



## Title 3

This is Title 3 of the Churchill County Code which will familiarize you with the employment policies of Churchill County. The contents of the Title do not constitute the terms of a contract of employment and should not be construed as a guarantee of continued employment with the County. Any oral or written statement by anyone (except those in writing and signed by the County Board, County Manager, elected official and/or appointed official acting under the express authority of the County Board) to the contrary is invalid and should not be relied upon by any prospective or existing employee. The County reserves the right to change, alter, delete or otherwise amend any or all provisions.

### EMPLOYEES

#### Chapters:

- Chapter 3.04 General Provisions
- Chapter 3.08 Definitions
- Chapter 3.12 Employment Policies and Working Conditions
- Chapter 3.16 Employment, Selection and Appointment
- Chapter 3.20 Transfers, Reassignments and Demotions
- Chapter 3.24 Probationary Period
- Chapter 3.28 Position Classification Plan
- Chapter 3.32 Compensation and Salary Administration
- Chapter 3.36 General Working Conditions
- Chapter 3.40 Leave of Absence Provisions
- Chapter 3.44 Layoff Procedure
- Chapter 3.48 Complaint Resolution Procedure
- Chapter 3.52 Disciplinary Procedure
- Chapter 3.56 Employee Management Committee
- Chapter 3.60 Chapter Review

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## Expanded Table of Contents

| <u>Chapter</u>               |  | <u>Page</u> |
|------------------------------|--|-------------|
| <u>Chapter 3.04</u>          | <u>General Provisions</u>                                |             |
| 3.04.010                     | <u>Purpose and Scope of Provision.</u>                   | 3.04 - 1    |
| 3.04.020                     | <u>Administration.</u>                                   | 3.04 - 1    |
| 3.04.030                     | <u>Applicability of Provision.</u>                       | 3.04 - 2    |
| 3.04.040                     | <u>Exclusion of Recognized Employee Organizations</u>    | 3.04 - 2    |
| 3.04.050                     | <u>Distribution and Notification of Amendments.</u>      | 3.04 - 2    |
| <br>                         |  |             |
| <u>Chapter 3.08</u>          | <u>Definitions</u>                                       |             |
| <u>Generally.</u>            |  | 3.08 - 1    |
| <u>Anniversary Date.</u>     |  | 3.08 - 1    |
| <u>Appointing Authority.</u> |  | 3.08 - 1    |
| <u>Classification.</u>       |  | 3.08 - 1    |
| <u>Classified Service.</u>   |  | 3.08 - 2    |
| <u>Continuous Service.</u>   |  | 3.08 - 2    |
| <u>County Manager.</u>       |  | 3.08 - 2    |
| <u>County Premises.</u>      |  | 3.08 - 2    |
| <u>County Property.</u>      |  | 3.08 - 2    |
| <u>Department Head.</u>      |  | 3.08 - 2    |
| <u>Employee.</u>             |  | 3.08 - 3    |
| <u>Management.</u>           |  | 3.08 - 3    |
| <u>Position.</u>             |  | 3.08 - 3    |
| <u>Promotion.</u>            |  | 3.08 - 3    |
| <u>Property.</u>             |  | 3.08 - 4    |
| <u>Reclassification.</u>     |  | 3.08 - 4    |
| <u>Unclassified Service.</u> |  | 3.08 - 4    |
| <br>                         |  |             |
| <u>Chapter 3.12</u>          | <u>Employment Policies and Working Conditions</u>        |             |
| 3.12.010                     | <u>Equal Employment Opportunity.</u>                     | 3.12 - 1    |
| 3.12.020                     | <u>Employment Disabilities.</u>                          | 3.12 - 3    |
| 3.12.030                     | <u>Anti-Harassment.</u>                                  | 3.12 - 5    |
| 3.12.040                     | <u>Drug and Alcohol-Free Workplace for all Positions</u> | 3.12 - 8    |
| 3.12.050                     | <u>Drug and Alcohol Testing for DOT Positions.</u>       | 3.12 - 20   |
| 3.12.055                     | <u>Genetic Information Nondiscrimination Act (GINA)</u>  | 3.12 - 23   |
| 3.12.060                     | <u>Nepotism Prohibited; Personal Relationships.</u>      | 3.12 - 23   |
| 3.12.070                     | <u>Outside Work.</u>                                     | 3.12 - 24   |
| 3.12.080                     | <u>Code of Ethical Standards.</u>                        | 3.12 - 25   |
| 3.12.090                     | <u>Political Activity.</u>                               | 3.12 - 27   |
| 3.12.100                     | <u>Solicitation Prohibited.</u>                          | 3.12 - 28   |
| 3.12.110                     | <u>Work Stoppage Prohibited.</u>                         | 3.12 - 28   |
| 3.12.120                     | <u>Use of County Property and Premises.</u>              | 3.12 - 28   |
| 3.12.130                     | <u>Safety.</u>   | 3.12 - 29   |
| 3.12.140                     | <u>Use of Tobacco.</u>                                   | 3.12 - 29   |
| 3.12.150                     | <u>Children in the Workplace.</u>                        | 3.12 - 29   |
| 3.12.160                     | <u>Pets in the Workplace.</u>                            | 3.12 - 30   |
| 3.12.170                     | <u>Fraud Prevention and Reporting Policy</u>             | 3.12 - 30   |
| 3.12.180                     | <u>Whistleblower Protection</u>                          | 3.12 - 35   |
| 3.12.190                     | <u>Prohibition of Workplace Violence</u>                 | 3.12 - 37   |
| 3.12.200                     | <u>Acquiring and Providing Workplace References</u>      | 3.12 - 40   |
| <br>                         |  |             |
| <u>Chapter 3.16</u>          | <u>Employment, Selection and Appointment</u>             |             |
| 3.16.010                     | <u>Classified Service.</u>                               | 3.16 - 1    |
| 3.16.020                     | <u>Unclassified Service.</u>                             | 3.16 - 1    |
| 3.16.030                     | <u>Employment Applications.</u>                          | 3.16 - 2    |
| 3.16.040                     | <u>Open and Promotional Employment Announcements.</u>    | 3.16 - 2    |
| 3.16.050                     | <u>Public Notice of Job Openings.</u>                    | 3.16 - 3    |
| 3.16.060                     | <u>Selection Methods.</u>                                | 3.16 - 3    |

## **Expanded Table of Contents**

| <b><u>Chapter</u></b> |   | <b><u>Page</u></b> |
|-----------------------|---|--------------------|
| <u>3.16.070</u>       | <u>Evaluation of Applications.</u>                              | 3.16 - 4           |
| <u>3.16.080</u>       | <u>Investigation of Applicants.</u>                             | 3.16 - 4           |
| <u>3.16.090</u>       | <u>Filing of Vacancies.</u>                                     | 3.16 - 4           |
| <u>3.16.100</u>       | <u>Minimum Employment Age.</u>                                  | 3.16 - 5           |
| <u>3.16.110</u>       | <u>Legal Authority to Work.</u>                                 | 3.16 - 5           |
| <u>3.16.120</u>       | <u>Medical Examinations.</u>                                    | 3.16 - 5           |
| <br>                  |   |                    |
| <u>Chapter 3.20</u>   | <u>Transfers, Reassignments and Demotions</u>                   |                    |
| <u>3.20.010</u>       | <u>Transfers.</u>   | 3.20 - 1           |
| <u>3.20.020</u>       | <u>Reassignment within Department.</u>                          | 3.20 - 1           |
| <u>3.20.030</u>       | <u>Demotions.</u>   | 3.20 - 2           |
| <br>                  |   |                    |
| <u>Chapter 3.24</u>   | <u>Probationary Period</u>                                      |                    |
| <u>3.24.010</u>       | <u>Objective of Probationary Period.</u>                        | 3.24 - 1           |
| <u>3.24.020</u>       | <u>Length of Probation.</u>                                     | 3.24 - 1           |
| <u>3.24.030</u>       | <u>Extension of Probation.</u>                                  | 3.24 - 2           |
| <u>3.24.040</u>       | <u>Probationary Employee Performance Evaluation.</u>            | 3.24 - 2           |
| <u>3.24.050</u>       | <u>Rejection During Probation.</u>                              | 3.24 - 2           |
| <u>3.24.060</u>       | <u>Rejection Following Promotion.</u>                           | 3.24 - 2           |
| <u>3.24.070</u>       | <u>Promotion During Probation.</u>                              | 3.24 - 2           |
| <u>3.24.080</u>       | <u>Leave During Probation.</u>                                  | 3.24 - 3           |
| <u>3.24.090</u>       | <u>Reclassification and Probation.</u>                          | 3.24 - 3           |
| <u>3.24.100</u>       | <u>Reduction in Force and Probation.</u>                        | 3.24 - 3           |
| <br>                  |   |                    |
| <u>Chapter 3.28</u>   | <u>Position Classification plan</u>                             |                    |
| <u>3.28.010</u>       | <u>Purpose.</u>   | 3.28 - 1           |
| <u>3.28.020</u>       | <u>Administration.</u>  | 3.28 - 1           |
| <u>3.28.030</u>       | <u>Content of Class Specifications.</u>                         | 3.28 - 1           |
| <u>3.28.040</u>       | <u>Interpretation and Specification.</u>                        | 3.28 - 2           |
| <u>3.28.050</u>       | <u>Use of Class Title.</u>                                      | 3.28 - 2           |
| <u>3.28.060</u>       | <u>Maintenance of the Plan.</u>                                 | 3.28 - 2           |
| <u>3.28.070</u>       | <u>Personnel Action on Reclassification.</u>                    | 3.28 - 3           |
| <br>                  |   |                    |
| <u>Chapter 3.32</u>   | <u>Compensation and Salary Administration</u>                   |                    |
| <u>3.32.010</u>       | <u>Compensation Plan.</u>                                       | 3.32 - 1           |
| <u>3.32.020</u>       | <u>Definition of Terms.</u>                                     | 3.32 - 1           |
| <u>3.32.030</u>       | <u>Plan Administration.</u>                                     | 3.32 - 1           |
| <u>3.32.040</u>       | <u>Salary Upon Initial Appointment.</u>                         | 3.32 - 2           |
| <u>3.32.050</u>       | <u>Advancement Within Salary Range.</u>                         | 3.32 - 2           |
| <u>3.32.060</u>       | <u>Salary Upon Transfer or Reassignment.</u>                    | 3.32 - 2           |
| <u>3.32.070</u>       | <u>Salary Upon Promotion.</u>                                   | 3.32 - 3           |
| <u>3.32.080</u>       | <u>Salary Upon Demotion.</u>                                    | 3.32 - 3           |
| <u>3.32.090</u>       | <u>Salary Upon Reclassification.</u>                            | 3.32 - 3           |
| <u>3.32.100</u>       | <u>General and Special Salary Adjustments.</u>                  | 3.32 - 4           |
| <u>3.32.110</u>       | <u>Employees or Officers Compensated by Other Jurisdictions</u> | 3.32 - 4           |
| <u>3.32.120</u>       | <u>Shift Differential.</u>                                      | 3.32 - 5           |
| <u>3.32.130</u>       | <u>Call-Back Pay.</u>   | 3.32 - 5           |
| <u>3.32.140</u>       | <u>Standby.</u>   | 3.32 - 6           |
| <br>                  |   |                    |
| <u>Chapter 3.36</u>   | <u>General Working Conditions</u>                               |                    |
| <u>3.36.010</u>       | <u>Hours of Work.</u>   | 3.36 - 1           |
| <u>3.36.020</u>       | <u>Overtime.</u>  | 3.36 - 2           |
| <u>3.36.030</u>       | <u>Attendance.</u>  | 3.36 - 3           |
| <u>3.36.040</u>       | <u>Paydays and Final Paycheck.</u>                              | 3.36 - 3           |

## **Expanded Table of Contents**

| <b><u>Chapter</u></b> |   | <b><u>Page</u></b> |
|-----------------------|---|--------------------|
| <u>3.36.050</u>       | <u>Holidays.</u>  | 3.36 - 4           |
| <u>3.36.060</u>       | <u>Performance Evaluation.</u>                                | 3.36 - 5           |
| <u>3.36.070</u>       | <u>Medical Examinations.</u>                                  | 3.36 - 6           |
| <u>3.36.080</u>       | <u>Education Reimbursement And/or Advance</u>                 | 3.36 - 6           |
| <u>3.36.090</u>       | <u>Mileage Allowance and Use of Privately-Owned Vehicles.</u> | 3.36 - 8           |
| <u>3.36.100</u>       | <u>Courteous Public Relations.</u>                            | 3.36 - 8           |
| <u>3.36.110</u>       | <u>Official County Records.</u>                               | 3.36 - 9           |
| <u>3.36.120</u>       | <u>Personnel Files and Records.</u>                           | 3.36 - 9           |
| <u>3.36.130</u>       | <u>Information Technology.</u>                                | 3.36 - 9           |
| <br>                  |   |                    |
| <u>Chapter 3.40</u>   | <u>Leave of Absence Provisions</u>                            |                    |
| <u>3.40.010</u>       | <u>Vacation.</u>  | 3.40 - 1           |
| <u>3.40.020</u>       | <u>Sick Leave.</u>  | 3.40 - 2           |
| <u>3.40.030</u>       | <u>Leave of Absence.</u>                                      | 3.40 - 5           |
| <u>3.40.040</u>       | <u>Bereavement Leave.</u>                                     | 3.40 - 6           |
| <u>3.40.050</u>       | <u>Jury Duty and Subpoenaed Witness.</u>                      | 3.40 - 6           |
| <u>3.40.060</u>       | <u>Military Leave.</u>  | 3.40 - 6           |
| <u>3.40.070</u>       | <u>Family and Medical Leave.</u>                              | 3.40 - 7           |
| <u>3.40.080</u>       | <u>Catastrophic Leave</u>                                     | 3.40 - 16          |
| <br>                  |   |                    |
| <u>Chapter 3.44</u>   | <u>Layoff Procedure</u>                                       |                    |
| <u>3.44.010</u>       | <u>General.</u>   | 3.44 - 1           |
| <u>3.44.020</u>       | <u>Order of Layoff.</u>                                       | 3.44 - 1           |
| <u>3.44.030</u>       | <u>Seniority Defined.</u>                                     | 3.44 - 1           |
| <u>3.44.040</u>       | <u>Displacement and Demotion to a Lower Classification</u>    | 3.44 - 2           |
| <u>3.44.050</u>       | <u>Re-employment Lists.</u>                                   | 3.44 - 2           |
| <u>3.44.060</u>       | <u>Notice of Re-employment.</u>                               | 3.44 - 2           |
| <u>3.44.070</u>       | <u>Benefit Eligibility.</u>                                   | 3.44 - 2           |
| <br>                  |   |                    |
| <u>Chapter 3.48</u>   | <u>Complaint Resolution Procedure</u>                         |                    |
| <u>3.48.010</u>       | <u>Purpose.</u>   | 3.48 - 1           |
| <u>3.48.020</u>       | <u>Complaint Defined.</u>                                     | 3.48 - 1           |
| <u>3.48.030</u>       | <u>Complaint Resolution Procedure.</u>                        | 3.48 - 1           |
| <u>3.48.040</u>       | <u>Written Records of Formal Complaints.</u>                  | 3.48 - 2           |
| <u>3.48.050</u>       | <u>Freedom from Reprisal.</u>                                 | 3.48 - 2           |
| <u>3.48.060</u>       | <u>Failure to Act.</u>  | 3.48 - 3           |
| <br>                  |   |                    |
| <u>Chapter 3.52</u>   | <u>Disciplinary Procedure</u>                                 |                    |
| <u>3.52.010</u>       | <u>General</u>  | 3.52 - 1           |
| <u>3.52.020</u>       | <u>Reasons for Discipline.</u>                                | 3.52 - 1           |
| <u>3.52.030</u>       | <u>Types of Disciplinary Action.</u>                          | 3.52 - 3           |
| <u>3.52.040</u>       | <u>Notice of Intended Disciplinary Action.</u>                | 3.52 - 3           |
| <u>3.52.050</u>       | <u>Predisciplinary Conference.</u>                            | 3.52 - 4           |
| <u>3.52.060</u>       | <u>Notice of Discipline or Rejection of Discipline.</u>       | 3.52 - 4           |
| <u>3.52.070</u>       | <u>Review Process for Minor Discipline.</u>                   | 3.52 - 5           |
| <u>3.52.080</u>       | <u>Appeal Process for Disciplinary Action.</u>                | 3.52 - 5           |
| <u>3.52.090</u>       | <u>Final and Binding Review.</u>                              | 3.52 - 6           |
| <u>3.52.100</u>       | <u>Appeal Hearing Procedure.</u>                              | 3.52 - 6           |
| <u>3.52.110</u>       | <u>Serving Of Notices.</u>                                    | 3.52 - 8           |
| <u>3.52.120</u>       | <u>Summary Suspension.</u>                                    | 3.52 - 8           |
| <u>3.52.130</u>       | <u>Right to Representation.</u>                               | 3.52 - 8           |
| <u>3.52.140</u>       | <u>Retention Schedule for Disciplinary Action.</u>            | 3.52 - 8           |
| <br>                  |   |                    |
| <u>Chapter 3.56</u>   | <u>Employee Management Committee</u>                          |                    |

## **Expanded Table of Contents**

| <b><u>Chapter</u></b>        |  | <b><u>Page</u></b> |
|------------------------------|--|--------------------|
| <a href="#">3.56.010</a>     | <a href="#">Established – Composition – Selection.</a> | 3.56 - 1           |
| <a href="#">3.56.020</a>     | <a href="#">Vacancies.</a>                             | 3.56 - 1           |
| <a href="#">3.56.030</a>     | <a href="#">Committee Officers; Meetings.</a>          | 3.56 - 1           |
| <a href="#">3.56.040</a>     | <a href="#">Duties of Officers</a>                     | 3.56 - 2           |
| <a href="#">3.56.050</a>     | <a href="#">Duties of Committee; Quorum.</a>           | 3.56 - 2           |
| <a href="#">3.56.060</a>     | <a href="#">Open Meetings.</a>                         | 3.56 - 2           |
| <a href="#">Chapter 3.60</a> | <a href="#">Chapter Review</a>                         | 3.60 - 1           |

## **Chapter 3.04**

### **GENERAL PROVISIONS**

#### **Sections:**

- 3.04.010 Purpose and Scope of Provisions.
- 3.04.020 Administration.
- 3.04.030 Applicability of Provisions.
- 3.04.040 Exclusion of Recognized Employee Organizations.
- 3.04.050 Distribution and Notification of Amendments.

#### **3.04.010 Purpose and Scope of Provisions.**

It is the intent of the Board of Commissioners, also referred to in this Title as the "County Board", to the extent permitted by the law of the state, to establish a uniform County personnel policy. Except as provided for in Section 3.04.040, these rules, regulations and policies shall apply to all employees of the County under the direct and indirect jurisdiction of the County Board. They are also applicable to the employees of separate boards and commissions which have been established by the County Board or whose members are appointed by the County Board to the extent that such rules, regulations and policies do not conflict with authorized rules, regulations and policies established by such controlling boards and commissions. To ensure uniformity and fairness to all employees, the County Board urges all separate boards, commissions and other departments within the County, which have authority to adopt rules and regulations affecting personnel administration, to make their policies conform as much as possible with the policies established by this Title. The County Board reserves the right to delegate certain functions of personnel administration to its representatives when the Board deems such delegation to be appropriate and in the best interest of the County.

#### **3.04.020 Administration.**

A. The County further reserves the right to change these policies and procedures at any time. Nothing contained in this Title is intended to confer any property right in continued employment, a contract of employment.

B. The County Manager is responsible for implementing, administering and ensuring compliance with the provisions of this Title. In the event any provision of this Title needs clarification, the County Manager may issue administrative instructions clarifying the intent of said provision as adopted by the County Board. The County Manager may develop and issue procedures, consistent with this Title, to facilitate implementation.

C. If there is any conflict between this Title and any department policies and procedures, the policies and procedures contained in this Title take precedence. If there is any conflict between this Title and any Memorandum of Agreement between the County and a Recognized Employee Organization, the provisions contained in the Memorandum of Agreement shall take precedence.

D. The County reserves all rights granted to it by Nevada law including without limitation those set forth in NRS 288.150.

**3.04.030 Applicability of Provisions.**

Except as specifically provided elsewhere in this Title, the provisions of this Title shall be applicable to all employees and officers of the County.

