shelter duties or other emergency assignments as needed. Emergency duties are those determined by the County Administrator/Director of Emergency Services working through the Coordinator of Emergency Services to be critical to the operation of the County. Primary and secondary areas of responsibility for departments during emergency operations are defined in the manual entitled Emergency Operations Plan for Dinwiddie County which is available for review in each department.

#### **H. Smoking**

County buildings are designated as non-smoking. In addition, smoking is prohibited in vehicles owned by the County.

### **XVIII. DISCIPLINE AND GRIEVANCES**

County employees are expected to conduct themselves in a professional and courteous manner in the performance of their duties. Employees are expected to avoid any action, which might result in giving preferential treatment to any organization or person, losing independence or impartiality of action, or adversely affecting the integrity of the County.

## **A. Disciplinary Actions**

Disciplinary actions include, but are not limited to:

1. Reporting to work under the influence of or impaired by alcoholic beverages and/or illegal drugs and narcotics or the use, sale, dispensing, or possession of alcoholic beverages and/or illegal drugs and narcotics on County premises.
2. Using profane, vulgar, abusive, harassing, discriminatory, hostile or angry words or gestures at work.
3. Possessing firearms, explosives, or other weapons, without authorization, on County property.
4. Fighting, assaulting, threatening, or intimidating other employees, clients, vendors or visitors.
5. Stealing, destroying, defacing, or misusing County property or property of other employees, clients, vendors or visitors.
6. Falsifying or altering any County record or report, such as an application for employment, a medical report, a time record, an expense account, an absentee report, etc.
7. Engaging in any form of sexual or other harassment.
8. Insubordination or the refusal by an employee to follow management's instructions concerning a job-related matter.
9. Gambling on County property.
10. Smoking where prohibited by local ordinance or County rules.
11. Sleeping on the job.
12. Failure to abide by any County policies and procedures.
13. Improper attire or inappropriate personal appearance.
14. Soliciting for the purchase of goods and services or distributing goods on County property or while on the job.
15. Inadequate or unsatisfactory work performance.
16. Disruptive behavior. (Examples include, but are not limited to, disturbing fellow workers, hindering work processes, etc.)
17. Failure to report to work or tardiness without proper authorization by supervisor.
18. Personal use of County property including the Internet.

## **B. Progressive Discipline**

Under normal circumstances, the County endorses a policy of progressive discipline in which it attempts to provide employees with notice of deficiencies or violations of the above standards and an opportunity to improve. The County retains, however, the right to discipline in a manner that promotes the effectiveness of the organization. This policy does not modify the status of employees as employees-at-will or in any way restricts the County's right to bypass the disciplinary procedures suggested.

## **C. Application of Progressive Discipline**

The recommended sequence of discipline is:

1. If an employee is not meeting the County's standards of behavior or performance, the employee's supervisor should take the following action:
  - a. meet with the employee to discuss the matter to find facts and learn of mitigating circumstances;
  - b. inform the employee of the nature of the problem and the action necessary to correct it; and
  - c. prepare documentation for the supervisor's own records that the meeting has taken place.
  
2. If corrective action(s) do not resolve the problem(s), the supervisor should hold another meeting with the employee and take the following action:
  - a. issue a written reprimand to the employee, which contains a notice that additional incidences may result in a more severe disciplinary action, up to and including termination;
  - b. give a copy of the written reprimand to the employee; and
  - c. forward the original copy of the written reprimand to the County Administrator's Office for inclusion in the employee's personnel file.

NOTE: The County Administrator is available for consultation prior to the issuance of a written reprimand and such consultation is encouraged.

3. If there are additional occurrences, the supervisor should take one of the following actions, depending on the severity of the conduct:
  - a. issue an additional written reprimand;
  - b. issue an additional written reprimand and suspend the employee without pay (prior to any disciplinary suspension the employee should be given a notice of the charge, the intended action, i.e., disciplinary suspension, and a period of time to prepare an explanation as to why the suspension should not be given prior to the actual issuance of the written reprimand and suspension); or
  - c. issue an additional written reprimand and terminate the employee (the employee should be given a notice of the charge, the intended action, i.e., termination, and a period of time to prepare an explanation as to why the termination should not be given prior to the actual issuance of the written reprimand and termination); and
  - d. forward the original copy of the written reprimand to the County Administrator's office for inclusion in the employee's personnel file.

NOTE: Again, the County Administrator is available for consultation prior to the issuance of a written reprimand and such consultation is encouraged.

**D. Progressive Discipline Where There Are Unrelated Problems**

The progressive disciplinary procedures described above may also be applied to an employee who is experiencing unrelated problems involving job performance and/or behavior, e.g., violating one standard at one point and a different at another point.