**3.04.040 Exclusion of Recognized Employee Organizations.**

In accordance with the provisions of NRS Chapter 288, the provisions of any collective bargaining agreement shall control when in conflict with this Title for those employees who are covered by the collective bargaining agreement.

**3.04.050 Distribution and Notification of Amendments.**

A. All employees of the County are expected to read and familiarize themselves with the contents of this Title. Each County employee is to complete and sign the acknowledgment form at the back of this document, tear it out, and return it to Personnel.

B. All amendments, changes and revisions to this Title shall be made available to all employees of the County in the manner and form prescribed by the County Manager.



## **Chapter 3.08**

### **DEFINITIONS**

#### **Sections:**

Generally.  
Anniversary Date.  
Appointing Authority.  
Classification.  
Classified Service.  
Continuous Service.  
County Manager.  
County Premises.  
County Property.  
Department Head.  
Employee.  
Management.  
Position.  
Promotion.  
Property.  
Reclassification.  
Unclassified Service

#### **Generally.**

Certain words and phrases are defined, and certain provisions shall be construed, as set out under this Title unless it is apparent from the context that they have a different meaning.

#### **Anniversary Date.**

"Anniversary Date" means the actual date upon which an employee commenced employment with the County as a regular employee; provided, however, in no event shall an employee reach his/her anniversary date until said employee has worked at least twelve full months for the County. An employee's anniversary date may be adjusted from time to time pursuant to the provisions of this Title. No adjustment shall be made for time worked as a casual worker or temporary employee.

#### **Appointing Authority.**

"Appointing Authority" means the County Board, County Manager, elected official, and/or appointed official acting under the express authority of the County Board. The County Board and/or the County Manager may delegate appointing authority by formal action.

#### **Classification.**

"Classification" means a group of positions with similar duties, degree of supervision, and responsibilities exercised with similar minimum requirements of education, experience, skill and other qualifications so that the same Title, the same tests of fitness, and the same schedule of compensation may be applied to each position in the group.

**Classified Service:** See Section 3.16.010

**Continuous Service.**

"Continuous Service" means the actual full-time equivalency length of continuous service from the employee's last date of hire into a regular or probationary employment.

A. An employee's continuous service shall not be considered interrupted for any of the following reasons:

1. Vacation;
2. Sick leave;
3. Military leave;
4. Civic duty leave;
5. Approved leave of absence pursuant to the Federal Family and Medical Leave Act;
6. Any other authorized paid or unpaid leave of absence of two weeks or less;
7. Layoff, if recalled pursuant to the provisions of this Title.

B. Continuous service shall be considered interrupted if any employee:

1. Resigns;
2. Is discharged;
3. Is absent from work in excess of three consecutive workdays without notification unless the employee has a valid excuse;
4. Takes an unpaid leave of absence of more than two weeks;
5. Fails to report for work within three working days after having been recalled from layoff;
6. Fails to report for work at the termination of a leave of absence;
7. Accepts other employment during an approved leave of absence;
8. Retires.

**County Manager.**

"County Manager" means the person appointed by the County Board to serve as County Manager or the County employees or officials appointed by the County Manager to act on his/her behalf.

**County Premises.**

"County Premises" means any building or structure or part thereof on any lands owned, leased, or in the custody or control of the County or devoted to use by the County.

**County Property.**

"County Property" means any property owned or leased by or in the custody or control of the County.

**Department Head.**

A. The head of a County Department as designated by the County Board, reporting directly to the County Manager with authority to manage the budget, staff, and resources of the department and responsibility for conducting the programs, providing the services, and

administering the operations of the department consistent with the policies of the County Board and the direction of the County Manager; or in the case of departments or offices operated by a court, the responsible judge.

B. The official, other than a County Commissioner, elected to a County Office established by the State.

C. Any other head of a County department established by Nevada Revised Statutes.

**Employee.**

A. "Employee" means:

1. Any appointed public officer of the County or its political subdivisions;
2. Any person employed by the County or its political subdivisions whose compensation is provided by the County or its political subdivision and who is under the direction or control of officers of the County or political subdivisions thereof.

B. "Employee" does not include independent contractors or persons rendering professional services to the County or its political subdivisions on a fee, retainer, or contract basis.

C. A "regular full-time employee" – A person who has successfully completed an initial probationary period in a regular budgeted position with a normally scheduled workweek of at least 40 hours.

D. A "regular part-time employee" – A person who has successfully completed an initial probationary period in a regular budgeted position which requires a minimum number of hours per week, but less than full-time employment.

E. A "casual employee" – An employee hired on an as-needed basis or for irregular hours (for example, as a replacement for permanent employees who are out on short- and long-term absences, to assist with recreation programs, or to meet employer's additional staffing needs during peak business periods). Typically, a casual employee is employed for less than 1,039 hours in a fiscal year. A casual employee who works more than 1,039 hours in a fiscal year may be eligible for PERS; eligibility for PERS does not change the employee's casual status.

**Management.**

"Management" means all elected officials, appointed department heads, or any other unclassified position identified under this Title.

**Position.**

"Position" means a particular post of employment provided for in the County budget, whether occupied or vacant, calling for the performance of certain duties as defined in a classification specification.

**Promotion.**

"Promotion" means the reassignment of an employee from a position in one class to a position in

another class which is allocated to a higher salary or salary range. This is usually done through a competitive process but may also occur through direct appointment for appointed positions.

**Property.**

"Property" means any tangible item of value.

**Reclassification.**

“Reclassification” means a change in allocation of a position by raising it to a higher class, reducing it to a lower class, or moving it to another class at the same level on the basis of substantial changes in the duties performed in such position. It includes abolition of a position and replacement with a position in another class in order to change classification. It also includes creation of a new classification to address the changes in duties. Reclassification is not an increase in workload nor an employee’s capability to perform the skills or responsibilities that are outside of their current classification.

**Unclassified Service:** See Section 3.16.020

## **Chapter 3.12**

### **EMPLOYMENT POLICIES AND WORKING CONDITIONS**

#### **Sections:**

- 3.12.010 Equal Employment Opportunity.
- 3.12.020 Employment Disabilities.
- 3.12.030 Anti-Harassment Policy.
- 3.12.040 Alcohol and Drug Free Workplace for all Positions.
- 3.12.050 Drug and Alcohol Testing for DOT Positions.
- 3.12.055 Genetic Information Nondiscrimination Act (GINA).
- 3.12.060 Nepotism Prohibited; Personal Relationships.
- 3.12.070 Outside Work.
- 3.12.080 Code of Ethical Standards.
- 3.12.090 Political Activity.
- 3.12.100 Solicitation Prohibited.
- 3.12.110 Work Stoppage Prohibited.
- 3.12.120 Use of County Property and Premises.
- 3.12.130 Safety.
- 3.12.140 Smoking.
- 3.12.150 Children in the Workplace.
- 3.12.160 Pets in the Workplace.
- 3.12.170 Fraud Prevention and Reporting Policy.
- 3.12.180 Whistleblower Protection.
- 3.12.190 Prohibition of Workplace Violence.
- 3.12.200 Acquiring and Providing Employment References.

#### **3.12.010 Equal Employment Opportunity.**

A. It is the policy of Churchill County to recruit, hire, train and promote for all job classifications without regard to race, color, religion, age, gender, pregnancy, sexual orientation, marital status, national origin, ancestry, disability, veteran status, domestic partnership, genetic information, gender identity or expression, political affiliation, or membership in the Nevada National Guard. All personnel actions such as compensation, benefits, transfers, layoffs, return from layoffs, Churchill County-sponsored training, social and recreation programs will be administered according to Churchill County's policy. The County shall provide reasonable accommodation wherever necessary for all employees and applicants with disabilities, provided that the individual is otherwise qualified to safely perform the job duties and that such accommodation can be reasonably be make.

B. It is the policy of Churchill County to hold all levels of management responsible for ensuring that personnel policies, guidelines, practices, procedures and activities are in compliance with Federal and State Equal Employment Opportunity (EEO) statutes, rules and regulations.

C. The primary equal employment opportunity responsibilities rest with the Equal Employment Opportunity Officer. The Equal Employment Opportunity Officer also has the

responsibility of the Americans with Disabilities Act (ADA) coordinator. The Churchill County Manager shall designate the Equal Employment Opportunity Officer. The name and telephone number of the individual designated will be posted on bulletin boards at the Churchill County's work site.

D. Employees or applicants who believe they are being discriminated against because of their race, color, religion, age, gender, pregnancy, sexual orientation, marital status, national origin, ancestry, disability, veteran status, domestic partnership, genetic information, gender identity or expression, political affiliation, or membership in the Nevada National Guard, as well as those who believe they have witnessed another employee being discriminated against are strongly urged to bring the situation to the attention of management.

E. Employees or applicants who believe they are being discriminated against or have witnessed another employee being discriminated against, should take action immediately by:

1. Reporting the conduct as soon as possible to any supervisor or manager with whom you feel you can talk, or with Churchill County's Equal Employment Opportunity Officer. Applicants are encouraged to contact the Equal Employment Opportunity Officer.
2. When an employee or applicant is concerned about the actions of the Equal Employment Opportunity Officer, the report can be made to the Churchill County Manager, the District Attorney, or any supervisor or manager.

F. Supervisors or managers shall immediately report all allegations or complaints of discrimination or observations of such conduct to the Equal Employment Opportunity Officer or the District Attorney regardless of how the supervisor or manager learned of the alleged conduct, and whether or not the employee involved is in the supervisor's or manager's department. A supervisor's or manager's failure to immediately report such activities, complaints or allegations will result in discipline up to and including termination.

G. All allegations or complaints of discrimination shall be promptly investigated. Unless otherwise provided in Nevada or Federal Law, all investigations shall be confidential. Information obtained will be released only on a need to know basis or as required by law. All employees questioned as part of an investigation will be expected not to discuss the matter with others, with the exception of providing information to regulatory agencies. Churchill County treats all allegations or complaints of discrimination seriously and all employees are expected to be candid and truthful during the investigation process. If evidence arises that a participant in the investigation has made intentionally false statements, the employee will be disciplined up to and including termination.

1. If it is determined that discrimination has occurred, Churchill County will take remedial action commensurate with the severity of the offense. This remedial action may include, but is not limited to, verbal and /or written reprimands, counseling, transfers, suspension without pay, and/or termination. Action will also be taken to deter any future discrimination.
2. With regard to disability-related complaints, the Equal Employment Opportunity Officer (when appropriate, working with the Churchill County Manager and/or the

complainant) shall propose a resolution to the complaint based upon the findings of such investigation. Such resolution will include reasonable accommodation when the Equal Employment Opportunity Officer determines, after consultation with the District Attorney's Office, that such accommodation is required by State or Federal regulations, and that such accommodation can reasonably be made.

H. Churchill County will not tolerate any retaliation by management or any other employee against an employee who exercises his/her rights under this policy. Any employee who believes s/he is being retaliated or discriminated against in any manner whatsoever as a result of having filed a complaint should immediately notify the person that took the initial report from the employee.

I. It shall also be the policy of the County to comply with all applicable provisions of Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Equal Employment Opportunity Act of 1972, the Immigration Reform and Control Act of 1986, the Americans With Disabilities Act as amended, the Genetic Information Nondiscrimination Act of 2008, the Nevada Revised Statutes on Equal Opportunities for Employment (NRS 613), Nevada Revised Statutes regarding National Guard service (NRS 412.139/.1395) and any other federal and state statutory provisions that apply. Additionally, all due consideration shall be given to the guidelines set forth by the Office of Federal Contract Compliance.

J. No provision of this policy shall be construed to preclude any Affirmative Action Plan or amendment thereof, which may be adopted by the County.

### **3.12.020 Employment Disabilities.**

A. **Purpose of Policy** – The county is committed to fair and equitable treatment of all employees and applicants, including those with disabilities. The county recognizes that there are specific issues relating to individuals with disabilities that must be individually addressed. The county acknowledges its responsibility to ensure that individuals in the workplace can efficiently and safely perform the essential functions of their jobs without posing a direct threat to themselves and others.

#### **B. Policy**

1. It is the county's policy to comply with the applicable employment provisions of disability laws, including the Americans with Disabilities Act (ADA), as amended. The county does not tolerate discrimination against any qualified individual with a disability in regard to any terms, conditions, or privileges of employment and prohibits any type of harassment or discrimination based on the physical or mental disability, history of disability, or perceived disability of an individual holding or seeking employment with the county.
2. The county is committed to provide reasonable accommodation wherever the need for such is known to the county or whenever the employee or applicant indicates a need for reasonable accommodation, provided that the individual is otherwise qualified to

perform the essential functions of the assigned job and the employee's performance of the assigned job duties does not pose an obvious threat to the safety of him/herself or others.

C. **ADA Coordinator** – The Equal Employment Opportunity (EEO) Officer will serve as the ADA Coordinator. The EEO Officer is designated by the County Manager and the name and telephone number of the individual designated is posted on bulletin boards at Churchill County's work sites. Complaints or concerns may be addressed to:

Equal Employment Opportunity Officer  
County Manager's Office  
155 N Taylor, Suite 153  
Fallon, NV 89406  
(775) 423-5136

D. **Determination of Disability** – In determining whether an employee or an applicant has a disability under the law, the employee/applicant must have a physical or mental impairment that substantially limits one or more life activities, have a record of such an impairment, or being regarded as having an impairment. Major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, concentrating, thinking, communicating, reading, sitting, reaching, interacting with others, and working. A major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, special sense organs and skin, normal cell growth, digestive, bowel, bladder, neurological, brain, genitourinary, cardiovascular, hemic, lymphatic, musculoskeletal, respiratory, circulatory, endocrine, and reproductive functions.

E. **Disability-Related Inquiries**

1. The county shall adhere to the provisions of applicable laws regarding an employer's limitations on making disability-related inquiries or requiring medical examinations.
2. The county's restrictions regarding disability-related inquiries and medical examinations apply to **all** employees/applicants, whether or not they have disabilities. A disability-related question to an applicant may be a violation of law, even though the applicant may not have a disability.
3. The county may require the employee to provide a fitness-for-duty certification from an appropriate medical provider whenever the county has reason to believe the employee may be unable to perform the essential functions of his/her job or pose a direct threat to him/herself or to others.

F. **Confidentiality of Medical Records** – The county shall treat any medical information or genetic information obtained from a disability-related inquiry or medical exam, as well as any medical information voluntarily disclosed by an employee, as a confidential medical record. Confidential medical records also include medical information from voluntary health or wellness programs and the subsequent injury fund questionnaire.

G. **Accommodation**



1. Accommodation for Applicants – Whenever an applicant requests accommodation in applying for, testing, or interviewing for a position with the county, the ADA Coordinator shall determine whether the request for accommodation for a covered disability is reasonable or if another type of accommodation can be provided. In making the determination of reasonableness, the ADA Coordinator may consider whether granting such requests might impose an undue hardship on the county.
2. Accommodation for Employees – When the county has some objective reason to believe an employee may need some type of accommodation to perform his/her essential job functions, the county must initiate an interactive process with the employee to find out what accommodation the employee might need. Also, whenever an employee approaches his/her supervisor, the county’s ADA Coordinator, or any other manager within the county requesting some type of accommodation, the county will initiate the interactive process. Whenever a manager or supervisor becomes aware that an employee has requested or may require some type of accommodation, the manager/supervisor shall notify the ADA Coordinator within five calendar days after becoming aware. Upon learning of the employee’s request for accommodation, the ADA Coordinator shall arrange to meet with the supervisor and the employee to discuss his/her accommodation request, the need for any reasonable documentation of the disability and the associated functional limitations, and the impact of the proposed accommodation on the county. Review of an employee’s particular situation by a medical review officer will assist the organization in determining appropriate accommodation.

H. **Requirements of Other Laws** – The county may make disability-related inquiries and require medical exams that are required or necessitated by applicable laws or regulations; e.g., federal safety regulations, OSHA requirements, etc.

### **3.12.030 Anti-Harassment.**

A. **Policy.** Churchill County promotes a productive work environment and does not tolerate verbal, physical, written, or graphical conduct/behavior(s) that harasses, disrupts, or interferes with another’s work performance or that creates an intimidating, offensive, or hostile environment based on that person’s race, color, religion, age, gender, pregnancy, disability, national origin, ancestry, sexual orientation, marital status, veteran status, domestic partnership, genetic information, gender identity or expression, political affiliation, or membership in the Nevada National Guard and any other basis made unlawful by any applicable law or ordinance or regulation.

B. **Scope.** This policy applies to all persons involved in the operations of Churchill County and prohibits such conduct/behavior(s) by any employee, including supervisors and co-workers, any customer or client of Churchill County, and any vendor, contractor, or other service provider at Churchill County’s facilities.

C. Conduct that is illegal harassment, including sexual harassment, is inappropriate, offensive and will not be tolerated by Churchill County. Examples of harassment include, but are not limited to:

1. Verbal conduct such as jokes, epithets, derogatory comments, slurs, degrading or suggestive words or comments, unwanted sexual advances, invitations, or sexually degrading or suggestive words or comments;
2. Offensive gestures, expressions and graphics including leering, obscene hand, finger, or body gestures, sexually explicit drawings, derogatory posters, photography, cartoon, drawings or gestures, or displaying sexually suggestive objects or pictures;
3. Offensive written communication including notes, letters, notices, emails, texts, or any other offensive message sent by electronic means;
4. Physical contact when the action is unwelcomed by recipient including brushing up against someone in an offensive manner, unwanted touching, impeding or blocking normal movement, or interfering with work or movement;
5. Expectations, requests, demands, or pressure for sexual favors;
6. Retaliation for opposing, reporting or threatening to report harassment, or for participating in a harassment investigation, proceeding or hearing.

**D. Employee Responsibilities.** Employees who believe they are personally being or have been subjected to prohibited conduct/behavior(s) and/or are the target of any form of prohibited conduct/behavior(s), as well as those who believe they have witnessed another employee being subjected to these conducts/behaviors, should immediately:

1. Identify the offensive conduct/behavior to the alleged harasser and request that the behavior cease. Note: An employee is **NOT** required to talk directly to the harasser or to the employee's supervisor if an employee feels uncomfortable in doing so. It is **critical**, however, that the employee contact one of the individuals listed below (in Section 3.12.030 D.2.) if s/he believes s/he is being targeted or has witnessed what the employee believes to be prohibited conduct/behavior(s) directed to or committed by another employee(s), client(s), customer(s), vendor(s), volunteer(s), contractor(s), etc.
2. If the employee feels uncomfortable in speaking directly to the alleged harasser or if the employee requested the prohibited conduct/behavior(s) to cease, but the request did not produce the results desired, the employee should report the conduct/behavior(s) as soon as possible to a supervisor or manager with whom s/he feels s/he can talk about the problem, or Churchill County's Equal Employment Opportunity Officer (the name and telephone number of this individual is provided on posters placed on bulletin boards at Churchill County's work sites). Employees may also report the conduct to the Churchill County Manager or the Churchill County District Attorney.
3. When the complaint is against the Equal Employment Opportunity (EEO) Officer, it may be reported directly to the Churchill County Manager. The Churchill County Manager will designate an independent person to handle the complaint resolution process.
4. An employee who witnesses or obtains information regarding prohibited conduct/behavior(s) by his/her immediate supervisor is required to report the incident to the EEO Officer.

5. Applicants who have concern regarding violations of this policy are encouraged to contact the designated EEO Officer.

E. **Supervisor/Manager responsibilities.** Supervisors or managers shall immediately report all complaints, or allegations of harassment or observations of such conduct to the Equal Employment Opportunity Officer regardless of how the supervisor or manager learned of the suspected incident, and whether or not the employee is in the supervisor's department. The information reported must include:

1. The person(s) involved, including all witnesses;
2. A written record of specific conversations held with the accused and any witnesses;  
and
3. All pertinent facts, including date(s), time(s), and location(s).

A supervisor's or manager's failure to immediately report such activities, complaints or allegations will result in discipline up to and including termination. Supervisors and managers shall take timely and reasonable affirmative action to protect employees from instances of harassment.

F. **Investigation.** All complaints or allegations of prohibited conduct/behavior(s) shall be promptly investigated. The county will make efforts to ensure that all investigations are kept as confidential as reasonably possible. Employees will be strongly advised to refrain from discussing the subject content with others, particularly while the investigation is in progress. Employees may be required to provide information to regulatory agencies and/or the employee's union representative or attorney. Information obtained will be released only on a need to know basis or as required by law.

The individual filing the complaint as well as the individual against whom the complaint was made will be made aware of whether the allegations of policy violations were substantiated or not. All employees questioned as part of an investigation will be expected not to discuss the matter with others, with the exception of providing information to regulatory agencies. Churchill County treats all complaints or allegations of harassment seriously and all employees are expected to be candid and truthful during the investigation process. If evidence arises that a participant in the investigation has made intentionally false statements, the employee will be disciplined up to and including termination. If it is determined that a violation of this policy has occurred, Churchill County will take remedial action commensurate with the severity of the offense. This remedial action may include, but is not limited to, verbal and/or written reprimands, counseling, transfers, suspension without pay, and/or termination. Action will be taken to deter any future conduct/behavior(s) from occurring.

G. **Prohibition Against Retaliation.** Churchill County will not tolerate any retaliation by management or any other employee against an employee who exercises his/her rights under this Policy. Any employee who believes s/he is being retaliated or discriminated against in any manner whatsoever as a result of having filed a complaint should immediately notify the Equal Employment Opportunity Officer.

### **3.12.040 Drug and Alcohol-Free Workplace for all positions**

#### **A. Definitions**

1. Alcohol: The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohol including methyl and isopropyl alcohol.
2. Alcohol Test: A breath analysis test conducted using an Evidential Breath Testing (EBT) Device. If an initial test shows a blood alcohol concentration (BAC) of .02 or higher, a confirmation test will be conducted.
3. Alcohol Use: The drinking or swallowing of any beverage, liquid mixture, or preparation (including any medication) containing alcohol.
4. Applicant: A person, including a current employee, applying for any position with the employer (may also be referred to as the candidate).
5. Contraband: Any item such as illegal drugs, drug paraphernalia, or other related items whose possession is prohibited by this policy.
6. Conviction: A finding of guilt, including a plea of no contest or imposition of sentence or both, by any judicial body charged with the responsibility to determine violations of the federal or state criminal drug or alcohol statutes.
7. Department Head/Department Manager: An elected official, or appointed official who is directly responsible to the County Manager or to the Board or to a board established by the Board, for overall administration of an office or department of the employer.
8. Drug Test: A urinalysis (urine) test that includes specimen collection and testing by a Department of Health and Human Services (DHHS) certified laboratory. Both a screening test and a confirmation test must be used to establish a positive test result.
9. Employer Premises: All employer property and facilities, the surrounding grounds and parking lots, leased space, employer-motor driven equipment/vehicles, offices, desks, cabinets, closets, etc.
10. Illegal Drugs: Any controlled substance or drug, the sale, possession, cultivation, transfer, use, purchase, or distribution of which is illegal. Illegal drugs include prescription drugs not legally obtained and/or prescription drugs not being used in the manner, combination, or quantity prescribed, or by the individual for whom prescribed.
11. Legal Drugs: Prescription drugs and over-the-counter drugs that have been legally obtained and are being used in the manner, combination, and quantity for which they were prescribed or manufactured.
12. Positive Drug or Alcohol Test: Any detectable level (in accordance with DOT regulations) of drugs or its metabolite (in excess of trace amounts attributable to secondary exposure) in an employee's urine or blood. With respect to alcohol, a blood alcohol concentration (BAC) of 0.04 or higher constitutes a positive test. A BAC of .02 or higher will result in a confirmation test being conducted.

13. Substance Abuse Professional (SAP): A licensed physician, or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with the knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol-related disorders.
14. Supervisor: An employee or an elected official who has been authorized to select, train, schedule, and evaluate the work of other employees, and to make decisions or effectively recommend actions related to the hiring, evaluation, and discipline of assigned employees. This person may also serve as the department head.

**B. Policy** – Churchill County recognizes that substance abuse in our nation and our community exacts staggering costs in both human and economic terms. Substance abuse can be reasonably expected to produce impaired job performance, lost productivity, absenteeism, accidents, wasted materials, lowered morale, rising health care costs, and diminished interpersonal relationship skills.

1. The County is committed to:
  - a. Maintaining a safe and healthy workplace for all employees;
  - b. Assisting employees who recognize they have a problem with drugs or alcohol and providing appropriate treatment;
  - c. Periodically providing employees with information about the dangers of workplace drug abuse; and
  - d. When appropriate, taking disciplinary action for failure to comply with this policy.
2. The County strictly prohibits the following behavior:
  - a. The use, sale, attempted sale, manufacture, attempted manufacture, purchase, possession or cultivation, distribution and/or dispensing of illegal drugs by an employee at any time and in any amount. This prohibition includes the use or possession of prescription medicines for which the individual does not have a valid prescription and the use of prescribed medicines other than as prescribed. In addition, the County prohibits employees from possessing open containers of alcoholic beverages while on the County's premises (while on duty) and/or any other time while on duty and the County prohibits employees from working with a blood-alcohol level of .04 or more at any time while on duty.
  - b. Bringing alcohol, illegal drugs, and other substances which may impair the safety or welfare of employees or the public onto the premises controlled by the County or placing in vehicles or equipment operated on behalf of the County.
  - c. Law enforcement personnel performing job-related functions which require possession and/or transportation of such substances are exempt from this section.
3. Reporting Requirements
  - a. A supervisor who receives information or is a witness to any use of drugs or alcohol by an employee which violates Churchill County's policies or the law, is required to report this information to his/her Department Head or the Human Resources Director immediately. The information reported must include:

- (1) The persons(s) involved, including all witnesses;
  - (2) Any information gathered, such as actual observation of drug/alcohol use, the presence of paraphernalia, observation of any unusual physical signs or behaviors;
  - (3) A written record of specific conversations held with the accused and any witnesses;
  - (4) All pertinent facts, including date(s), time(s), and locations(s).
- b. Except for the Sheriff's Office, a Department Head is required to report this information to Human Resources, and may not conduct a formal investigation, release findings, or administer discipline prior to this disclosure and without specific authorization to do so. The Sheriff's Office will follow its Standard Operating Procedures in initiating an investigation and administering discipline.
  - c. An employee who witnesses or obtains information regarding alcohol and/or illegal drug use by his/her immediate supervisor in the workplace is required to report the incident to that individual's supervisor.
4. Specimen collection, drug testing procedures, sample collection, and alcohol testing procedures will comply with all applicable provisions of federal and state law.
  5. A positive test result for alcohol or drugs will be grounds for disciplinary action, up to and including termination.
  6. Employees in safety-sensitive positions as defined in 49 CFR Part 382, *et seq.*, are subject to the Federal Department of Transportation (DOT) (49 CFR Part 40) and the Federal Motor Carrier Safety Regulations (FMCSR), as prescribed by the Federal Motor Carrier Safety Administration (FMCSA) (49 CFR Parts 382, 383, 387, 390-397, and 399), as well as the County's Drug and Alcohol-Free Workplace Policy. To comply with DOT regulations, employees in DOT positions are placed in a separate pool for drug and alcohol testing.

**C. Employee Responsibilities** – Each employee is responsible for reviewing and complying with the County's Drug and Alcohol-Free Workplace Policy.

1. Each employee is responsible for meeting standards for work performance and safe on-the-job conduct.
2. Employees shall not report to work under the influence of alcohol, illegal drugs, or misused prescription or over-the-counter drugs.
3. Employees who suspect they may have a substance abuse problem are encouraged to seek counseling and rehabilitation from a substance abuse professional or other treatment provider. The County's medical insurance policy may provide for payment of some or all of the treatment costs.
4. It is the employee's responsibility and obligation to determine, by consulting a physician if necessary, whether or not a legal drug s/he is taking may or will affect his/her ability to safely and efficiently perform his/her job duties. An employee whose impairment may affect job performance must notify his/her supervisor in writing and attempt to find an appropriate alternative assignment. If none is

available, the employee may take sick leave or be placed on a medical leave of absence (if available and the employee otherwise qualifies) or take other steps consistent with the advice of a physician. If an employee reports to work under the influence of any medication and, as a result, endangers him/herself or others, the employee may be disciplined, up to and including termination.

5. Each employee must report the facts and circumstances of any criminal drug or alcohol conviction that occurred while on duty or which may impact the employee's ability to perform the duties of his/her job. If duties involve driving a vehicle, the employee must report to his/her supervisor a conviction for driving under the influence (DUI), and/or revocation or suspension of the driver's license pending adjudication. Notification to the supervisor must occur before resuming work duties or no later than five (5) days after the conviction or revocation/suspension. The supervisor shall immediately forward the notification to notify the County's attorney.
6. Employees in department safety-sensitive positions identified by the County are subject to random drug and alcohol testing as provided in this policy.
7. Employees must act as responsible representatives of the County and as law-abiding citizens. It is every employee's responsibility to report violations of this policy to his/her immediate supervisor or to the Human Resources Director. Such reporting is critical in preventing serious injuries or damage to the County's property.
8. Employees who are required to submit to a drug/alcohol test must complete and sign the consent form.

**D. Department Head Responsibilities** – The department head or his/her designee is responsible for:

1. Authorizing the testing of employees.
2. Coordinating, with Human Resources, drug and/or alcohol testing.
3. Requesting completion of the consent form.
4. Notifying employees of positive test results and their right to a retest of the same sample.
5. Implementing disciplinary action against employees who fail to comply with provisions outlined in this policy.
6. Notifying Human Resources of an employee's conviction of a federal or state criminal drug and/or alcohol statute violation.
7. Ensuring that the drug and/or alcohol test forms and results are kept confidential and only provided to employees with a business need for the information.
8. Identifying department safety-sensitive positions.
9. Notifying employees in department safety-sensitive positions that they are subject to random drug and/or alcohol testing.

10. Ensuring notices relative to this policy and the list of positions designated as department safety-sensitive, if any, are prominently displayed at all departmental facilities housing employees.

**E. Supervisor Responsibilities** – Supervisors are responsible for:

1. Determining if reasonable suspicion exists to warrant drug and/or alcohol testing and detailing, in writing, the specific facts, symptoms, or observations that are the basis for the reasonable suspicion.
2. Submitting the documentation to the department head or designee.
3. Complying with the appropriate provisions outlined in this policy that apply to supervisory personnel.

**F. Human Resources Responsibilities** – The Churchill County Human Resources Department is responsible for:

1. Providing communication and training on this policy to include a training program to assist supervisors to recognize the conduct and behavior that gives rise to a reasonable suspicion of drug and/or alcohol use by employees and how to effectively intervene.
2. Receiving and maintaining employee drug and alcohol testing records and files from all sources and assuring that they are kept confidential.
3. Making drug and/or alcohol testing and notice forms available.
4. Notifying appropriate department heads of positive results of drug and alcohol tests.
5. Administering the contract with a third party to provide drug and alcohol testing services.
6. Overseeing the administration of the County's Drug and Alcohol-Free Workplace Policy.
7. Certifying department safety-sensitive positions in consultation with the requesting department head and legal counsel.
8. Notifying department heads of their employees randomly selected for drug and/or alcohol testing.
9. Ensuring the administration of all pre-employment drug testing.

**G. Employee Education** – The County maintains information relating to the hazards of and treatment for drug- and alcohol-related problems. Proactive training and information shall be sponsored by the County periodically. Any employee may voluntarily seek advice, information, and assistance. Medical confidentiality will be maintained consistent with this policy.

**H. Employee Assistance and Voluntary Referral**

1. Churchill County is supportive of employees who come forward voluntarily to seek assistance for alcohol misuse or controlled substance use. Employees will be considered to have come forward voluntarily as long as:



- a. The employee does not self-identify to avoid testing under other requirements,
  - b. The employee makes the admission of alcohol misuse or controlled substance use before performing safety-sensitive functions, and
  - c. The employee does not perform a safety-sensitive function until Churchill County is satisfied that the employee has been evaluated and has successfully completed education or treatment requirements as determined by a controlled substance and alcohol evaluation counselor.
2. The County strongly encourages employees who suspect they have substance abuse problems to voluntarily refer themselves to a treatment program. A voluntary referral is defined as being one that occurs prior to any positive test for illegal drugs or alcohol under this policy and prior to any other violation of this policy, including a criminal conviction of that individual for a drug- or alcohol-related offense. A decision to participate in the employee assistance program will not be a protection or defense from discipline.
  3. Any employee who voluntarily requests assistance in dealing with a personal drug and/or alcohol problem may do so through a private treatment program for drug and alcohol problems. An employee who is being treated for substance abuse in a recognized rehabilitation program may, if the Americans with Disabilities Act applies, be entitled to reasonable accommodation so long as the employee is conforming to the requirements of the program and is abstaining from the use of controlled substances and/or alcohol.
  4. The employee must agree to release relevant treatment information to the County to permit the monitoring of the employee's compliance with the treatment recommendation. Any related leave will be considered to be medical leave under the provisions of the Family and Medical Leave Act if the employee is eligible. Employees requiring in-patient treatment are requested to notify the Human Resources Director of the County in advance of the treatment admission. After such accommodation, the discontinuation of any involvement with alcohol or drugs is an essential requisite for continued employment. Upon completion of a substance abuse program, employees must take and pass a return-to-work test and sign a return-to-work agreement that will include a commitment to follow recommendations given by the treatment provider and other conditions as the County deems appropriate.
  5. The cost of the drug or alcohol rehabilitation or treatment program shall be borne by the employee and/or the employee's insurance provider. All information regarding an employee's participation in treatment will be held in strict confidence. Only information that is released by the employee to the County and that is necessary for the performance of business will be shared by the County's management, on a need-to-know basis.

#### **I. Reasonable Suspicion Testing**

1. When any supervisor has reasonable suspicion that an employee may be under the influence of alcohol or drugs, the employee in question will be directed by the department head or designee or the County's Human Resources Director to submit to drug and/or alcohol testing.

2. The supervisor shall be responsible to determine if reasonable suspicion exists to warrant drug and/or alcohol testing and shall be required to document, in writing, the specific facts, symptoms, or observations which form the basis for such reasonable suspicion. When possible, the documentation will be forwarded to the department head or designee to authorize the drug and/or alcohol test of an employee.
3. The department head or designee or the County's Human Resources Director shall direct an employee to undergo drug and/or alcohol testing if there is reasonable suspicion that the employee is in violation of this policy. The employee will be placed on leave with pay pending results of the test.
4. Circumstances which may initiate an inquiry to determine reasonable suspicion include, but are not limited to:
  - a. Information provided either by reliable and credible sources or independently corroborated – The first line supervisor or another supervisor/manager receives information from a reliable and credible source as determined by the department head that an employee is violating the County's policy.
  - b. Direct observation of drug or alcohol use – The first line supervisor or another supervisor/manager directly observes an employee using drugs or alcohol while an employee is on duty. Under these circumstances, a request for testing is mandatory.
  - c. Drug or alcohol paraphernalia possibly used in connection with illicit drugs or alcohol found on the employee's person or at or near the employee's work area may trigger a request for testing.
5. The following behaviors may be considered when determining reasonable suspicion and, collectively or independently, on a case-by-case basis may provide a sufficient reason for requesting a drug and/or alcohol test:
  - a. A pattern of abnormal or erratic behavior. This includes, but is not limited to, a single, unexplainable incident of serious abnormal behavior or a pattern of behavior which is radically different from what is normally displayed by the employee or grossly differing from acceptable behavior in the workplace.
  - b. Presence of physical symptoms of drug and/or alcohol use. The supervisor observes physical symptoms that could include, but are not limited to, glassy or bloodshot eyes, slurred speech, poor motor coordination, or slow or poor reflex responses different from what is usually displayed by the employee or generally associated with common ailments such as colds, sinus problems, hay fever, and diabetes.
  - c. Violent or threatening behavior.
  - d. Absenteeism and/or tardiness. If an employee has previously received disciplinary action for absenteeism and/or tardiness, a continued poor record that warrants a second or subsequent disciplinary action may, in combination with other relevant behaviors, result in drug and/or alcohol testing.
6. An employee who is required to submit to reasonable suspicion testing will be provided transportation by the County to the location of the test. After the

employee submits to the test or if the employee refuses to be tested, the County will provide transportation for the employee to his/her home.

**J. Post-Accident Testing**

1. Employees have the right and are encouraged to report all workplace accidents and injuries promptly and accurately.
2. Each employee involved in a work-related accident or incident involving the violation of any safety or security procedures may be tested for illegal drugs, prohibited substances, and alcohol as soon as possible after the accident, but after any necessary emergency medical attention has been provided. Accidents that shall trigger testing are those that result in:
  - a. Death;
  - b. Medical treatment of employee or another individual, other than first-aid treatment;
  - c. Loss of consciousness; or
  - d. Property damage estimated to be valued at or in excess of five hundred dollars (\$500.00).
3. An employee who is subject to a post-accident test must sign a consent form and remain readily available for testing. Except in cases of emergency, an employee who leaves the scene before the test is administered or who does not make him/herself readily available may be deemed to have refused to be tested, and such refusal shall be treated as a positive test. The employee will be advised to refrain from eating or drinking before being tested. Further, the employee, subject to a post-accident test, must refrain from consuming alcohol for eight hours following the accident or until the employee submits to an alcohol test, whichever comes first.

An employee who is required to submit to post-accident testing will be immediately provided transportation by the employer to the location of the test.

Upon completion of the test:

- a. If the employee is reasonably believed to have caused or contributed to the accident, or the county determines there is a risk to return him/her to work, the employee will be provided transportation to his/her home or the county will make transportation arrangements, and the employee will be placed on administrative leave with pay pending the results of this test.
- b. If the county determines the employee did not cause or contribute to the accident, the employee will be transported back to the work site (if medically able) and will resume work.

If the test comes back positive and the county needs to conduct further investigation, the employee will be placed on administrative leave with or without pay. If an employee is placed on an unpaid administrative leave and, subsequently, no disciplinary action is taken, the employee shall be reinstated in status and restored all pay and fringe benefits lost during such unpaid administrative leave.

Note: NRS 616C states a positive test for illegal drugs, prohibited substances (including marijuana), or alcohol per limits set forth in NRS 484C can cause the denial of workers' compensation claims. By consenting to post-accident testing, the employee waives any expectation of privacy.

4. In the event an employee is so seriously injured that s/he cannot provide a blood, breath, or urine specimen at the time of the accident, the employee must provide necessary authorization, as soon as the employee's physical condition allows, to enable the county to obtain incident-related hospital records or other documents for the limited purpose of determining whether illegal drugs, prohibited substances, or alcohol were a causative factor for the accident or injury.
5. In the event federal, state, or local officials conducted drug and/or alcohol testing following an accident, the employee will be required to sign a release allowing the county to obtain the test results from such officials.

**K. Department Safety-Sensitive Positions**

1. The County shall conduct pre-employment testing for drugs and random testing for drugs and alcohol for positions identified as department safety-sensitive by the County. Drug and alcohol testing of applicants and employees in department safety-sensitive positions is mandatory, and successfully passing these tests is a condition of future or continued employment.
2. Department safety-sensitive positions mean employment positions which may, in the normal course of business:
  - a. Require the employee to operate the County's vehicles or heavy equipment on a regular and recurring basis; and/or
  - b. Involve job duties which, if performed with inattentiveness, errors in judgment or diminished coordination, dexterity, or composure, may result in mistakes that could present a real and/or imminent threat to the personal health and safety of the employee, coworkers, and/or the public.
3. The County shall maintain a list entitled "List of Positions Designated as Department Safety-Sensitive." The list shall be a public record. Before a position is included on this list, the County shall post a notice in a conspicuous location accessible to employees at the work site affected that a position is to be included as department safety-sensitive for purposes of pre-employment drug testing and random drug and alcohol testing. The notice will afford an opportunity for comment within a twenty (20) calendar day period.

Note: The County shall meet and consult with the recognized employee organization's representative, where affected employees are represented, before a position is included on this list. The final determination to place a position on the list shall be made by the County's governing board.

**L. Pre-Employment Testing**

1. All applicants being considered for employment in department safety-sensitive positions will be required to submit to a urinalysis test for the detection of illegal

drugs as part of a post-offer, pre-employment drug test. All such offers of employment are conditioned upon the ability to pass this drug test. Applicants for positions which require testing will be given a copy of the policy and must complete the County's consent form in advance of the post-offer, pre-employment drug test.