**E. Suspension Pending Investigation**

In cases involving alleged serious misconduct, such as a major breach of policy or violation of law, the employee may be immediately suspended pending investigation into the matter.

1. Suspension pending investigation is not disciplinary. A suspension pending investigation is with or without pay and may not last longer than 10 workdays. If an extension beyond the 10 workdays is necessary, the County will resume the employee's compensation, although the employee may not immediately be returned to work.
2. If the employee chooses, and the County Administrator agrees, the time towards suspension without pay pending investigation may be charged to the employee's annual leave balances.
  - a. If, at the conclusion of the agency investigation, there is no written reprimand issued, the employee who was suspended without pay and who used annual leave will have the annual leave reinstated. If annual leave was not used or the employee was placed on leave without pay, lost pay will be reinstated.
  - b. If a written reprimand is issued, the annual leave taken will not be restored unless the employee is reinstated by a grievance panel.

**F. Use of Grievance Procedure**

Employees who believe that they have been disciplined too severely or who question the reason for receiving a written reprimand may utilize the County's grievance procedure to challenge such action.

**G. Future Violations of the Standards of Conduct**

If a disciplined employee works a full year without further action being instituted under this policy, the next failure to meet behavior or performance standards may be treated as a first occurrence under this policy depending on such things as severity of the offense,

length of time, etc.

## **H. Grievance Procedure**

Employees are encouraged to resolve problems and complaints through informal means so that employees can freely discuss concerns with their immediate supervisors and upper-management. However, to the extent such concerns cannot be resolved informally, the County has a grievance procedure that affords an immediate and fair method for the resolution of disputes which may arise between the County and its employees.

### **1. Covered Employees**

The grievance procedure is available to all regular full-time and regular part-time County employees excluding probationary employees, with the following exceptions: (1) elected officials, (2) appointees of elected groups or individuals, and (3) deputies and executive assistants to the County Administrator, (4) agency (department) heads or other chief executive officers of government operations, (5) employees whose term of employment is limited by law, (6) temporary, limited term and seasonal employees, and (7) employees electing to proceed pursuant to any other applicable existing procedure in the resolution of their grievance, e.g., law enforcement officers as defined in Chapter 5 (§ 9.1-500 et seq.) of Title 9.1 whose grievance may fall within the procedure but have elected to proceed pursuant to provisions Virginia Code § 15.2-1507(A)(3)(a)(7).

Pursuant to Virginia Code § 15.2-1507(A)(3)(c), the County Administrator determines the officers and employees exempted from this grievance procedure and is responsible for maintaining an up-to-date list of positions ineligible for participation in the grievance procedure.

The employees of the Community Services Board are provided a separate grievance policy as provided by state law. Therefore, they are not covered by this grievance procedure.

### **2. Time Extensions**

The time frames provided in these procedures may be extended by mutual agreement of the employee and the County. Time frames may also be extended for just cause by the County Administrator.

### **3. Matters That Can Be Grieved**

A grievance is defined as a complaint or dispute by an employee relating to his or her employment, including but not necessarily limited to:

- a. disciplinary actions involving dismissals, demotions and suspensions,

dismissals for unsatisfactory job performance;

- b. the application of personnel policies, procedures, rules and regulations, including the application of policies involving matters referred to in subsection 4(c) below;
- c. discrimination on the basis of race, color, creed, religion, political affiliation, age, disability, marital status, pregnancy, national origin or sex; and
- d. acts of retaliation as a result of utilization of the grievance procedure or participation in the grievance procedure of another County employee, or because the employee has complied with any law of the United States or of the Commonwealth of Virginia, has reported any violation of such law to a governmental authority, has sought any change in law before the Congress of the United States or the General Assembly of Virginia; or has reported an incidence of fraud, abuse, or gross mismanagement. There shall be a rebuttable presumption that increasing the penalty that is the subject of the grievance at any level of the grievance shall be an act of retaliation.

As used herein, the term, “grievance” shall not be interpreted to mean negotiations of wages, salaries, benefits or terms of employment.

4. Matters That Cannot Be Grieved

Management reserves the exclusive right to manage the affairs and operations of County government. Accordingly, the following complaints are non-grievable:

- a. establishment and revision of wages or salaries, position classifications, or general benefits;
- b. work activity accepted by an employee as a condition of employment or work activity which may reasonably be expected to be part of the job content;
- c. the contents of ordinances, statutes or established personnel policies, procedures, rules and regulations;
- d. failure to promote except where the employee can show established promotional policies or procedures were not followed or applied fairly;
- e. the methods, means and personnel by which such work activities are to be carried on;
- f. 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, termination, layoff, demotion or suspension from duties because of lack of work, reduction in work force, or job abolition;

- g. the hiring, promotion, transfer, assignment and retention of employees within the County; and
- h. the relief of employees from duties of the County in emergencies.