2. An applicant refusing to complete any part of the drug testing will not be considered a valid candidate for employment with the County and such refusal will be considered a withdrawal of the individual's application for employment. An applicant who refuses to test or tests positive shall not be considered for employment with the County for at least twelve (12) months.
3. When an employee applies for a position that has been identified as being a department safety-sensitive position, the employee will be subject to drug testing in accordance with the procedures contained in this policy before the employee will be considered a valid candidate for the job opening. An employee who tests positive for illegal drugs will no longer be considered an applicant for that position. Such employee will also be subject to discipline under this policy, up to and including termination. An employee may withdraw the application for the position up until the employee is scheduled for pre-employment testing. Once an employee is scheduled for pre-employment testing, if that employee refuses to submit to the test, s/he will be disqualified for consideration for the position and subject to discipline, up to and including termination.

**M. Random Testing**

1. All employees in positions identified as department safety-sensitive by the County, as provided in 3.12.040 K, shall be subject to random drug and alcohol testing, subject to available funding.
2. The County may test employees in safety-sensitive positions for drugs and alcohol at the rate that matches the random testing standards set for drivers by the Federal Motor Carrier Safety Administration (FMCSA). The selection of employees for random testing shall be on a non-discriminatory basis and made from a computer-based random number generator that is matched with the employee's social security number. Random testing will be unannounced and the dates for administering the tests will be spread reasonably throughout the year. Random testing will be performed at any time while the employee is at work.
3. An employee selected for random testing shall proceed immediately to the test site. An employee who engages in conduct which does not lead to testing as soon as possible after notification may be considered to have refused to be tested.
4. Employees selected for a random test but absent due to vacation, sick leave, other leave, or on urgent County business approved by their department head will not be notified to take the random test until the first day they return to work after random selection. Random selection may result in some employees being tested more than once each year; some may not be tested at all.

**N. Return-to-Work Testing/Follow-Up Testing**

1. If the employer agrees to continue employment, an employee who violates this policy and undergoes rehabilitation for drugs or alcohol will, as a condition of returning to work, be required to agree to follow-up testing as established by the County's Human Resources Director. The extent and duration of the follow-up testing will depend upon the safety and security nature of the employee's position and the nature and extent of the employee's substance abuse problem. The County's Human Resources Director will review the conditions of continued employment with the employee prior to the employee's returning to work. Any such condition for continued employment shall be given to the employee in writing. The County's Human Resources Director may consider the employee's rehabilitation program in determining an appropriate follow-up testing program.
2. Any employee subject to return-to-work testing that has a confirmed positive drug or alcohol test will be in violation of this policy and subject to termination.

**O. Consequence of Refusal to Submit to Testing/Adulterated Specimen**

1. An employee who refuses to submit to testing for drugs and/or alcohol will be subject to disciplinary action, up to and including termination. An employee who consents to a drug or alcohol test but fails to appear timely at the collection site, or who fails to give his/her urine sample after reasonable opportunity to do so, will be treated as a refusal to submit to a drug or alcohol test. (DOT "Shy Bladder" procedures shall be utilized if an inadequate urine sample is provided.)
2. Submission of an altered or adulterated specimen or substitution of a specimen by a specimen donor will be considered a refusal to comply with this policy and subject the employee to disciplinary action, up to and including termination.

**P. Testing Guidelines**

1. The county will test for the alcohol and illegal/prohibited substances including but not limited to:
  - a. Marijuana, including products that contain THC (such as oils, topical balms, etc.)
  - b. Cocaine, including crack
  - c. Opiates, including heroin, codeine, morphine, hydrocodone, hydromorphone, oxymorphone, and oxycodone
  - d. Amphetamines, including methamphetamines
  - e. Phencyclidine (PCP)
2. Other drugs may be added to this list. Where applicable, the county will follow federal testing procedures for drugs and alcohol set forth by the Federal Department of Transportation (DOT) 49 CFR Part 40 and the Federal Motor Carrier Safety Regulations (FMCSR). These regulations may be amended from time to time.

**Q. Option for Drug Retest**

1. No later than seventy-two (72) hours after notification of a positive drug test, an employee who tests positive may request a confirmatory retest of the same sample at his/her expense at a certified laboratory of his/her choice.

2. Upon request, the medical review officer will authorize the laboratory holding the employee's sample to release to a second laboratory, approved by the Department of Health and Human Services, a sufficient quantity of the sample to conduct a second testing analysis.
3. The employee will be required to authorize the laboratory to provide the County with a copy of its test results. The accuracy of the test results will be verified by the laboratory conducting the analysis.

**R. Searches**

1. If the County suspects that an employee or on-site contractor is in possession of illegal drugs, alcohol, or contraband in violation of this policy, the County may request the individual to submit to a search of his/her person, personal effects, lockers, desks, work area, baggage, and employee quarters. By entering into or being present at a job site while on County time or representing the County in any way, an individual is deemed to have consented to such searches. If an individual is asked to submit to a search and refuses, that individual will be considered insubordinate and will be escorted off the job site and disciplined, as appropriate.
2. Searches will be conducted by management personnel and may or may not be conducted in the presence of the person whose property or work area is searched. Any suspected contraband will be confiscated and may be turned over to law enforcement as appropriate. Any person whose property is confiscated will be given a receipt for that property by the County's representative conducting the search.

**S. Discipline Related to Abuse**

1. Employees in violation of the provisions of this policy will be subject to disciplinary action, up to and including termination.
2. An employee may be found to have violated this policy on the basis of any appropriate evidence including, but not limited to:
  - a. Direct observation of illegal use of drugs, prohibited use of alcohol, or possession of illegal drugs or alcohol or related contraband;
  - b. Evidence obtained from a motor vehicle citation, an arrest, or a criminal conviction for use or possession of illegal drugs or for the use, or being under the influence, of alcohol on the job;
  - c. A verified positive test result; or
  - d. An employee's voluntary admission.
3. Prior to determining its course of action, the County may direct an employee who has tested positive to submit to an evaluation by a substance abuse professional. The evaluation will attempt to determine the extent of the employee's use of or dependence on the abused substance(s) and, if necessary, recommend an appropriate program of treatment.
4. If an evaluation is conducted which results in a recommendation for treatment, continued employment may, but is not required, to be allowed if the recommended treatment is immediately begun and successfully completed. The treatment

program may include, but is not limited to, rehabilitation, counseling, and after-care to prevent future substance use/abuse problems. The treatment program will not be at the County's expense; however, employees may use benefits provided by applicable insurance coverage. Failure by the employee to enroll in the recommended treatment program, to consistently comply with the program's requirements, to complete it successfully, and/or to complete any continuing care program shall be grounds for immediate termination from employment. Employees are limited to substance abuse treatment one time only under this policy.

5. When an employee is required to undergo treatment under this policy, the employee may be required to comply with the following as a condition of continued employment:
  - a. Monitoring of the treatment program and the employee's participation by the County;
  - b. Submission to return-to-work testing as required under this policy and continuing follow-up testing as provided in the Return-to-Work Testing/Follow-Up Testing, section 3.12.040 N; and
  - c. Any other reasonable condition that the County deems necessary to maintain a safe and healthy workplace for all employees.
6. Failure by the employee to enroll in a required treatment program, to consistently comply with the program requirements, to successfully complete the program, and/or to complete any continuing care program will be grounds for immediate termination of employment.
7. Disciplinary action will also be taken for any job performance or behavior that would otherwise be cause for disciplinary action. If a position requires an employee to operate a motor vehicle and the employee loses his license due to driving under the influence (even if the loss of license is only temporary), said employee may be terminated from employment.

#### **T. Confidentiality**

1. All medical and rehabilitation records are confidential medical records and may not be disclosed without the prior written consent of the patient, authorizing court order, or otherwise as permitted by state and federal law.
2. Positive test results may only be disclosed to the employee; the appropriate medical and substance abuse treatment providers; the County's attorney; a County representative necessary to respond to an alleged violation of this policy; individuals within the County who have a need-to-know of drug and/or alcohol testing results; and a court of law or administrative tribunal in any adverse personnel action.

#### **3.12.050 Drug and Alcohol Testing for DOT Positions.**

The following is a summary of the comprehensive policy adopted by the County to satisfy the Federal Department of Transportation (DOT) and the Federal Highway Administration's



(FHWA) Drug and Alcohol Testing Rules. A copy of the comprehensive policy can be obtained in the County Manager's office.

A. **Statement of Purpose.** The County seeks to operate a drug and alcohol-free workplace, that is in compliance with the Federal Department of Transportation (DOT) and the Federal Highway Administration's (FHWA) Drug and Alcohol Testing Rules as set forth in the Omnibus Transportation Employees Act of 1991. Therefore, it is the policy of the County that employees with commercial driver's licenses (CDL) be drug and alcohol free.

The County also seeks to foster a safe, healthy, and productive work environment for the employees of the County. To further these goals, the County has implemented this Drug and Alcohol Policy for DOT positions. The Policy provides help for our employees who have substance abuse problems while at the same time ensuring that our workplace is operating safely and efficiently. Finally, the Drug and Alcohol Policy provides the County with reasonable measures to ensure that an employee problem does not jeopardize the successful operation of our transportation system, the workplace, or otherwise negatively affect the County, our employees, or the general public.

B. **Coverage and Implementation.** The Drug and Alcohol Policy covers all employees who are required to obtain and maintain a commercial driver's license (CDL) as a pre-qualification for their position. [To be termed "driver" for the purposes of this policy]. The Drug and Alcohol Policy is effective upon receipt.

C. **Education and Training.** In an ongoing effort to prevent and eliminate substance abuse in the workplace, the County provides drivers with information and referral resources regarding substance abuse. In addition, supervisors receive training in the identification of actions, appearance, and conduct of a driver that may indicate drug use and/or alcohol misuse.

D. **Prohibited Conduct.** In keeping with the requirements of the DOT/FHWA and the purpose of the Drug and Alcohol Policy, the following conduct is prohibited.

1. **Prohibited Use of Alcohol.** Alcohol misuse that could affect the safe performance of driving a commercial motor vehicle (CMV) is prohibited. A driver is prohibited from:
  - a. Using alcohol while performing safety-sensitive functions.
  - b. Performing a safety-sensitive function within four hours after using alcohol (pre-duty use).
  - c. Reporting to duty or performing a safety-sensitive function with an alcohol concentration of .04 or greater.
  - d. Using alcohol for eight hours following an accident or until tested when required to be tested, whichever comes first.
  - e. Possessing alcohol, unless the alcohol is manifested and transported as apart of the shipment.
2. **Prohibited Use of Drugs.** Under the DOT/FHWA rules, a driver cannot have any detectable amount of drugs in his or her system. Therefore, any use of drugs is

prohibited at all times. According to the DOT, drivers who use drugs are rendered medically unqualified to drive.

The DOT/FHWA regulations prohibit the following conduct:

- a. Use or possession of ANY drug (excludes over-the-counter or prescription drugs under the guidance of a physician in the course of medical treatment).
  - b. Testing positive for drugs.
3. Prohibited Conduct Related to Drugs and Alcohol. The following conduct related to drugs and alcohol is prohibited by the County's Drug and Alcohol Policy:
- a. Switching, adulterating, or committing any other misconduct pertaining to any breath, urine, or saliva sample.
  - b. Refusing to submit to a post-accident, random, reasonable suspicion, or follow-up drug or alcohol test is a violation of the DOT/FHWA rules and will be treated as a positive test.
  - c. Disclosure to individuals, other than on a need-to-know-basis, of information pertaining to alcohol and/or drug testing referrals, results of such testing or treatment referrals.

**E. Testing Under the DOT / FHWA Regulations.** The methods used to determine the presence of alcohol and/or drugs in the system under the DOT/FHWA regulations include a urine, breath, and/or saliva test. In accordance with the DOT/FHWA, the County is required to test for drugs and/or alcohol in the following circumstances.

1. **Pre-Employment Drug Testing.** Pre-employment testing applies to individuals whom the County intends to hire or use on a permanent or temporary basis as CMV drivers. "Applicants" may be prospective drivers or current employees who have served in other capacities, such as an office worker or mechanic who wishes to become a driver, and must obtain and maintain a CDL.  
All applicants shall be advised in connection with their application for employment that they will be required to submit to a drug screen at any time prior to the first time the driver performs a safety-sensitive function.  
An applicant's failure to consent to a screen or a verified, positive test result will disqualify an applicant for employment.  
A current employee's failure to consent to a test or a verified positive test will disqualify the employee for the transfer. In addition, the County may take additional disciplinary action under its own authority.
2. **Reasonable Suspicion Testing.** A driver shall be sent for an alcohol and/or drug test whenever a supervisor(s) has reasonable suspicion to believe:
  - a. The driver has violated the prohibitions of the DOT/FHWA regulations, or
  - b. The driver's behavior and appearance indicate drug use and/or alcohol misuse.
3. **Post-Accident Testing.** Drivers who are involved in an accident will be subject to an alcohol and/or drug test following the accident whenever:
  - a. The accident involved a fatality; or

- b. The driver received a citation for a moving traffic violation arising from the accident, AND;
  - an individual suffered a bodily injury that required immediate medical treatment away from the scene of the accident; OR
  - one of the vehicles involved in the accident was towed away from the scene.
- 4. Random Testing. All drivers will be subject to unannounced drug and alcohol testing.

The County does not have the discretion to waive testing for a driver who has been randomly chosen. All drivers will have an equal probability of being selected for testing and will remain in the pool throughout the process.

The County will ensure that tests are spread reasonably throughout the 12-month period and that testing will not be predictable.

**3.12.055 Genetic Information Nondiscrimination Act (GINA).**

Churchill County is subject to the federal regulations associated with the Genetic Information Nondiscrimination Act (GINA). When requiring employees or applicants to see a health care provider for work-related medical exams, pre-employment physicals, ADA accommodations, fitness-for-duty exams, or similar work-related medical exams, the county must state to the applicant, employee, AND the health care provider that no genetic information is sought by or to be relayed to the employer under the Title II provisions of GINA.

**3.12.060 Nepotism Prohibited; Personal Relationships.**

**A. Nepotism Prohibited.**

- 1. No person acting as a department head or elected official shall supervise or employ, in any capacity, any relative of such person.
- 2. No person acting as a member of any county board or commission shall supervise or employ, in any capacity, any relative of such person or of any member of such board or commission.
- 3. No person acting as a department head or elected official shall supervise or employ in any capacity any relative of any member of a governing board which has direct or indirect influence over that department's personnel decisions.
- 4. This section does not prohibit a relative of the county manager from being supervised or employed in a department which is administered by an elected official, or a department head appointed by its governing board, but only if the county manager has no direct or indirect influence or authority over the personnel decisions made for that employee. Decisions related to evaluations, merit increases, promotions, reclassifications, or discipline of such employee shall be made by the human resources director and the elected official or department head if applicable.

5. In addition, no person shall be employed in a position if such employment would require supervision by a relative. For purposes of this paragraph, supervision includes immediate or second-level supervision.
6. For purposes of this section “relative” is defined as a person who is within the third degree of consanguinity or affinity.

**B. Personal Relationships.**

1. An employee who is involved in a personal relationship with another employee may not be supervised by or supervise the employee with whom he or she is involved. "Personal relationship" is defined as a relationship between individuals who have or have had a continuing relationship of a romantic or intimate nature. Supervisors are prohibited from having a personal relationship with subordinates and may be disciplined for such actions, up to and including termination.
2. Churchill County reserves the right to take prompt action if a conflict of interest arises concerning individuals who occupy positions at any level (higher or lower) in the same line of authority that may affect employment decisions and/or actions. Additionally, Churchill County reserves the right to implement appropriate disciplinary action against the involved employees, up to and including termination of employment, if a personal relationship has a negative impact on the workplace.

**3.12.070 Outside Work.**

A. Outside work of any kind is regarded as secondary to regular County employment and shall not interfere with the performance of regular County work, or with the availability of employees for emergency on-call duty. Employees will not be allowed to engage in non-County work or other activities which could reasonably be considered to create a conflict of interest with their County employment. Outside work may be classified as in conflict with the county's interests if it:

1. Interferes with or negatively impacts the employee's ability to perform his/her assigned job.
2. Is conducted during the employee's work hours.
3. Requires the services of other employees during their normally scheduled work hours.
4. Makes use of the county's telephones, computers, supplies, or any other resources, facilities, or equipment.
5. Is represented as an activity of the county or an activity endorsed, sanctioned, or recommended by the county.
6. Takes advantage of the employee's employment with the county, except to the extent that the work with the county may demonstrate expertise or qualification to perform the outside work.
7. Requires the employee to schedule time off at specific times that could disrupt the operation of the county.

8. Involves employment with a firm that has contracts or does business with the county. Exceptions to this policy have been identified in Section 3.12.080, Items C.10.a. and b., Code of Ethical Standards.

B. Employees shall advise their department heads of plans to engage in such non-County work prior to the acceptance thereof. They shall supply the department head with full information about the planned work, through written application containing such detail as is deemed necessary by the department head. If there is a conflict with the employee's employment, the supervisor or manager will inform the employee, in writing, that the outside employment is not allowed and a copy placed in the employee's personnel file.

C. No outside employment may be accepted by any employee until approved by the appointing authority. Acceptance of outside employment without prior approval as required under this section may be grounds for disciplinary action.

### **3.12.080 Code of Ethical Standards.**

A. The elected and appointed officers and employees of county recognize that holding public office and/or employment is a public trust. To preserve that trust, we demand the highest code of conduct and ethical standards. The purpose of this policy is to define and establish the standards of ethical conduct that are required of public officials and employees so as to ensure their professional integrity in the performance of their duties.

B. The officers and employees of county shall comply with the following provisions. This list is not all-inclusive, but simply provides the basic level of conduct expected.

1. All elected and appointed officials and employees will conduct themselves with honesty and integrity in the course of performing their duties and responsibilities.
2. They will act with care and diligence in the course of their employment.
3. They will treat everyone, including coworkers, subordinates, supervisors, customers and the public, with the utmost respect and courtesy.
4. They will comply with all applicable federal, state, and local laws.
5. They will comply with any lawful and reasonable direction given by someone in the employee's agency who has authority to give the direction.
6. They will maintain appropriate confidentiality.
7. They will disclose, and take reasonable steps to avoid, any conflict of interest (real or apparent) in connection with their employment.
8. They will use employer resources in a proper manner.
9. They will not provide false or misleading information in response to a request for information that is made for official purposes in connection with their employment and will provide or respond to all reasonable requests for information that are made for official purposes in connection with their employment.

10. They will, at all times, act in a way that upholds the values and the integrity and good reputation of employer.
11. They will comply with any other conduct requirement that is prescribed by the employer.

C. In addition, consistent with the provisions of NRS 281A.400 and NRS 281.230, the county's officials and employees are required to comply with the following:

1. No official or employee shall seek or accept any gift, service, favor, employment, engagement, perquisite, gratuity, or economic opportunity or advantage which would tend improperly to influence a reasonable person in his/her position to depart from the faithful and impartial discharge of his/her public duties.
2. No official or employee shall use his/her position with the county to secure or grant unwarranted privileges, preferences, exemptions, or advantages for him/herself, any member of his/her household, any business entity in which s/he has a significant pecuniary interest, or any other person.
3. No official or employee shall participate as an agent of government in the negotiation or execution of a contract between the governmental entity and any private business in which s/he has a significant pecuniary interest.
4. No official or employee shall accept any salary, retainer, augmentation, expense allowance, or other compensation from any private source for the performance of his/her duties as an official or employee.
5. If an official or employee acquires, through his/her public duties or relationships, any information which by law or practice is not at the time available to the public generally, s/he shall not use such information to further his/her own current or future pecuniary interests or the current or future pecuniary interests of any other person or business entity.
6. No official or employee shall suppress any governmental report or other document or information because the release of such report or information has the potential to impact his/her own pecuniary interests or those with whom s/he has a business or personal relationship.
7. No official or employee shall use governmental time, property (including monies or funds), equipment, or other facility to benefit his/her personal or financial interests.
8. No official or employee shall attempt to benefit his/her personal or financial interest(s) by influencing or intimidating a subordinate.
9. No official or employee shall seek other employment or contracts through the use of his/her official position or the influence associated thereto.
10. An official or employee shall not, in any manner, directly or indirectly, receive any commission, personal profit, or compensation of any kind resulting from any contract or other transaction in which the county is in any way interested or affected except:
  - a. A member of any board, commission, or similar body who is engaged in the profession, occupation, or business regulated by the board, commission, or body may, in the ordinary course of his/her business, bid on or enter into a contract

with any governmental agency, except the board, commission, or body of which s/he is a member, if s/he has not taken part in developing the contract plans or specifications and s/he will not be personally involved in opening, considering, or accepting offers.