In any grievance brought under the exception to subsection 4(f) above the action shall be upheld upon a showing by the County that: (1) there was a valid business reason for the action, and (2) the employee was notified of such reason in writing prior to the effective date of the action.

5. Determination of Grievability/Qualification for a Panel Hearing

If some questions should exist concerning the grievability of a specific problem or if the employee is covered under the procedure, and if the questions cannot be resolved, a request for a ruling of grievability, including the question of access to these grievance procedures, may be made by either party. The request must be made in writing to the County Administrator, who shall respond within ten (10) calendar days. In any case, no grievance may proceed to a panel hearing before grievability has been determined. Only after grievability has been determined may a grievance be processed through to the grievance panel stage. The County Administrator shall make a determination of whether an issue qualifies for a panel hearing within ten (10) calendar days of receipt of a request for a panel hearing. A copy of the County Administrator's ruling on grievability and qualification for a panel hearing shall be sent to employee.

The decision of the County Administrator may be appealed by the employee to the Dinwiddie County Circuit Court for a hearing on the question of grievability (or access) or on whether the grievance qualifies for a panel hearing. Proceedings for review of the decision of the County Administrator shall be instituted by filing a notice of appeal with the County Administrator within ten (10) calendar days after the date of receipt of the decision. Within ten (10) calendar days thereafter, the County Administrator shall transmit to the Clerk of the Dinwiddie County Circuit Court: a copy of the decision of the County Administrator, a copy of the notice of the appeal, and the exhibits. A list of the evidence provided to the Court shall also be furnished to the employee.

Within thirty (30) days of receipt of such records by the Clerk, the Court, sitting without a jury, shall hear the appeal on the record transmitted by the County Administrator 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 decision of the Court is final and is not appealable.

6. Compliance with Procedure

After the initial filing of a written grievance, the failure of either party to comply with all substantial requirements of the grievance procedure without just cause will result in a decision in favor of the other party on any grievable issue, provided the party not in compliance fails to correct the non-compliance within five (5) work days of receipt of written notification by the other party of the compliance violation. Such written notification by the employee shall be made to the County Administrator, who shall make a determination regarding compliance with these procedures. The County Administrator may require a clear written explanation of the basis for just cause extensions or exceptions.

Failure of either party without just cause to comply with any substantial procedural requirements at the panel hearing shall result in a decision in favor of the other party.

7. Grievance Procedure

An employee wishing to file a grievance shall have the right to follow all steps of this procedure as listed below with complete freedom from reprisal. Except for the final management step (Step III), the only persons who may be present in a management step meeting are the grievant and the appropriate County official at the level at which the grievance is being heard. Witnesses may appear during the management steps (Steps I through III) of these procedures, but shall only be present when actually providing testimony.

a. Step I (oral presentation):

A grievance must be initiated within twenty (20) calendar days after the event giving rise to the grievance by informing the immediate supervisor or the person who issued the disciplinary action for a discussion of the grievance. If the last day to file the grievance falls on Saturday, Sunday, or an official County holiday, then the final day for filing the grievance shall fall on the next work day. The supervisor or person who issued the discipline shall discuss the grievance with the employee and make an inquiry into the facts and circumstances of the complaint. The supervisor or person who issued the discipline shall give the employee a reply within five (5) work days following the discussion of the grievance. If the grievance alleges discrimination or retaliation, the employee may initiate the grievance with the manager above the person(s) who allegedly discriminated or retaliated (e.g., the Department Head or the County Administrator).

b. Step II (written presentation):

If the grievance is not resolved as a result of Step I, the employee may within

five (5) work days after receiving the Step I reply, file a written grievance with the Department Head. The employee must be sure that the written grievance is complete in all detail and specifies the specific relief expected. No additions, deletions or adjustments to the written grievance will be allowed or accepted at a later point within the procedure. The Department Head will have a meeting to discuss the complaint with the employee within five (5) work days following receipt of the written grievance. Within five (5) work days following this meeting, the Department Head must respond in writing to the employee outlining the decision and the reason therefore. In the event that the employee's supervisor is the County Administrator, the employee should omit Step II and proceed to Step III.

c. Step III (meeting with County Administrator):