- b. A public officer or employee, other than an officer or employee described in a. above, may bid on or enter into a contract with a governmental agency if the contracting process is controlled by rules of open competitive bidding, the sources of supply are limited, s/he has not taken part in developing the contract plans or specifications, and s/he will not be personally involved in opening, considering, or accepting offers.

D. Violations of any of the above provisions may result in disciplinary action, up to and including termination.

### **3.12.090 Political Activity.**

A. County employees shall not engage in political activity of any kind during working hours. Prohibited activity shall include, but is not limited to, soliciting money, influence, service, or any other valuable thing to aid, promote, or defeat any political committee or the nomination or election of any person to public office, while on the job during working hours. Wearing or displaying of apparel, buttons, insignia, or other items which advocate for or against a political candidate or a political cause is also an example of prohibited political activity during work hours. Furthermore, no person shall attempt to coerce, command, or require a person holding, or applying for, any position, office, or employment, including a citizen requesting service supplied by the county, to influence or give money, service, or other valuable thing to aid, promote, or defeat any political committee, or to aid, promote, or defeat the nomination or election of any person to public office. Employees may not participate in any of the above-mentioned activities off duty while wearing a uniform, name tag, or any other item identifying them as a representative of the county.

B. Employees are expressly forbidden to use any County resources, including but not limited to: interoffice mail, email, telephone, fax machines, the Internet, or copy machines to engage in any political activity outside the approved scope of the employees' official duties.

C. The rights of County employees to register and vote as they choose shall not be infringed.

D. Subject to the foregoing, any County employee may seek appointment or election to any public position, office, or employment for which qualified. Employees who are seeking public office shall not conduct any business related to these activities while on duty. This includes all of the items listed above. If there is a conflict with, or the activities hinder the performance of the duties with county, the employee will comply with one of the following (final approval is at the county's sole discretion):

1. The employee will be expected to resign their position;
2. The employee may apply and seek approval for use of accrued leave time, or;
3. The employee may request unpaid leave.

**3.12.100 Solicitation Prohibited.**

A. Distribution of literature or solicitations by employees in work areas during work hours on behalf of any club, society, labor union, religious organization, political party or similar organization, or for any purpose whatsoever is strictly prohibited. Employees may solicit or distribute literature in specified non-work areas during non-working hours only.

B. Non-employees will not be allowed on the premises for the purpose of distribution of literature or solicitation of employees on the behalf of any club, society, labor union, religious organization, political party or similar organization at any time whatsoever except when such solicitation is for the sole benefit of social, youth, or other non-political, or non-religious charitable organization or by County employees in specified non-work areas during non-working hours only.

**3.12.110 Work Stoppage Prohibited.**

A. No employee of the County will instigate, promote, encourage, sponsor, or engage in any strike, picketing, slowdown, concerned work stoppage, or any other intentional interruption of work.

B. Any or all of the employees who violate any of the provisions of this section may be discharged or disciplined by the County, including loss of compensation, vacation benefits and holiday pay. In addition to the penalties provided under this section, the County may enforce any other legal rights and remedies to which, by law, it is entitled.

**3.12.120 Use of County Property and Premises.**

A. Employees shall use County property and equipment only for work purposes, as directed.

B. Employees shall not misuse, destroy or otherwise use in an improper manner County property.

C. Employees shall follow all rules or practices relating to security of County property or County premises.

D. Unauthorized use, duplication or possession of County keys shall be grounds for discipline.

E. Employees may not distribute or post handbills, pamphlets or other written material in any work area without authorization.

F. Employees shall not post, remove or tamper with County notices posted on bulletin boards without authorization from the posting department or County Manager.



G. All employees shall observe parking or traffic regulations on County property as established by resolution or departmental rules.

**3.12.130 Safety.**

A. All County personnel shall follow all established rules or practices relating to safety.

B. All County personnel shall maintain clean and sanitary workplaces and shall not litter or contribute to unsafe or unsanitary work conditions on County premises.

C. Employees are expected to adhere strictly to all safety requirements. Suggestions regarding safety will be welcomed from all employees.

D. Whenever an employee is injured on the job, he/she shall report the injury to his/her supervisor immediately.

**3.12.140 Use of Tobacco.**

The county is committed to providing a safe and healthy workplace and to promoting the health and well-being of its employees. As required in accordance NRS 202.2483 (Nevada Clean Indoor Air Act), smoking of tobacco, including electronic cigarettes and similar products, is prohibited within any building owned, leased, contracted for, and utilized by the county. This prohibition extends to areas that are routinely or regularly used by employees, including but not limited to: work areas, restrooms, hallways, employee lounges, cafeterias, conference and meeting rooms, lobbies, reception areas, and vehicles the county owns or uses. The county may designate outdoor smoking areas for its employees, as determined by the department head in consultation with the county manager.

**3.12.150 Children in the Workplace.**

A. Except for the normal use of Churchill County facilities and services which are available to all residents of Churchill County, the minor children and other minor relatives/acquaintances of Churchill County employees are not allowed in the workplace during working hours (unless the minor is a County employee). Infrequent, brief visits are allowable.

B. The County has very flexible leave programs to balance family life with work life. It is the employee's responsibility to make childcare arrangements. When unexpected situations arise for which childcare is not attainable, available leave should be utilized rather than bringing the children to the workplace.

C. In the rare instance where an employee has no alternative but to bring a child to work, coordination and approval of the employee's supervisor must be obtained. This is expected to be the exception, not the standard. If bringing a child to work is unavoidable, the employee must contact his/her supervisor as soon as possible to discuss the situation and obtain

permission to have the child accompany the employee while working. Factors the supervisors will consider are the age of the child, how long the child needs to be present, the work environment in the employee's area, and any possible disruption to the employee's and co-workers' work. Consideration will not be given to allowing a child with an illness to come to work with the employee. A child brought to the workplace in unavoidable situations will be the responsibility of the employee and must be accompanied and be under the direct supervision of the employee at all times. In no case will a child who is brought to work be placed in a situation where the child's safety is compromised or where the County is exposed to added liability. No children will be allowed to operate County equipment or ride in County equipment or vehicles.

D. Churchill County recognizes that some of its departments provide services to juveniles and it may be compatible with a department's role to allow employees' children in the workplace for special events or normal use (i.e. recreation facilities, library, juvenile probation, etc.). With this in mind, departments may, on a case by case basis, develop a policy allowing children in the workplace. Such policy must address liability and safety concerns and be approved by the County Manager before children are brought to the workplace.

### **3.12.160 Pets in the Workplace.**

A. County employees are prohibited from bringing personal pets or other animals into the workplace. This applies to all County buildings, facilities, grounds, and all County vehicles at all times.

B. Exceptions will be made for service animals, pursuant to local, state and federal regulations. A service animal is defined as an animal which has been or is being trained to provide a specialized service.

C. In addition to suffering disciplinary action, employees who violate this policy shall be responsible for any personal or property damage caused by their pets.

### **3.12.170 Fraud Prevention and Reporting Policy.**

A. **Policy.** Churchill County (the County) has established a fraud prevention and reporting policy to enforce controls and to aid in the prevention and detection of fraud, theft, waste, or abuse against the County. The rights, responsibilities and penalties outlined in this policy are in addition to those expressly outlined in NRS 281A.500-550 and 281.611-671.

B. **Scope.** This policy applies to any fraud, theft, waste, or abuse or suspected fraud, theft, waste, or abuse involving an employee (including management), a consultant, vendor, contractor, outside agency, or person doing business with the County or having any other relationship with the County.

1. The County does not tolerate any type of fraud, theft, waste or abuse. The County's policy is to promote consistent, legal, and ethical organizational behavior by:

- a. establishing clear lines of communication for reporting suspected fraudulent behavior;
  - b. assigning responsibility for reporting and receiving reports of suspected fraudulent behavior;
  - c. providing guidelines to conduct investigations of suspected fraudulent behavior;
  - d. requiring all employees to attend fraud awareness training; and
  - e. clearly stating that the County prohibits retaliation against those who report suspicions of fraudulent behavior.
2. Failure to comply with this policy subjects an employee (including those in management) to disciplinary action consistent with the applicable Collective Bargaining Agreement and/or County Personnel Policies. Failure to comply by a consultant, vendor, contractor, outside agency, or person doing business with the County or having any other relationship with the County could result in cancellation of the business or other relationship between the entity and the County.
  3. The County is committed to pursuing criminal prosecution against the person or entity engaging in the fraudulent activity if the results of an investigation indicate the possibility of criminal activity.
  4. For purposes of this policy only the term *fraud* or *fraudulent* includes theft, waste, and abuse as defined below. The term *employee* includes all categories of employees (regular and temporary, full and part time) and those in management positions. The term *management* includes elected officials, appointed department heads, supervisors and any other employee who has authority to prepare or approve another employee's performance evaluation.

#### C. Definitions of Fraud, Waste, and Abuse.

1. **Fraud** is defined as an intentional deception designed to obtain a benefit or advantage or to cause some benefit that is due to be denied. Examples of fraud include:
  - a. Forgery or alteration of a check, bank draft, or any other financial documents;
  - b. Theft of a check or other diversion of a taxpayer payment;
  - c. Misappropriation of funds, securities, supplies or other assets;
  - d. Profiteering as a result of insider knowledge of agency operations;
  - e. Disclosing to others the securities activities engaged in or contemplated by the County;
  - f. Impropriety in the handling or reporting of money or financial transactions;
2. **Waste** is the loss or misuse of County resources that results from deficient practices, system controls, or decisions.
3. **Abuse** is the intentional, wrongful, or improper use of resources or misuse of one's position or authority that causes the loss or misuse of resources, such as tools, vehicles, computers, copy machines, etc.

4. **Theft** is defined as the act of taking something from someone or some entity unlawfully with the intention of keeping it or converting it to personal use.

**D. Responsibility to Report Suspected Fraud.**

1. Management is required to report suspected fraud, theft, waste or abuse or other dishonest conduct, including reports from employees or other individuals, to the Compliance Officer. If there is an allegation of fraud relating to the Compliance Officer or the District Attorney's Office, the report shall be made to the County Manager.
2. Supervisors and managers do not have the authority to determine the merits of a report of suspected fraud - the Compliance Officer makes this determination with the assistance of the County Manager once an investigation is complete.
3. The identity of an employee or complainant who reports suspected fraud will be protected to the full extent allowed by law and consistent with the conduct of a thorough investigation. (See: *Responsibilities of Compliance Officer.*)
4. Suspected improprieties and/or misconduct concerning an employee's ethical conduct should also be reported to the Compliance Officer. Note that there are many instances of prohibited actions that do not rise to the level of fraud as defined but nonetheless may constitute inappropriate behavior, such as an improper relationship with a vendor.

**E. Guidelines for Handling a Report of Suspected Fraud, Theft, Waste or Abuse.**

1. Whether the initial report is made to a supervisor or the Compliance Officer, the reporting individual should comply with the following instructions and guidelines:
  - a. Do not contact the suspected individual in an effort to determine facts or demand restitution.
  - b. Recognize that the Compliance Officer is the appropriate individual designated and authorized by the County to conduct the investigation. Do not attempt to further investigate the allegations yourself. Such action would hamper the conduct of the legitimate investigation.
  - c. Observe strict confidentiality. Do not discuss the case, facts, suspicions, or allegations with anyone unless specifically asked to do so by the Compliance Officer, a Criminal Investigator or the District Attorney.
  - d. Retaliation will not be tolerated. The County will not tolerate any form of retaliation against individuals providing information concerning fraud or suspected fraud.
  - e. Every effort will be made to protect the rights and the reputations of everyone involved, including the individual who in **good faith** alleges perceived misconduct as well as the alleged violator(s). (See: *Disciplinary Action* for the consequences of making an allegation of fraud in bad faith.)

- f. The identity of an employee or other individual who reports a suspected act of fraud will be protected as provided by this policy and to the extent possible to investigate the allegation. (See: *Responsibility to Report Suspected Fraud.*)

**F. Responsibility of Compliance Officer.**

1. On receiving a report of suspected fraud, the Compliance Officer shall document the contact and conduct a preliminary investigation to determine the credibility of the report. If the report is credible, the Compliance Officer shall follow the investigation guidelines provided in this policy which may include the assignment to an outside agency. (See: *Guidelines for the Investigation of Suspected Fraud.*)
2. The Compliance Officer shall make every effort to protect the rights and the reputations of everyone involved in a report of suspected fraud, including the individual who in good faith alleges perceived misconduct, as well as the alleged violator(s). The Compliance Officer also shall make every effort to protect the identity of a person who in good faith reported the suspected fraud. However, disciplinary action may be taken as provided by this policy if an allegation of fraud is made in bad faith (see: *Disciplinary Action*).
3. On determining that a report is not credible or is not a report of fraud as defined in this policy, the Compliance Officer shall provide sufficient documentation to support this determination.
4. The Compliance Officer is responsible for the administration, revision, interpretation, and application of this policy but will seek the input of others involved with and responsible for the appropriate implementation of this policy.
5. Churchill County Commissioners designate the Civil Deputy District Attorney as the Fraud Compliance Officer for the organization.

**G. Guidelines for the Investigation of Suspected Fraud.**

1. The Compliance Officer is responsible for the oversight of the full investigation and documentation of suspected fraud. The Compliance Officer has primary responsibility for the investigation of reported wrongdoing and all suspected fraud and for coordinating investigative activities with the County's District Attorney, County Manager or designee and other outside agencies as deemed appropriate. Upon receiving information of suspected fraudulent activity, the Compliance Officer shall initiate an assessment of the information reported and if warranted, a complete investigation in a timely basis.
2. Each employee involved in an investigation of suspected fraud is required to fully cooperate and shall keep the content of the investigation strictly confidential to the full extent provided by law and to the extent possible to conduct a thorough investigation. Investigation results shall not be disclosed or discussed with anyone other than those who have a legitimate need to know.

3. Any required investigative activity shall be conducted without regard to the suspected wrongdoer's length of service, position/title, relationship to the County, personal relationships, or any other real or perceived mitigating circumstance.
4. The Compliance Officer shall maintain appropriate documentation regarding incidents of fraud. The Compliance Officer shall develop and maintain guidelines for access to and security of this documentation.
5. If an investigation substantiates fraudulent activities, the Compliance Officer will prepare an incident report to the County Manager, District Attorney, HR Director and the Department Head of the department in which the fraud occurred. The Compliance Officer shall prepare the report as soon as possible after the investigation substantiates fraud has occurred and shall document the content of the investigation, the findings, and any disciplinary action taken as a result of the finding.
6. Any inquiries from the suspected individual, his or her attorney/representative, or any other inquirer shall be directed to the Compliance Officer. If necessary, the Compliance Officer will refer these inquiries to the District Attorney or County Manager.

#### **H. Disciplinary Action.**

1. Failure to comply with any part of this policy is grounds for disciplinary action consistent with any applicable Collective Bargaining Agreement and/or County Personnel Policies.
2. An employee who:
  - a. has engaged in any form of fraud, waste, or abuse; or
  - b. intentionally reports false or misleading informationis subject to disciplinary action, up to and including termination.
3. Any member of management who does not inform the Compliance Officer in a timely manner of each and every report of suspected fraud made by an employee or other person is subject to disciplinary action, up to and including termination.

#### **I. Fraud Awareness and Training.**

1. What is a fraud risk? – This occurs where there is the potential for fraud to occur, usually as a result of internal controls not being in place, not being followed or such controls being ineffective in preventing or detecting fraud.
2. Identifying fraud risk – The responsibility for recognizing the existence and/or the potential for the risk of fraud, and the implementation of an appropriate strategy to assess fraud risks ultimately lies with each supervisor and manager. However, it remains the fundamental responsibility of all personnel to be vigilant of the risk of fraud within the County and to report it as soon as they become aware of significant fraud risks or the potential for fraud risks.

3. Training – Each employee is required to attend at least one session of Fraud Awareness Training. An attendance sheet will be maintained documenting attendance and a record of compliance with this training requirement maintained by the HR Department. Periodic training will be provided to the employees. New employees are required to participate in this training within 6 months of hire.

J. **Annual Report.** – Incidents of suspected fraud determined by the Compliance Officer to have merit shall be reported to the Audit Committee on an annual basis. The annual report shall include: the source of the reported information; the initial assessment of the merit of the information or allegation; whether a full investigation was conducted and if so, the results of the investigation; the reasons a full investigation was not conducted, any disciplinary action resulting from the investigation; whether the report was referred to an outside entity and if so, the current status or final results of the referral.

### **3.12.180 Whistleblower Protection.**

A. **Purpose** – The purpose of this policy is to establish “whistleblower protection” for employees of the employer who report improper governmental action, pursuant to NRS 281.611-281.671.

B. **Definition** – “Improper governmental action” is defined as action taken by an officer or employee in the performance of official duties which is:

1. In violation of state law or regulation;
2. In violation of county code, ordinance, or regulation adopted by the county;
3. An abuse of authority;
4. Of substantial and specific danger to the public health or safety; or
5. A gross waste of public money.

C. **Filing an Appeal**

1. An officer or employee (or former officer or employee) who claims that a reprisal or retaliatory action was taken against the officer or employee for disclosing information concerning improper governmental action as defined above may file a written appeal with the human resources director, District Attorney or other appropriate authority. “Reprisal or retaliatory action” includes:
  - a. The denial of adequate personnel to perform duties;
  - b. Frequent replacement of members of the staff;
  - c. Frequent and undesirable changes in the office location;
  - d. Refusal to assign meaningful work;
  - e. Issuance of letters of reprimand or evaluations of poor performance;
  - f. Demotion;
  - g. Reduction in pay;

- h. Denial of a promotion;
  - i. Suspension;
  - j. Dismissal;
  - k. Transfer;
  - l. Frequent changes in working hours or workdays; or
  - m. If the employee is licensed or certified by an occupational licensing board, the filing with that board, by or on behalf of the county, of a complaint concerning the employee, if such action is taken in whole or in part, because the officer or employee disclosed information concerning improper governmental action.
2. A written appeal must be filed by the officer or employee within 60 days after the date the alleged reprisal or retaliatory action took place. The reprisal or retaliatory action must have occurred within two years after the date the officer or employee disclosed information concerning improper governmental action. The appeal must be filed with the human resources director or appropriate authority on a form provided by the county. The appeal must contain a statement that sets forth with particularity:
    - a. The improper government action that is alleged to have occurred and the facts and circumstances under which the disclosure of improper governmental action was made; and
    - b. The reprisal or retaliatory action that is alleged to have been taken against the officer or employee for disclosing the improper government action.
  3. The human resources director shall review the complaint for timeliness and to determine whether the elements required for a whistleblower complaint are sufficiently alleged. If the complaint is against the human resources director, the complaint will be reviewed by the county manager. If the complaint fails to meet these preliminary requirements it will be rejected. If the complaint satisfies these preliminary requirements it will be forwarded to a hearing officer for consideration. A complaint will be considered filed timely even if amendments are made to the complaint after the initial filing.

**D. Appointment of Hearing Officers** – As set forth by this ordinance, hearing officers shall be appointed by the Human Resources Director. If the Human Resources Director is the person named in the complaint, the hearing officer shall be appointed by the County Manager. The qualifications of the hearing officers require a combination of education and experience in resolving disputes, adjudicating issues through the interpretation of statutes, rules or regulations, or serving as a hearing officer with the state. The hearing officer may not be an employee of the County.

**E. Appeal Hearings**

1. A hearing officer may reject an appeal form that is incomplete or otherwise insufficient to commence an appeal.
2. When an officer or employee alleging reprisal or retaliatory action requests an appeal hearing, s/he may represent themselves at the hearing or be represented by an attorney



or other person of the employee's or officer's choosing. All testimony given at the hearing is under oath. The officer or employee alleging reprisal or retaliatory action presents his/her case first and must establish:

- a. That the officer or employee was an officer or employee on the date of the alleged reprisal or retaliatory action;
  - b. That the officer or employee disclosed information concerning improper governmental action; and
  - c. The alleged reprisal or retaliatory action was taken against him/her within two years after the date s/he disclosed the information concerning improper governmental action.
3. The county then presents its case and must show that the county did not engage in the alleged reprisal or retaliatory action, or that the action was taken for legitimate business purposes and was not the result of the disclosure of information regarding improper governmental action by the officer or employee. The employee or officer making the allegation must then show that the stated business purpose for the action was a pretext for the reprisal or retaliatory action.
  4. If the hearing officer finds that the action taken was a reprisal or retaliatory action, the hearing officer may issue an order directing the person to desist and refrain from engaging in such action.