If the Department Head's response in Step II does not resolve the grievance, the employee may within five (5) work days after receiving the Step II reply, file a written request for a meeting with the County Administrator. A copy shall also be sent to the employee's Department Head. Upon receipt of the written request for a hearing, the County Administrator shall within five (5) work days schedule the meeting. The County Administrator may request the presence of the or any other County official. The grievant may have present at the hearing a representative or legal counsel at the grievant's own expense. If the employee is represented by legal counsel, the County may be represented by the County Attorney or other appropriate legal representative. Witnesses for either side may appear. The County Administrator will establish the procedures to be used for the meeting. The County Administrator shall give the employee a written reply within five (5) work days after the conclusion of the meeting. A copy of the reply shall be sent to the employee's Department Head.

d. Step IV:

If the County Administrator's reply in Step III does not resolve the grievance, the employee may within five (5) work days after receiving the Step III reply, request that the grievance be submitted to a panel hearing. Such request must be in writing and made to the County Administrator.

In submitting this written request it is not necessary that the employee again provide a written statement of what has occurred as this was contained in employee's written grievance submitted at Step II and is part of the record will be made available to the grievance panel.

e. Appointment of Grievance Panel:

Within ten (10) work days after the date of the written request for a panel hearing, a panel shall be chosen.

To insure an impartial panel, such panel shall not be composed of any persons 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 a 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 an attorney shall serve as a panel member.

The employee and the County Administrator shall each respectively select a panel member within ten (10) work days. A third member shall be chosen by the first two appointees within ten (10) work days. If no agreement on a third member can be made, the selection shall be made by the Judge of the Circuit Court. The third panel member shall be the chairperson of the panel.

In employee termination and retaliation cases, the County at its sole discretion may choose to have an administrative hearing officer selected by the Executive Secretary of the Supreme Court serve as the third panel member. The County shall bear the expenses of such administrative hearing officer, when selected.

## 8. Hearing

Within ten (10) work days from the date of selection of the full panel, the panel shall establish a date, time and place for the hearing. The panel chairperson shall immediately notify all parties of the date. Copies of the written record in the case from STEP II and III shall be provided to the panel members by the County.

The employee may have present at the hearing a representative or legal counsel at employee's own expense. Witnesses may appear.

The conduct of the hearing shall be as follows:

- a. The panel which hears the final grievance appeal is the last administrative step in the resolution of the grievance. The panel has the responsibility for determining whether the County policies and procedures have been applied properly in each instance. The panel does not have the authority for formulating policies or procedures and cannot change any such policies or procedures. The panel may not order the payment of money in excess of or contrary to Board of Supervisor appropriation.
- b. The panel shall determine the propriety of attendance at the hearing of

persons not having a direct interest in the hearing.

- c. The County shall provide the panel with copies of the grievance record prior to the panel hearing. A listing of documents provided to the panel shall be provided to the grievant and his/her representative. During the course of the hearing, the panel shall also determine the admissibility and presentation of materials or exhibits other than the grievance record.
- d. Without regard to burden of proof, the panel has discretion as to the order of the presentation of information or evidence by the parties, but shall afford full and equal opportunity to all parties for the presentation of such materials.

For example in cases of discipline, normally the County will proceed first in the presentation of evidence, while the grievant normally proceeds first in the presentation of evidence in all other matters brought before the panel.

- e. The parties may offer evidence and shall produce such additional evidence as the panel may deem necessary to an understanding and resolution of the dispute. The panel shall determine the relevancy and materiality of the information or evidence and may ask clarifying questions of any person appearing before the panel. All evidence shall be presented in the presence of the panel and of the parties except by mutual agreement of the parties.
- f. At its discretion, the panel may request that both parties submit and exchange documents or exhibits that they wish to be considered in the hearing ahead of the hearing date to allow panel members time to read them. The panel may also request the parties to submit and exchange a list of their witnesses prior to the hearing.
- g. Panel hearings are not meant to be conducted like proceedings in a court of law; the rules of evidence do not necessarily apply and hearsay may be admitted at the discretion of the panel. The panel is also responsible for deciding procedural issues arising at the hearing and should rule on objections by a majority vote.
- h. The majority decision of the panel shall be final unless reconsidered as provided below, and shall be consistent with written policy and applicable law. Such decision shall be entered within ten (10) work days following the conclusion of the hearing.

## 9. Challenges to Decision

- a. Either party may petition the Dinwiddie County Circuit Court for an order requiring the implementation of the decision of the panel.

- b. If a written request to reconsider the panel decision is submitted by either party within five (5) work days of receipt of the decision, the panel by majority vote may elect to review its decision or reopen the hearing for good cause shown, or both.
- c. Any challenge of panel decision on the grounds of inconsistency with laws or written policy shall be submitted by either party within five (5) work days to the County Administrator for a decision. If the County Administrator has a direct personal involvement in the event or events giving rise to the grievance, the County Administrator shall forward the challenge to the Commonwealth's Attorney for Dinwiddie County for a decision. The challenge is to be decided within five (5) work days after submission of the challenge to the Commonwealth Attorney.