F. **Prohibition of Threats or Coercion** – An officer or employee shall not directly or indirectly use or attempt to use the officer's or employee's official authority or influence to intimidate, threaten, coerce, command, influence, or attempt to intimidate, threaten, coerce, command, or influence another officer or employee in an effort to interfere with or prevent the disclosure of information concerning improper governmental action. The provisions of this policy shall not be used to harass another officer or employee.

G. **Disclosure of Untruthful Information** – This policy does not preclude the county from initiating proper disciplinary action against an individual who discloses untruthful information concerning improper governmental action.

H. **Annual Summary** – As required by NRS 281.661, a summary of this policy will be provided to employees on an annual basis by the Human Resources department.

### **3.12.190 Prohibition of Workplace Violence.**

A. **Policy** – The county is committed to providing for the safety and security of all employees, customers, visitors, and property.

B. **Scope** – This policy applies to all employees, including regular, part-time temporary, casual/temporary/seasonal, provisional, and elected officials, volunteers, as well as contract and temporary workers and anyone else on the county's property.

C. **Implementation of Policy**

1. The county will not tolerate any form of workplace violence including acts or threats of physical violence, intimidation, harassment, and/or coercion, which involve or affect the county or which occur on property owned or controlled by the county or during the course of the county's business. Examples of workplace violence include, but are not limited to, the following:
  - a. All threats (including direct, conditional, or veiled) or acts of violence occurring on premises owned or controlled by the county, regardless of the relationship between the county and the parties involved in the incident.
  - b. All threats of any type or acts of violence occurring off the county's premises involving someone who is acting in the capacity of a representative of the county.
  - c. All threats of any type or acts of violence occurring off the county's premises involving an employee of the county, if the threats or acts affect the legitimate interests of the county.
  - d. Any acts or threats resulting in a criminal conviction of an employee or agent of the county or of an individual performing services for the county on a contract or temporary basis which adversely affect the legitimate interests and goals of the county.
2. Specific examples of conduct which may be considered threats or acts of violence include, but are not limited to, the following:
  - a. Hitting, shoving, or otherwise assaulting an individual;
  - b. Direct, conditional, or veiled threats of harm directed to an individual or his/her family, friends, associates, or property;
  - c. The intentional or malicious destruction or threat of destruction of the county's property, or property of another employee;
  - d. Harassing or threatening phone calls, text messages, notes, letters, computer messages, or other forms of communication;
  - e. Harassing surveillance or stalking;
  - f. Unauthorized possession or inappropriate use of firearms, weapons, hazardous biological or chemical substances, or explosives while on county business.
3. The county desires to detect and deter real, potential, or threatened violence. Every employee is required to report immediately any acts of violence or any threat of violence against any coworker, supervisor, manager, elected official, visitor, volunteer, or other individual. Supervisory and managerial personnel who witness or become aware of any acts or threats of violence must notify their superior immediately. Every other person on county property is encouraged to report incidents of threats or acts of violence of which s/he is aware. Threats or acts of violence may include:
  - a. Discussing weapons or bringing them to the workplace.
  - b. Displaying overt signs of extreme stress, resentment, hostility, or anger.
  - c. Making intimidating, abusive, or threatening remarks.

- d. Displaying irrational or inappropriate behavior.
4. Reports of violence or threatening behavior should be made to the Human Resources Department, the District Attorney, an employee's immediate supervisor or manager, or any other supervisory or management employee. The county is committed to ensuring that employees reporting real or perceived threats in good faith will not be subject to harassment or retaliation. Nothing in this policy alters any other reporting obligation established in the county's policies or in state, federal, or other applicable law.

**D. Violations**

1. Violations of this policy by any employee will lead to disciplinary action, up to and including termination and/or appropriate legal action. The county may also take appropriate disciplinary action against any employee who intentionally makes a false or malicious statement about coworkers or others.
2. Actions of law enforcement personnel which are necessary in the performance of their duties and are consistent with policies or sound law enforcement procedures shall not be considered to violate this policy. In addition, actions necessary for bona fide self-defense or protection of others or of county property shall not be considered to violate this policy.

**E. Temporary Restraining Orders**

1. The county may apply for an order for protection against harassment in the workplace pursuant to NRS 33.200 – 33.360 when it has reason to believe that:
  - a. A person knowingly threatens to cause or commits an act that causes:
    - (1) Bodily injury to him/herself or to another person;
    - (2) Damage to the property of another person; or
    - (3) Substantial harm to the physical or mental health or safety of a person.
  - b. The threat is made or an act committed against the county, any employee of the county while performing employment duties, or against a person present at the county's workplace; and
  - c. The threat would cause a reasonable person to fear that the threat will be carried out, or the act would cause a reasonable person to feel terrorized, frightened, intimidated, or harassed.
2. Such order of protection against harassment in the workplace may:
  - a. Enjoin the alleged harasser from contacting the county, an employee of the county while performing his/her duties, and any person while the person is present at the county's workplace;
  - b. Order the alleged harasser to stay away from the workplace; and
  - c. Order such other relief as the court deems necessary to protect the county, the workplace of the county, the county's employees while performing their employment duties, and any other persons who are present at the workplace.

### **3.12.200 Acquiring and Providing Employment References.**

A. **In General.** Acquiring and providing accurate employment references is an important component of acquiring, retaining, and providing relevant information concerning employees. Therefore, Churchill County is committed to adhering to the following procedure whenever conducting a background/reference check for an applicant for employment or when responding to inquiries from others for information regarding a current or former employee.

B. **Acquiring References.** Reference and background checks are conducted to assist the county in assessing an applicant's fitness for employment with the county. Only those employees designated by the County Manager or Human Resources Department may acquire employment references. Any authorized employee of the county who attempts to acquire reference information on an applicant must comply with the following:

1. Obtain a county employment application that is signed and dated by the applicant. The applicant must have completed all relevant sections of the application.
2. Obtain authorization from the applicant by means of his/her signature directly on the application and/or separate release form for the release of information from former employers, military, educational institutions, other institutions, personal references, and other individuals listed on the application. Authorization for release of such information by the applicant shall include a release from liability of any company, institution, or individual providing such information. If an applicant refuses to sign such a release, s/he will be eliminated from further consideration for employment with the county.
3. Inform the applicant that the county will conduct a background/reference check and that evaluating the applicant's suitability for employment includes contacting employment and other references, educational institutions, and personal and professional associates to verify information provided.
4. Develop questions that are related to the essential functions of the position and are non-discriminatory. Questions related to an applicant's training, knowledge, skills, production, timeliness of work, and ability to work with others are examples of appropriate inquiries. Discriminatory or non-work related questions such as family or marital status, disabilities, age, and related areas are not appropriate.

Note: For safety-sensitive positions as defined by 42 CFR Part 382 and U.S. Department of Transportation regulations, the county shall obtain, pursuant to an applicant's written consent, information on his/her alcohol tests with a concentration result of .04 or greater, verified positive controlled substance test results, and refusals to be tested within the preceding two (2) years from date of application which are maintained by the previous employers.

5. Identify the appropriate individual(s) to question regarding the applicant's work performance, knowledge, skills, and abilities related to the essential functions of the position.
6. Adequately document the conversation and record refusals to provide information.

7. Maintain strict confidentiality of all background/reference information. Only employees, supervisors, or management officials of the county who have a demonstrable work-related need-to-know should be accorded access to such information.

C. **Providing References.** All requests for employment information shall be referred to the County Human Resources Department. Only those personnel designated by the County Manager and/or the Human Resources Director are authorized to release employment information to third parties.

1. Churchill County will disclose to a prospective employer, at the request of an employee or former employee, factual information regarding the following:
  - a. The ability of the employee to perform the employee's job.
  - b. The diligence, skill or reliability with which the employee carried out the duties of the employee's job.
  - c. An illegal or wrongful act committed by the employee.
2. The county must provide information requested by law enforcement agencies in accordance with NRS 239B.
3. Records which are required for employees in safety-sensitive positions, as defined in 42 CFR Part 382 and U.S. Department of Transportation regulations, shall be made available to subsequent employers upon receipt of written request from the employee or former employee.
4. In disclosing information, the county will not:
  - a. Act with malice or ill will,
  - b. Disclose information that the county believed was inaccurate,
  - c. Disclose information which the county had no reasonable grounds for believing was accurate,
  - d. Recklessly or intentionally disclose inaccurate information,
  - e. Deliberately disclose misleading information, or
  - f. Disclose information in violation of a state or federal law or in violation of an agreement with the employee.
5. Reference Letters – Reference Letters may be written for current or former employees in conformance with the requirements in Paragraphs 1 and 4 above.

D. **Applicant/Employee Investigations.** Churchill County desires to maintain a productive, efficient, effective, healthy, and safe work environment and, as a result, will conduct pre-employment background investigations, background checks, and/or other investigations of employees as necessary. If these investigations are conducted by external third parties (also called "consumer reporting agencies"), they will be governed by relevant provisions of the Fair Credit Reporting Act (FCRA) and the Fair and Accurate Credit Transactions Act (FACT). FCRA and FACT cover background checks and other investigations for prospective employees, and current employees in certain situations, such as a promotion to positions requiring additional

information. FCRA and FACT specifically exclude misconduct investigations, such as unlawful harassment charges. Nevada law (NRS 613) restricts the use of consumer credit information to limited positions.

1. Reports – The types of reports that may be requested from consumer reporting agencies under this policy include, but are not limited to: credit reports, criminal records checks, court records checks, driving records, and/or summaries of educational and employment records and histories. These reports or checks are also called “consumer reports.” The information contained in these reports may be obtained by a consumer reporting agency from public record sources or through personal interviews with the applicant’s or employee’s co-workers, neighbors, friends, associates, current or former employers, or other personal acquaintances. These are sometimes referred to as “investigative consumer reports.” Any information contained in such reports may be taken into consideration in evaluating an applicant’s or employee’s suitability for employment, promotion, reassignment, or retention.
2. Requirements. In order to meet the requirements of the FCRA, effective the date of this policy:
  - a. All applicants for employment will be required to complete a notice and authorization form concerning consumer and investigative consumer reports. In the event of an external third party investigation, existing employees will be required to complete a notice and authorization form concerning consumer and investigative consumer reports, provided the employee has not previously completed such form.
  - b. The county will certify to the consumer reporting agency that:
    - (1) The notice and authorization requirement has been met;
    - (2) The information received is only used for employment purposes;
    - (3) The information will not be used to violate any Equal Employment Opportunity (EEO) legislation;
    - (4) Pre-adverse action requirements will be followed;
    - (5) Any additional investigative consumer report disclosures, if applicable, have or will be issued within three (3) days; and
    - (6) Upon request from the applicant or employee, the county will comply with applicable additional disclosure requests including, but not limited to, information as to the nature and scope of an investigative consumer report.
  - c. The county will provide a copy of the consumer report and a summary of the individual’s rights under the FCRA to the applicant or employee prior to making a final adverse or negative employment decision that, in whole or in part, is influenced by a consumer report or an investigative consumer report.
  - d. After the county has complied with item c. above and waited a “reasonable” period of time, the county may take the adverse or negative action. After taking such action, the county must provide to the applicant or employee a notice of adverse action which also contains:
    - (1) The name, address, and telephone number of the consumer reporting agency;

- (2) A statement that the consumer reporting agency did not make the adverse action decisions and will be unable to inform the applicant or employee of the specific reason(s) for the adverse action;
  - (3) A statement that the applicant or employee is entitled to obtain an additional free copy of the “consumer report”; and
  - (4) A statement that the applicant or employee has a right to dispute the accuracy or completeness of any information in the report.
3. Disqualification for Hire – If the county secures documented information that a candidate selected for employment has been convicted of a felony involving physical violence or moral turpitude, that candidate will not be hired and any contingent offer of employment will be withdrawn. The county will communicate this requirement to all applicants prior to hire.

## **Chapter 3.16**

### **EMPLOYMENT, SELECTION AND APPOINTMENT**

#### **Sections:**

- 3.16.010 Classified Service.
- 3.16.020 Unclassified Service.
- 3.16.030 Employment Applications.
- 3.16.040 Open and Promotional Employment Announcements.
- 3.16.050 Public Notice of Job Openings.
- 3.16.060 Selection Methods.
- 3.16.070 Evaluation of Applicants.
- 3.16.080 Investigation of Applicants.
- 3.16.090 Filling of Vacancies.
- 3.16.100 Minimum Employment Age.
- 3.16.110 Legal Authority to Work.
- 3.16.120 Medical Examinations.

#### **3.16.010 Classified Service.**

A. The classified service of the County is comprised of all employees employed in regular positions in the service of the County now existing or created after the effective date of the ordinance codified in this title who are not included in the unclassified service or are specifically exempted as set forth in Section 3.16.020.

B. Appointments in the classified service shall be made according to merit and fitness as determined by the appointing authority from eligible lists prepared upon the basis of examination, which shall be open and competitive, except as otherwise provided in this Title.

C. No person shall be appointed, transferred, promoted, demoted or discharged as an employee in the classified service in any manner or by any means other than those prescribed in this Title.

D. Salaries of all persons in the classified service shall be fixed by the County Board.

#### **3.16.020 Unclassified Service.**

A. The unclassified service of the County shall be comprised of positions held by County officers or employees as follows:

1. Persons chosen by election or appointment to fill an elective office;
2. Those employees designated as Chief Deputies by an elected official consistent with their authorization as provided in the applicable chapter of the Nevada Revised Statutes unless the elected official notifies the County Manager in writing that such chief deputy is to be employed in the classified service; in addition, the provisions of Nevada Revised Statutes Chapter 252.070 is adopted as set forth herein;



3. Members of appointed boards and commissions;
4. Appointed heads of departments and the County Manager;
5. All casual workers and persons hired as temporary part-time or temporary full-time workers, for work which at the time of hire is not expected to exceed 1040 hours in any twelve-month period;
6. Such other officers and employees as authorized by law to be in "at-will" status.

B. Salaries of all persons in the unclassified service, excluding County officers whose salaries are fixed by statute, shall be fixed by the County Board.

C. No unclassified service employee shall be entitled to the rights, privileges or provisions of the classified service relative to employee appointment, promotion, demotion, disciplinary appeal, transfer, or rehire. An unclassified employee is an at-will employee and shall serve at the pleasure of the appointing authority. Unclassified employees shall be entitled to compensation benefits including vacation leave, sick leave, leaves of absence, medical benefits or retirement as would be available in the employment of a classified employee, except as limited by State law or other specific provisions of this Title.

#### **3.16.030 Employment Applications.**

A. Applicants for County positions shall apply in writing to the appropriate appointing authority following procedures and application forms established by the County Manager.

B. All applications and examination papers are records of the County and under no circumstances will they be returned to the applicants. A separate and complete application for each recruitment must be filed unless specified otherwise in the job announcement.

C. Applicants may be required to provide certified copies of affidavits relating to receipt of any diploma, license, or any other accreditation or certification required to meet the qualifications.

#### **3.16.040 Open and Promotional Employment Announcements.**

Notices of employment opportunities shall be announced on an "open" and/or "promotional" basis.

A. "Open" opportunities are those in which all applicants who meet the reasonable standards or requirements established for the position are eligible to compete.

B. "Promotional" opportunities are restricted to qualified employees of a single County department (departmental/promotional) or to qualified employees in all departments (County-wide promotional). Competition for departmental/promotional vacancies shall be limited to employees having regular or probationary status who have at least six months of service in a regular County position and who are currently working in the department for which the vacancy is announced. Competition for County-wide promotional vacancies shall be limited

to employees having regular or probationary status who have at least six months of service in a regular County position and who are currently working for the County in a regular position.

**3.16.050 Public Notice of Job Openings.**

In the interest of acquiring the best possible talent and skills available, appointing authorities are expected to make each job opening in the department publicly known so interested applicants shall have an opportunity to apply and be considered for the position. Notice of all "open" jobs, except casual work or temporary jobs with an anticipated duration of less than two weeks, shall be filed with the office of the County Manager and shall be posted on the Churchill County website for a minimum of one week. In addition, job opportunities, including promotional opportunities, shall be posted at the County Administration Building and in such other locations determined to be appropriate by the County Manager. Posting should include, at a minimum, the job title, qualifications, and period during which applications may be filed, as well as the location where applications should be filed. The eligibility requirement to applying for promotional examinations shall be stated on all promotional opening announcements.

**3.16.060 Selection Methods.**

A. With the concurrence of the County Manager, the appointing authority shall adopt selection techniques which are impartial, culturally fair and related to the primary tasks of the job classification. Selection methods for positions in the classified service shall relate to those matters which will fairly measure the essential knowledge, skills and abilities deemed necessary to perform the duties of the class in which employment is sought. The selection process may include, but is not limited to, one or more of the following:

1. An application evaluation of each candidate's applicable training and experience directly related to the job.
2. A written test measuring the candidate's aptitude, ability, and/or job knowledge.
3. A performance test whereby candidates demonstrate the degree of job knowledge, skill and/or ability possessed.
4. A physical fitness test whereby candidates demonstrate their physical capacity to perform tasks directly related to the job.
5. A personal interview designed to evaluate the candidate's personal characteristics, background, ability and job knowledge.
6. Such other selection techniques which, in the judgment of the appointing authority and the County Manager, are necessary to evaluate the candidate's capacity to perform the job tasks.

B. Applications, recruitment and selection documents shall be retained in accordance with applicable State and Federal regulations.

C. All classified positions in County service will be filled by qualified applicants who have successfully participated in the selection processes defined in this Chapter.

**3.16.070 Evaluation of Applicants.**

A. Employment decisions must be based solely on merit. Consistent with applicable federal, state, and local laws and regulations employment decisions may not be influenced by race, color, religion, age, gender, pregnancy, sexual orientation, national origin, ancestry, disability, veteran status, domestic partnership, genetic information, gender identity or expression, political affiliation, or membership in the Nevada National Guard.

B. Each application for a position vacancy will be reviewed to evaluate the applicant's education and experience in regard to meeting the preferred qualifications for the position and for all such other qualifications which may be reasonably required due to the nature of the inherent requirements of public service.

C. All applicants who are determined as not qualifying for the position shall be notified.

D. The appointing authority shall make investigations as to the accuracy of the information on the application and the background and character of the applicant as they deem necessary.

**3.16.080 Investigation of Applicants.**

In order to determine whether applicants meet the minimum qualifications established for a position, the appointing authority may require that documentary evidence be submitted substantiating such facts as citizenship, honorable discharge from the armed forces of the United States, possession of valid licenses for various purposes, or other evidence of identification, fitness and qualification.

**3.16.090 Filling of Vacancies.**

A. The appointing authority is solely responsible for the final selection and appointment of applicants to fill vacant positions within his/her department provided filling of such position has been authorized by County Board in action approving a budget or in other formal action of the County Board.

B. A written offer of employment signed by the appointing authority shall be provided to each new employee. The written offer of employment shall contain the following:

1. Title of the job,
2. Monthly or hourly rate of pay, including whether the employee is eligible for overtime pay premium,
3. Whether the appointment is to the classified or unclassified service,
4. If the appointment is to a classified position, the length of the initial probationary period and a statement that during the initial probationary period the employee may be terminated with or without cause or with or without notice,

5. If the appointment is to an unclassified position, a statement that the employee may be terminated with or without cause or with or without notice at any time,
6. A statement of any conditions upon which the offer of employment is contingent, and
7. A statement that this offer of employment is the entire offer and that there are no other expressed or implied promises, representations, or contracts being offered.

**3.16.100 Minimum Employment Age.**

All persons who are selected for regular employment by the County must be at least sixteen (16) years of age. All persons who are selected as casual workers or for temporary employment by the County must be at least fourteen (14) years of age. Applicants may be asked to provide proof of age at any time. Persons employed under the age of eighteen (18) may not be assigned to "hazardous" duties as defined by state and federal law.

**3.16.110 Legal Authority to Work.**

All offers of employment and continued employment are conditioned on furnishing satisfactory evidence of identity and legal authority to work in the United States. Each applicant must attest to his/her legal authority to work and identity in accordance with applicable federal statute by completing and signing the INS Form I-9. All offers for employment will be contingent on receiving this verification, which must be completed as soon as possible after an offer of employment is made and in no event more than three (3) business days after an individual reports to work.

**3.16.120 Medical Examinations.**

A. The County Manager may designate certain categories of positions for which every offer of employment is contingent upon successful completion of a medical examination. Each person offered employment in a position in one of these categories shall be required to complete a job related medical evaluation after receiving an offer of employment and before beginning his/her first day of duty. The medical evaluation must confirm the employee's medical fitness for employment in the position for which the offer has been made or the offer will be considered withdrawn. Such examinations shall be at the County's expense.

B. A qualified physician, retained by the County Board, shall determine the contents of the health questionnaire and extent and nature of the medical examination including tests and other analysis shall be done consistent with the provisions of the Americans With Disabilities Act and other relevant laws and regulations. Following examination, the completed form(s) shall be filed by the physician with the County Manager or appropriate appointing Authority maintaining separate records.

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## **Chapter 3.20**

### **TRANSFERS, REASSIGNMENTS AND DEMOTIONS**

#### **Sections:**

- 3.20.010 Transfers.
- 3.20.020 Reassignment Within Department.
- 3.20.030 Demotion.

#### **3.20.010 Transfers.**

A. Transfer is the movement of an employee from one position to a comparable position in a different department. For transfer purposes, a comparable class is one with the same salary range, involving the performance of similar duties and requiring substantially the same basic qualifications. The position may be in the same class or in a different class which is assigned to the same salary range.

B. The voluntary transfer of a County employee from one department to another may be made with the consent and approval of the appointing authority for the department to which an employee is being transferred.

C. Following consultation with the department head for the affected department, the County Manager may order transfer of a County employee to a different department. Such transfer shall require the consent of the non-elected official when the transfer is to an elected official's department head.

D. No County employee shall be transferred to a position for which he or she does not possess the minimum qualifications. In the case of a transfer the employee shall remain at the same salary step and shall retain the same anniversary date. Employees shall be given written notice of transfers.

E. If, within six (6) months of the effective date of a transfer, a transferred employee is found not suitable in the new position or if that position is eliminated, and said employee's performance in the original position was satisfactory, the employee shall be transferred back to the original position if the original position is vacant.

F. No action shall be taken against any County employee to prevent, prohibit or prejudice any such County employee in making application for, attempting to obtain or obtaining transfer from one County department or position to another. Nothing herein shall be construed as creating any right for an employee to be transferred.

#### **3.20.020 Reassignment Within Department.**

A. Reassignment is the movement of an employee to a position in the same department in the same class or comparable class. For reassignment purposes, a comparable class is one with the same salary range, involving the performance of similar duties and requiring substantially the

same basic qualifications.

B. The appointing authority may reassign an employee to another position in the same classification or equivalent classification in the same department at any time.

**3.20.030 Demotion.**

Demotion is the movement of an employee from a position in one class to another position having a lower maximum rate of pay. No employee shall be demoted to a classification for which he or she does not possess the minimum qualifications. The appointing authority may demote an employee for any of the following reasons or conditions:

A. An employee whose ability to perform required duties falls below acceptable standards (subject to the applicable provisions of the discipline Chapter of this Title.)

B. When the need for a position which an employee fills no longer exists (subject to the applicable provisions of the layoff Chapter of this Title).

C. When an employee requests such demotion in writing.

D. For any other reasonable grounds as approved by the County Manager.

## **Chapter 3.24**

### **PROBATIONARY PERIOD**

#### **Sections:**

- 3.24.010 Objective of Probationary Period.
- 3.24.020 Length of Probation.
- 3.24.030 Extension of Probation.
- 3.24.040 Probationary Employee Performance Evaluation.
- 3.24.050 Rejection During Probation.
- 3.24.060 Rejection Following Promotion.
- 3.24.070 Promotion During Probation.
- 3.24.080 Leave During Probation.
- 3.24.090 Reclassification and Probation.
- 3.24.100 Reduction in Force and Probation.

#### **3.24.010 Objective of Probationary Period.**

A. The probationary period shall be regarded as part of the selection process for positions in the classified service and shall be utilized for closely observing the classified probationary employee's performance, for securing the most effective adjustment of a new classified probationary employee to his or her position, and for rejecting any probationary employee whose performance does not meet acceptable standards for the position to which he/she was appointed.

B. Probationary employees shall not gain any form of tenure or property interest in their positions and may be released from employment or returned to a former classification during the probationary period without cause and without right of appeal.

C. Unclassified employees and casual workers serve at the pleasure of the County and are not subject to any provision of this Title requiring a probationary period.

#### **3.24.020 Length of Probation.**

A. All original and promotional appointments to regular full or part-time classified positions shall be conditional and subject to a probationary period of at least one year. All such periods of employment shall be considered to be probationary status. The probationary period shall not include any time served as a casual worker or in a temporary assignment nor any time on a leave of absence either with or without pay exceeding two (2) weeks.

B. The County Board may establish probationary periods of longer term by class, within a department or County-wide. Such longer termed probationary periods shall be based on the need to adequately assess a probationary employee's on-the-job performance following the completion of an orientation and/or training.



**3.24.030 Extension of Probation.**

The probationary period of an individual employee may be extended for a reasonable period not to exceed six (6) months by the appointing authority. Approval of such extension by the County Manager shall be in writing with notification to the employee involved prior to the end of the probationary period. Such an extension shall not be subject to further review nor shall it be subject to appeal.

**3.24.040 Probationary Employee Performance Evaluation.**

Each probationary employee's performance shall be evaluated at the end of three (3) months of service, one month before the end of the probationary period, and at more frequent intervals when deemed necessary by the appointing authority. Such evaluations shall be reported in writing and in a form approved by the County Manager. The written report of an employee's performance evaluation shall be made a part of the employee's personnel record, and a copy given to the employee.

**3.24.050 Rejection During Probation.**

During the probationary period, a probationary employee may be rejected at any time by the appointing authority without cause and without the right of appeal. The appointing authority shall notify the County Manager in writing of the decision to reject an employee during probation. Notification of rejection shall be furnished to the employee in writing and a copy shall be retained in the employee's personnel file.

**3.24.060 Rejection Following Promotion.**

An employee rejected during the probationary period following a promotional appointment shall be reinstated to a position in the classification and department from which the employee was promoted if there is a vacancy in the position during the 90 day period following rejection. The rejected employee may be placed in a position in a different department and the original classification during the 90 day period following rejection if the appointing authority for the new department agrees. Such rejection is not discipline and shall not be subject to appeal. If the cause for rejection was grounds for termination, the employee shall not be reinstated to the lower position and shall be terminated from County employment. Such termination shall be subject to the County discipline procedures.

**3.24.070 Promotion During Probation.**

If an employee is promoted during a probationary period, the employee shall serve a new complete probationary period for the new class beginning with the date of appointment to the new class.

**3.24.080 Leave During Probation.**

In the event a probationary employee takes an approved leave of absence of two weeks or more during his/her probationary period, the probationary period shall be extended for an equivalent period of time.

**3.24.090 Reclassification and Probation.**

An employee who is reclassified shall not be required to serve a new probationary period if the employee has completed probation in that classification. An employee who is reclassified while serving a probationary period shall be treated in accordance with section 3.24.070 above.

**3.24.100 Reduction in Force and Probation.**

An employee who either displaces another employee or voluntarily demotes to a vacant position as a result of a reduction in force shall serve the established probationary period for the classification to which the employee is assigned unless the employee has previously held the position within the last two (2) years.

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## **Chapter 3.28**

### **POSITION CLASSIFICATION PLAN**

#### **Sections:**

- 3.28.010 Purpose.
- 3.28.020 Administration.
- 3.28.030 Content of Class Specifications.
- 3.28.040 Interpretation and Specification.
- 3.28.050 Use of Class Title.
- 3.28.060 Maintenance of the Plan.
- 3.28.070 Personnel Action on Reclassification.

#### **3.28.010 Purpose**

A. The purpose of the position classification plan is to provide a complete and continuous inventory of all County positions and to provide descriptions and specifications for each classification. The plan standardizes titles, each of which is indicative of a definite range of duties and responsibilities and has the same meaning throughout County service.

B. The Classification Plan shall consist of those class titles and attendant class specifications for all positions in the County service as approved and listed by the County Board in adopting, amending or revising the position classification and compensation plan.

#### **3.28.020 Administration.**

A. The County Manager shall prepare, maintain and revise, as necessary, a position classification plan for all positions in the classified service. The classification of individual positions and changes thereto shall be subject to approval of the County Board.

B. All positions in the classified service shall be allocated to an appropriate grade in the classification plan. Allocation of positions to classifications shall be based on similarity in the relative complexity of duties, authority and responsibility, and qualifications reasonably required to perform the essential duties of each position and the pay which may be equitably applied to all positions in the classification.

#### **3.28.030 Content of Class Specifications**

Each classification shall be described by a class specification defining the nature of work, typical duties performed and those knowledge, skills, abilities, education and training which would be the qualifications of applicants being considered for appointment to a position in the class. In addition, the class specifications shall describe the physical and mental capabilities required for performance of the typical duties, the typical working conditions, and an indication of which duties are typically essential for acceptable job performance.

**3.28.040 Interpretation and Specification.**

The descriptions contained in class specifications are descriptive and not restrictive. They are intended to indicate the kinds of duties and responsibilities that are allocated to positions in classes, and are not to be construed to limit the duties or responsibilities that may be assigned to any position, or to limit or modify the power of any appointing authority to assign, direct and control the work of employees under his/her supervision. The use of a particular expression or illustration of duties shall not be held to exclude contents not mentioned that are of similar kind or quality, nor shall any specific omission necessarily mean that such factor is not included. Changes in organization and work methods which might affect the duties of employees should be reported to the County Manager.

**3.28.050 Use of Class Title.**

The titles assigned to classes shall be used for original appointments, promotions, payrolls and all other records affecting the status of personnel. To the extent that an employee assumes unique duties within a class, any other working title desired and authorized to be used by the department head may be used as a designation of any position for purposes of internal administration or in contacts with the public without changing the employee's job classification.

**3.28.060 Maintenance of the Plan.**

A. Whenever an appointing authority or an employee recognizes there has been a significant change in the duties and responsibilities of a position or proposes the establishment or abolishment of a position, the recognized changes and/or proposed new position shall be described to the County Manager on the forms so prescribed. The County Manager, upon the above written notice of changes or upon his/her own initiative, will investigate the classification status of any existing or proposed position.

B. Classification investigations may include review of any or all of the following factors:

1. The nature and variety of the assigned duties;
2. The complexity of the assigned duties;
3. The nature of supervision exercised;
4. The variety and degree of knowledge and skills;
5. The education and experience and the originality required;
6. The guidelines available;
7. The purpose and nature of person-to-person relationships;
8. The nature and scope of decisions and recommendations;
9. The extent of responsibility for action taken;
10. Working conditions; and
11. Other factors which the County Manager may deem important.

C. The County Manager will evaluate the above factors and recommend to the County Board allocation of positions to appropriate classifications. Establishment of a new

position or abolishment or major change to an existing class must be approved by the County Board.

D. Incumbents in a position being considered for reclassification shall be allowed to provide to the County Manager such statements and evidence as may affect the classification of the position.

**3.28.070 Personnel Action on Reclassification.**

A. A change in a position's allocation does not constitute the sole basis for determining whether the employee in a position will also be assigned to the new position. The decision as to reclassification of the employee shall be made by the appointing authority with the concurrence of the County Manager. The decision shall be based upon the qualifications and job performance of the employee. Whenever a position is reallocated to a higher paid class and the employee has completed the probationary period for the position as previously allocated; has at least acceptable job performance; and possesses the knowledge and ability for the higher level class, the employee will be reclassified to the higher paid class. An employee qualifying for reclassification to the higher class by meeting the above criteria will be considered to have completed the probationary period for the higher class.

B. If the employee does not qualify based upon the criteria listed above, he/she will be allowed six months to qualify by either meeting the above criteria or by taking a qualifying examination and receiving an overall acceptable rating on the examination. During the six month period, the employee's classification and compensation shall not be changed. An employee qualifying during the six month period will serve a probationary appointment into the new class. If the employee does not qualify for the higher level class within six months, he/she will be transferred to an available vacancy in his/her former class or, if none is available, terminated for lack of available work.

C. Whenever a position is reallocated to a lower level class, the employee shall be reclassified to the lower level class effective the first day of the pay period in which the allocation is approved by the Board.

D. All changes in classification and salary pursuant to this Chapter will be effective on the first day of the pay period following approval of the reclassification of the position by the County Board or approval of the reclassification of the employee by the County Manager.

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## **Chapter 3.32**

### **COMPENSATION AND SALARY ADMINISTRATION**

#### **Sections:**

- 3.32.010 Compensation Plan.
- 3.32.020 Definition of Terms.
- 3.32.030 Plan Administration.
- 3.32.040 Salary Upon Initial Appointment.
- 3.32.050 Advancement Within Salary Range.
- 3.32.060 Salary Upon Transfer or Reassignment.
- 3.32.070 Salary Upon Promotion.
- 3.32.080 Salary Upon Demotion.
- 3.32.090 Salary Upon Reclassification.
- 3.32.100 General and Special Salary Adjustments.
- 3.32.110 Employees or Officers Compensated by Other Jurisdictions.
- 3.32.120 Shift Differential.
- 3.32.130 Call-Back Pay.
- 3.32.140 Standby.

#### **3.32.010 Compensation Plan.**

The compensation plan shall consist of the schedule of ranges of pay as prepared by the County Manager and approved by the County Board. Each position on the classification plan will be assigned an appropriate range in the compensation plan which insures the maintenance of equitable relationships between classes based on their relative duties and responsibilities. Progression through the steps of each range shall be based on merit alone. Changes in range result solely from promotion, demotion, adjustment to the salary range for a class, or as otherwise specifically provided by this Chapter.

#### **3.32.020 Definition of Terms.**

A. "Range" means a range of salaries. A range shall consist of a series of salary steps for each position as may be determined by the Board from time to time. Entry level salary in any range shall conform, as a minimum, to the federal minimum pay scale in effect at the time of entry into said position.

B. "Step" means a single salary level within a range. A range contains a beginning step with each subsequent step separated by a two-and-one-half percent increment or such other differential as may be determined from time to time by the County Board.

#### **3.32.030 Plan Administration.**

A. The rates of compensation are based on the monthly salary for a full-time regular employee. Hourly, biweekly, and annual figures are based upon the predetermined work week of the individual department and consisting of a forty-hour week.



B. All overtime eligible employees, whether full-time or part-time, and all casual workers, shall be paid according to the hourly wage equivalent for their positions based on the actual hours worked during the pay period. Hourly rates shown on salary tables are not the basis of compensation for exempt employees, though they may be used for expediency in the processing of County payroll documents.

C. When a salary range for a given class is revised upward, the incumbents of positions in classes affected shall have their existing salary adjusted to the same relative step in the new salary range and their anniversary date shall not be changed, provided however, if a salary range adjustment occurs as a result of a classification review which produces a substantially changed class specification, the employee's salary shall be adjusted in accordance with the specific provisions of this Chapter covering such events.

**3.32.040 Salary Upon Initial Appointment.**

A. Initial appointment to a position shall be made at the beginning step of the range except as otherwise noted in this Chapter.

B. The County Board may approve an advanced step appointment within a salary range to:

1. Meet a difficult recruiting problem; or
2. Employ a person who possesses superior qualifications.

**3.32.050 Advancement Within Salary Range.**

A. In order to properly compensate an employee, advancements in salary shall be based on a merit system. Advancements shall not be automatic, but shall depend upon increased service value of the employee to the County. On recommendation of the supervisory authority, annual merit salary increases may be granted employees as recognition for satisfactory performance of the duties assigned to their position in the form of, as a minimum, a one-step pay raise on the employee's anniversary date.

B. Eligibility for a merit salary increase shall occur on the employee's anniversary date and, on approval of the supervisory authority and the County Manager, shall be paid from that date. Should all or part of a merit increase be disapproved at the time of the initial eligibility, and approved at a later date in the same year due to the employee demonstrating improved performance, the merit salary increase shall be paid from the date of approval. Granting a merit salary increase does not affect the employee's anniversary date or subsequent eligibility.

C. Casual workers and seasonal employees shall not be eligible for step advancements within the salary range except as specifically provided for workers in job classes approved for such increases by the County Manager.

**3.32.060 Salary Upon Transfer or Reassignment.**

When an employee transfers to or is reassigned another position in the same range, the employee

shall continue in the same salary step with the same anniversary date.

**3.32.070 Salary Upon Promotion.**

A. Aside from the exception listed in Section 3.32.070 (B), when an employee is promoted he/she shall be placed on the lowest step in the higher range that provides a two-step increase over the salary last received. The promoted employee's anniversary date shall be adjusted to the effective date of promotion. Should the promotion occur concurrently with the employee's eligibility for a merit salary increase, the merit salary increase should be included in the base salary before promotion. In no event shall an employee receive an increase or be placed on a salary step which is beyond the maximum of the new range.

B. **Advanced Step for Promotion** – The County Board may approve an advanced step placement within a salary range upon promotion to:

1. Meet a difficult recruiting problem; or
2. Employ a person who possesses superior qualifications.

**3.32.080 Salary Upon Demotion.**

The salary of an employee who is demoted shall be reduced to the salary step in the range for the new classification as follows:

A. **Disciplinary Demotion.** An employee who is involuntarily demoted because of unsatisfactory performance shall have his or her salary reduced to a step in the salary range of the lower class that results in a reduction in compensation of not less than five percent, the actual step to be determined by the County Manager after evaluation of the basis for the demotion and consultation with the employee's department head.

B. **Involuntary Demotion.** An employee who is involuntarily demoted for any reason other than unsatisfactory performance shall have his or her salary reduced to any salary step in the range of the lower class that does not constitute an increase in salary. Determination of the appropriate salary step will be made by the County Manager in consultation with the department head.

C. **Voluntary Demotion.** An employee who is demoted at his or her own request shall have the salary reduced to any salary step in the range of the lower class that does not constitute an increase in salary. Determination of the appropriate salary step will be made by the County Manager in consultation with the department head.

**3.32.090 Salary Upon Reclassification.**

A. **Class with Same Salary Range.** If the position is reclassified to a class with the same salary range as the previous class, the salary rate of the employee in the position shall not change and the employee's anniversary date shall not change. This provision shall also apply to a change of class title, provided there is not a change in the basic duties of the position.

**B. Class with Higher Salary Range.**

1. Aside from the exception listed in Section 3.32.090 (B)(2), if the position is reclassified to a class with a higher salary range than the previous class, the salary for the employee in the position shall be set in the same manner as provided for employees receiving a promotion and the employee's anniversary date shall be adjusted to the effective date of the reclassification.
2. If the upward reclassification is the result of a decision by the Board of County Commissioners that the creation of the new classification will achieve efficiencies and/or salary savings by the consolidation of job duties, the employee will be placed on a step in the higher range as determined by the Board of County Commissioners. In no case will the placement be less than a two-step increase over the salary last received. The reclassified employee's anniversary date shall be adjusted to the effective date of the reclassification. Should the reclassification occur concurrently with the employee's eligibility for a merit salary increase, the merit salary increase should be included in the base salary before reclassification. In no event shall an employee receive an increase or be placed on a salary step which is beyond the maximum of the new range.

**C. Class with Lower Salary Range.** An employee reclassified to a lower paid class who has completed the probationary period for his/her current position or for a higher paid class in the same class series as the employee's new class, will be assigned to the highest step in the range for the new class which is equal to or less than the employee's current rate of pay. If the employee's rate of pay is above the top step for the new range, general adjustments and merit increases will not be paid until such time as the new range of the position equals or exceeds the employee's current rate. Probationary employees will be assigned to a step in the range on the same basis as an employee initially hired into the reclassified position. The anniversary date of employees reclassified to a lower paid class shall not be adjusted as a result of the reclassification.

**3.32.100 General and Special Salary Adjustments.**

A. General Adjustments. The County Board may from time to time determine if a general increase is appropriate and the percentage of such an increase. The County Board shall determine the amount and effective dates of any such increases.

B. Special Salary Adjustments. An appointing authority may recommend a special step advancement for an employee in his/her department at any time for unusual or outstanding achievement or any other special circumstances. Recommendations shall be made to the County Manager and approved by the County Board. Such step increases will be effective on the first day of the pay period following the approval of the County Board. No employee shall be eligible for more than one special adjustment in any twelve month period.