## **XIX. TERMINATION OF EMPLOYMENT**

### **A. Resignation**

To resign in good standing, an exempt employee must give at least four weeks advance notice and all other employees must give at least two weeks advance notice. If special circumstances exist, the notice requirement may be waived by the County Administrator. Failure to give the required advance notice will result in forfeiture of compensation for accrued leave. Failure to return to work at the expiration of an approved leave of absence shall be interpreted as a voluntary resignation.

### **B. Termination for Inability to Perform**

An employee may be terminated if he or she becomes physically or mentally unable to perform the duties of the position. However, any such action shall be taken in a manner that complies with the requirements of the Americans with Disabilities Act and other federal and state laws.

## **XX. MODIFICATION OF POLICIES**

These policies do not constitute a contract of employment. The policies as a whole, or individually by section, may be modified, amended, or rescinded at the sole discretion of the County without notice.

## ENDNOTES

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<sup>1</sup> Revised June 19, 2007 to amend language which stated as follows: *“When a new employee more than meets the minimum qualifications, and will not accept the minimum pay step, the employee may be appointed at a higher pay step”*.

<sup>2</sup> Revised December 20, 2016 to more clearly define overtime compensation for Law Enforcement personnel.

<sup>3</sup> Revised December 21, 2021 to change law enforcement work period from twenty-eight to fourteen consecutive days for overtime calculation purposes.

<sup>4</sup> Revised December 20, 2016 to add language regarding overtime for Fire Protection personnel.

<sup>5</sup> Revised December 21, 2021 to change law enforcement employees’ standard schedule from twenty-eight to fourteen days.

<sup>6</sup> Revised December 21, 2021 to outline law enforcement overtime calculations based on change to fourteen day work period.

<sup>7</sup> Revised June 19, 2007 to add language regarding health plan coverage for retirees.

<sup>8</sup> Revised July 1, 2010 to add language regarding retirement for Plan 1 and Plan 2 members.

<sup>9</sup> Revised December 21, 2021 to change frequency of pay days from monthly to semi-monthly.

<sup>10</sup> Revised December 15, 2010 to amend and establish procedures regarding holiday leave for general 40-hour week employees and for public safety employees.

<sup>11</sup> Revised December 21, 2021 to amend holiday leave accrual for Public Safety employees due to transition to semi-monthly pay.

<sup>12</sup> Revised December 21, 2021 to amend procedures regarding annual, sick, and special duty leave accrual due to transition to semi-monthly pay days.

<sup>13</sup> Revised December 15, 2010 to amend and establish procedures regarding annual leave, including establishment of the maximum payout of accrued annual leave allowed upon termination.

<sup>14</sup> Revised December 20, 2016 to add language regarding leave accrual for Fire Protection personnel.

<sup>15</sup> Revised December 15, 2010 to more clearly define “sick leave” and to amend and establish sick leave procedures accordingly.

<sup>16</sup> Revised January 16, 2009 to include the required amendments as established under federal regulations.

<sup>17</sup> Revised December 15, 2010 to more clearly define “civil leave” and to amend and establish civil leave procedures accordingly.

<sup>18</sup> Revised December 15, 2010 to delete the requirement that bereavement leave must be used within the thirty days immediately following the death of a family member.

<sup>19</sup> Revised December 15, 2010 to establish procedures applicable to public safety employees for “special duty leave”.

<sup>20</sup> Revised December 15, 2010 to more clearly define “unpaid leave”; to amend and establish unpaid leave procedures including continuation of health care benefits under COBRA; and to rename the section “Unpaid Leave” from its former name of “Leave Without Pay”.

<sup>21</sup> Revised December 15, 2010 to more clearly define “compensatory leave” and to amend and establish compensatory leave procedures including monetary compensation for all unused compensatory leave upon separation from employment.

<sup>22</sup> Revised December 20, 2016 to delete the compensatory time accrual rate for non-public safety exempt employees.

<sup>23</sup> Revised December 15, 2010 to add the entire section in order to create a Leave Donation Program and establish procedures for same.

<sup>24</sup> Revised September 21, 2010 to add “*prior to hiring*” and “*on a random basis*” as situations under which all positions may be tested for the presence of controlled substances and/or alcohol.

<sup>25</sup> Revised July 17, 2007 to add entire subsection G “Employee Utilization in Emergency Situations”

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