**3.32.110 Employees or Officers Compensated by Other Jurisdictions.**

Any full-time officer or employee whose salary is partially paid by another jurisdiction

shall have such partial payment deducted from the regular rate established for such officer or employee by this Title.

**3.32.120 Shift Differential.**

A. For any department in the county that has regularly scheduled around-the-clock shifts, including a defined graveyard shift, a shift differential of seven percent (7%) shall be paid to employees who are scheduled to work the graveyard shift. Such shift differential shall be paid to employees for the hours actually worked during the graveyard shift. If the employee must remain at work into the day shift, said employee will be compensated at the day shift rate of pay for the day shift hours worked.

B. **Shift differential and overtime.** For departments defined under Section 3.32.120, Paragraph A, any overtime hours (as defined in Section 3.36.020) worked during the graveyard shift shall first have the shift differential added in before computing the time-and-one-half pay.

C. **Shift differential and paid leave.** An employee who uses annual or sick leave when s/he is scheduled to work graveyard shall be compensated at his/her day shift rate of pay, and not at the shift differential rate of pay. Holidays shall also be paid at the day shift rate of pay, except that hours worked during graveyard on a holiday shall have the shift differential added in before computing the time-and-one-half.

**3.32.130 Call-Back Pay.**

A. **Definition** – Call-back occurs when an employee is called back to return to duty after s/he has completed his/her regular shift and is off duty for any period of time, unless the individual is called back to rectify his/her own error.

B. An employee who is called back shall receive the greater of two (2) hours of pay or pay for the time actually worked. An employee's work time shall start when s/he reports for duty and end when the employee is released from duty. Travel time from an employee's home location to work and back shall not be considered as work time. Except as provided in Paragraph D of this section, the employee shall be paid at the rate of one and one-half (1-1/2) times their base pay, unless the time extends to his/her regular work shift, at which time s/he would be paid his/her normal rate of pay.

C. With the Department Head's agreement, an employee may elect to receive compensatory time off in lieu of pay for call-back hours worked. Compensatory time shall be granted at one and one-half (1-1/2) hours for each call-back hour worked, subject to the limitations provided for in this Section.

D. If an employee is on standby and receives a work call and is not required to report to a work location but rather performs actual work at home, such time shall be considered as time worked as long as it exceeds ten minutes of work. Said work time shall be rounded to the nearest six minutes. The two (2) hour minimum does not apply for said work time at home; the

employee shall be paid for the actual hours worked at the rate of one and one-half (1-1/2) times their base pay.

E. Compensation shall not be paid more than once for the same hours under this Section. For example, an employee is called back to work at 1:00 AM and finishes work at 1:30 AM, and is paid the two-hour minimum. If the employee is called back again at 1:45 AM, s/he does not begin another two-hour minimum, since s/he is still within the first call-back period.

F. Call-back pay is only to be paid to non-exempt (hourly) employees. Exempt (salaried) employees are not eligible to receive call-back pay.

### **3.32.140 Standby.**

A. Standby duty is defined as that circumstance which requires the employee so assigned to:

1. Be at the worksite within the timeframe designated by the department to calls for his/her service;
2. Be readily available at all hours by telephone, or other communication devices; and
3. Refrain from activities which might impair his/her performance of assigned duties upon call.

B. Standby pay shall be limited to the following positions:

1. One position at Juvenile Probation, as assigned, to respond to calls during non-standard work hours when there are no officers on duty.
2. One position at Social Services, as assigned, to respond to Public Guardian calls during non-standard work hours.
3. Up to four positions at the Road Department, as needed and assigned, to operate equipment for snow and ice removal.
4. Any position that, due to extenuating circumstances, is approved in advance by the County Manager.

C. Standby duty shall be assigned in writing.

D. Standby pay shall be paid, as assigned, for county-recognized holidays, in addition to an employee's regular holiday pay, during the hours when a department is normally closed.

E. Standby pay shall cease for any hour or portion thereof for which the employee is compensated as hours worked or by a call-back minimum.

F. Standby pay is \$1.75 per hour for employees designated and authorized to receive standby pay.

G. Standby pay is only to be paid to non-exempt (hourly) employees. Exempt (salaried) employees are not eligible to receive standby pay.

H. An employee who is assigned standby pay and who does not respond within the time limit set forth by the department shall be subject to disciplinary action and will forfeit any further standby pay during the standby period.

## **Chapter 3.36**

### **GENERAL WORKING CONDITIONS**

#### **Sections:**

- 3.36.010 Hours of Work.
- 3.36.020 Overtime.
- 3.36.030 Attendance.
- 3.36.040 Paydays and Final Paycheck.
- 3.36.050 Holidays.
- 3.36.060 Performance Evaluation.
- 3.36.070 Medical Examinations.
- 3.36.080 Education Reimbursement.
- 3.36.090 Mileage Allowance and Use of Privately-Owned Vehicles.
- 3.36.100 Courteous Public Relations.
- 3.36.110 Official County Records.
- 3.36.120 Personnel Files and Records.
- 3.36.130 Information Technology

#### **3.36.010 Hours of Work.**

A. The following provisions are intended to define the normal work week and hours of work and shall not be construed as a guarantee of the number of hours worked per day or the number of hours worked per week, or the number of days worked per week. The County Manager may designate alternate work weeks or other work schedules when the County operations make such designations desirable.

B. The standard work week shall be a seven (7) consecutive day period from midnight Sunday to midnight the following Sunday.

C. The work schedule shall be the normal hours of work for an employee during a work week. The standard work schedule for full-time employees shall be eight (8) hours per day for five consecutive days, excluding a meal period. Meal periods shall not be included as work time.

D. **Meal Periods.** Each full-time employee shall be entitled to an uninterrupted, unpaid meal period of a minimum of thirty (30) minutes and a maximum of sixty (60) minutes at or about the mid-point of their work day. The length of the meal period and the time the meal period is taken, shall be determined by the County. Employees are entirely relieved of responsibilities and restrictions during their meal period, unless they have been notified, in writing, to work an on-duty meal period which will be treated as paid time.

E. Rest periods not exceeding fifteen (15) minutes, one during each work period of three hours or more (e.g., once in the morning and once in the afternoon), shall be provided to employees. Rest periods may not be taken at the beginning or end of the work period, and time not used for rest periods shall not be accumulated and used at a later date. Rest periods are

considered paid time worked.

F. Nothing herein shall be construed to limit or restrict the authority of the County to make temporary assignments to different or additional locations, shifts, hours of work, or duties for the purpose of responding to an emergency.

### **3.36.020 Overtime.**

A. It is the policy of the County that overtime should be kept to an absolute minimum consistent with the basic functions and purposes of the operating department and shall remain within the spending authority as provided in each department's budget. Decisions concerning the use of overtime are fiscal and management functions, and must be consistent with the fiscal policies of the County Board.

B. Overtime necessary to respond to an emergency shall be authorized, in advance if possible, by the appointing authority. When overtime is routine and predictable or as a result of an increase in workload, prior approval of the appointing authority is necessary. Such approval may be granted by department or office policy adopted by the appointing authority.

C. Employees in classifications designated as "non-exempt" shall be eligible for overtime compensation. Employees in classifications designated as "exempt" shall be compensated on a salary basis and shall not be entitled to any additional compensation for extra hours worked nor shall they be entitled to time off in lieu of additional compensation. The County Manager, in accordance with the requirements of the Fair Labor Standards Act of 1938, as amended, shall designate "exempt" and "non-exempt" positions.

D. Overtime for non-exempt employees is that time worked which exceeds eight (8) hours in a calendar day or forty (40) hours in a seven day work week. Employees who typically are regularly scheduled to work a variable workday of more than eight (8) hours but not more than ten (10) hours in a calendar day shall receive overtime for that time which exceeds their regularly established workday or forty (40) hours in a standard seven (7) day work week. Time worked excludes lunch periods.

E. All overtime hours, as defined above, shall be compensated at one-and-one-half times the employee's regular rate of pay. At the discretion of the appointing authority, the form of payment may be either overtime pay or compensatory time off; however, an appointing authority may allow employees who work overtime the option of receiving either overtime pay or compensatory time off in lieu of payment for overtime. Paid overtime shall be in the same pay check covering the pay period in which the overtime was earned. Employees who elect compensatory time off may accrue up to forty (40) hours in a compensatory time off account. Hours above forty (40) shall be treated as paid overtime. Compensatory time off may be used by the employee within a reasonable period of time at the request of the employee with prior approval of the appointing authority. The appointing authority shall make a reasonable effort to grant the compensatory time off at the time requested by the employee consistent with department needs and budget constraints.

**3.36.030 Attendance.**

- A. Employees will not be allowed unexcused absences or tardiness.
- B. Employees who become ill or are injured while on duty shall report immediately to the department head.
- C. Employees shall not leave early and must be at the assigned work area at the start and end of shifts, breaks and meal periods.
- D. Employees shall not leave the place of work during working hours without authorization and shall not waste time or loiter.
- E. Employees shall work until the designated quitting time and shall not quit early or leave before relief personnel have arrived.

**3.36.040 Paydays and Final Paycheck.**

A. **Regular Paydays.** Paydays shall be bi-weekly - every other Friday - or on the preceding work day should the payday fall on a holiday, or as designated by the County Manager. The method of distributing payroll warrants shall be established by the Comptroller. If the employee is absent when the paycheck is distributed, the employee may claim the paycheck from the Comptroller's Office when the employee returns. An employee may establish alternate distribution arrangements by notifying the Comptroller in writing. Such alternate distribution arrangements shall be subject to the approval of the County Manager.

B. **Payroll Deductions.** Deductions from employees' wages are made in accordance with prevailing laws, contracts, rules and regulations:

- 1. Deductions required by law and contracts: for example, Federal withholding tax, County retirement premium.
- 2. Deductions made on the written authorization from each employee: for example, group medical and hospitalization premiums, credit union, deferred compensation, and such other deductions to the extent determined reasonable by the County Manager.

C. **Resignation and Final Paycheck.**

- 1. Resignation in Good Standing. Any regular employee, in order to be considered as having resigned in good standing, shall be required to submit a written notice of resignation to his or her appointing authority at least ten (10) working days prior to the effective date of said resignation. Such written notice shall include the reason for and the effective date of the resignation. The appointing authority may authorize a resignation in good standing when, in their opinion, there are sufficient reasons to waive the requirements of this section.



2. Voluntary Resignation. An employee absent from duty without authorization for three (3) or more consecutive working days without an explanation satisfactory to the appointing authority shall be deemed to have voluntarily resigned without notice and to have terminated employment with the County. The County shall give appropriate notice and opportunity for an employee to provide an explanation before determining the employee has resigned.
3. Employee Property Clearance. Employees will certify that all County property in their custody has been returned to the County prior to receiving their final check from the Comptroller's Office. The value of all unaccounted-for County property shall be withheld from the employee's final check or collected by other appropriate action.
4. Final Paycheck. Employees who resign or are involuntarily separated will receive their final paycheck on the regular pay day for the pay period in which they resign or are separated. The final paycheck will include payment for all earned salary due and not previously paid and accrued but unused leave balance which are subject to pay-off.

### **3.36.050 Holidays.**

- A. Holidays, within the meaning of this section, includes:

January 1 (New Year's Day)  
Third Monday in January (Martin Luther King, Jr.'s Birthday)  
Third Monday in February (Washington's Birthday)  
Last Monday in May (Memorial Day)  
July 4 (Independence Day)  
First Monday in September (Labor Day)  
Last Friday in October (Nevada Day)  
November 11 (Veterans' Day)  
Fourth Thursday in November (Thanksgiving Day)  
Friday following the fourth Thursday in November (Family Day)  
December 25 (Christmas Day)

For the first occurrence only, any day appointed by the Governor of Nevada as a legal holiday.

B. Full-time non-exempt regular employees are entitled to eight hours of leave with pay on a holiday unless the employee is required to work on the holiday. Part-time non-exempt regular employees are entitled to a pro rata number of hours of leave with pay on a holiday unless the employee is required to work on the holiday. Proration will be based upon the number of hours regularly scheduled to be worked during a normal work week.

C. When a holiday falls within an employee's vacation period or an approved sick leave, when he/she would otherwise normally have received a day off, that person shall receive the holiday pay and not be charged vacation or sick leave for the holiday.

D. Any full-time regular non-exempt employee of the County who is required to work on any of the above-named holidays, shall be compensated at one-and-one-half times the employee's regular rate of pay for hours worked on the holiday, in addition to receiving eight hours of regular pay for the holiday. Part-time regular non-exempt employees shall be compensated at one-and-one-half times the employee's regular rate of pay for hours worked on the holiday, in addition to receiving the pro-rated regular pay for the holiday stipulated in Section 3.36.050 B.

E. If a holiday falls upon a day which is a regular full-time or part-time employee's normally scheduled day off, in lieu of leave with pay as stipulated in Section 3.36.050 B the employee shall receive no pay for the holiday but will have an equivalent number of hours added to his/her annual leave balance.

F. If a holiday falls upon a Sunday, the Monday following shall be observed as a legal holiday. If a holiday falls upon a Saturday, the Friday preceding shall be observed as a legal holiday.

G. Employees must either be on a paid leave status or work the entire working day before and the entire working day after the holiday in order to receive payment for that holiday. For the purposes of this policy, part-time regular employees who are on a paid leave status or work the last scheduled day before and the first scheduled day after the holiday will receive their prorated payment for that holiday.

H. Casual workers, whether full or part-time are not eligible for holiday pay for time not worked.

I. In addition to the holidays defined in paragraph A, each employee is entitled to one (1) "floating" holiday per calendar year. For full-time employees the floating holiday shall be eight (8) hours of paid leave time to be used on one day. For employees working less than forty 40 hours per week, the hours of paid leave to be granted as a floating holiday shall be computed by dividing the number of hours of work regularly scheduled each week by forty (40) and multiplying the result by 8. The result shall be rounded to the nearest one-tenth of an hour. The floating holiday shall be designated by the employee as to the date of his/her choice, subject to notification and approval of the employee's supervisor ten calendar days in advance of the proposed date. The floating holiday may not be carried into the next calendar year. If it is not used it is forfeited at the end of the calendar year or, for employees terminating before using the holiday, at termination.

### **3.36.060 Performance Evaluation.**

A. Each appointing authority shall provide for an evaluation of all employees, other than casual workers and employees in temporary appointments, in positions in their department. The evaluation shall be made at least annually during the month prior to the anniversary date but effective as of the anniversary date. All evaluations shall include a discussion between the employee and his/her immediate supervisor for the purpose of determining goals and methods

and evaluating progress toward better performance and personal development. After discussion, a copy of the evaluation report shall be given to the employee, and a copy placed in the employee's personnel file.

B. The County Manager shall devise a standard format for the evaluation report. Alternative evaluation forms may be developed and used by an appointing authority with prior approval of the County Manager.

C. The performance of unclassified employees may be evaluated from time to time using a standard or special evaluation tool. Such performance reviews shall not change the at-will status of unclassified employees nor shall such performance reviews be construed to grant an unclassified employee any property right or other right to due process prior to any action which may have an impact on the employee's employment.

### **3.36.070 Medical Examinations.**

A. The County may require a medical examination of an employee at any time for any reasonable cause. The medical examination shall be conducted by a physician selected by the County at its sole expense. The scope of the medical examination shall be determined by the attending physician, with the approval of the County, to assess if the employee is medically fit to effectively perform the duties of his/her job and can effectively perform them without endangering the health and safety of the employee, other County employees or the public.

B. The results of all medical examinations will be kept confidential and maintained separately from the employee's personnel file.

C. An employee who is disqualified from employment for medical reasons or who otherwise fails the examination may submit an independent medical opinion which the employee obtains at his/her own expense.

### **3.36.080 Education Reimbursement and/or Advance.**

A. It is the policy of the County Board to achieve a more productive and professional County work force and, to attain that goal, the County will reimburse or advance employees for the cost of tuition fees, lab fees and textbooks for approved education and training courses pursuant to the guidelines set forth in this section. Funds for this benefit will be provided by the County Board to the extent it determines reasonable each year. Such funds will be placed in a single account accessible to all County employees.

B. To be eligible for reimbursement, the employee must:

1. Be employed by the County in a regular, part-time or full-time position for not less than six months on the beginning date of the course for which reimbursement is requested.
2. Have received a satisfactory or better evaluation on the most recent performance review.

3. Submit the request for approval of reimbursement to at least one week prior to the beginning of the course or submit the request for the advance at least two weeks prior to the beginning of the course. An employee may not receive reimbursement and/or for more than One Thousand Dollars (\$1,000.00) combined in a calendar year.

C. Courses must be a credit course provided by an accredited college or university, or be an approved adult basic education class. Courses offered through the University of Nevada, Reno as Extended Study courses qualify under this policy, provided they are relevant to the employee's employment and are approved by the Department Head.

D. Requests for reimbursement and/or advance shall be submitted to the employee's department head for review and comment as to the relevance to the employee's employment with the County. If the course work falls into the category of general education, as contrasted with training for the employee's current assignment, it shall be forwarded to the County Manager for consideration. The County Manager shall consider the requests in the order of receipt. Requests which in the judgment of the County Manager will assist the employee in development career related to employment with the County shall be approved if funds are available, the employee meets the eligibility criteria, and the County Manager determines the course meets the criteria outlined above.

E. Employees will be reimbursed by the County following submission of proof of successful completion of the course with a grade of "C" or "pass" or better. The employee must submit copies of paid receipts for the course fees, lab fees and textbooks with the proof of successful completion of the course. Extended Study courses require proof that the employee attended and successfully completed the course.

F. Employees who receive an advance will be required to enter into an agreement to repay the County for the advance if any of the following Repayment Events occur:

1. Employee fails to complete the class.
2. Employee fails to submit proof of successful completion of the course with a grade of "C" or "pass" or better within one month after the course is completed. Extended Study course require proof that the employee attended and successfully completed the course.
3. Employee fails to submit copies of paid receipts for the course fees and textbooks with proof of successful completion of the course.
4. Employee's employment with Employer ceases at any time for any reason (voluntary or involuntary) during the course, or within six months after completion of the course.

G. Courses taken under this program shall be taken on the employees own time. If said schooling would require any adjustment in the regularly scheduled work week, the adjustment must be approved by the department head prior to the approval of the educational reimbursement.

H. In an effort to encourage the further pursuit of education while employed with the County, any full-time regular employee who has been in the employ of the County for at least one year who attains a post-secondary (collegiate) degree shall be eligible to receive, as an educational incentive on a one-time basis, the following bonus as a recognition of their achievement.

| <u>Degree</u>                        | <u>Bonus</u> |
|--------------------------------------|--------------|
| Associates Degree                    | \$200        |
| Bachelors or higher<br>(B.A. B.S. +) | \$400        |

Upon successful completion of a course of study resulting in the conferring of a post-secondary degree as noted above from an accredited institution, the employee shall present an original or a certified facsimile of the diploma (or transcript verifying that the degree was obtained and the date it was obtained) to his/her department head. The department head shall then submit a copy of the diploma to the County Manager for inclusion in the employee's personnel file along with a request for payment of the one-time bonus in the amount noted above.

**3.36.090 Mileage Allowance and Use of Privately-Owned Vehicles.**

A. **General Policy.** It is the policy of the County to ensure that all employees requiring transportation for the satisfactory completion of their assigned duties will either (1) have a County vehicle available for their use as required by the nature of their work or (2) be reimbursed for the use of their own private vehicle when such use is authorized.

B. **Authorization for Use of Privately-Owned Vehicles.** The County Manager shall establish and modify from time to time as may be appropriated, a policy governing the use of privately-owned vehicles for County business. Administrative regulations covering conditions for use, financial responsibility, procedures for requesting travel authorization and reimbursement procedures shall be established by the Comptroller.

C. **Mileage Allowance.** Employees who use their own vehicle for official County travel or County business, shall be reimbursed for the actual mileage traveled at the rate established by the County Board. Reimbursement will always be based on the least expensive mode of transportation available and appropriate for travel.

**3.36.100 Courteous Public Relations.**

It is the duty of every employee to deal courteously with the public. Favorable impressions created by courteous public relations develop citizen goodwill and support for the employee, his/her department, and the County as a whole. Any disposition or demeanor indicating an attitude of discourteousness toward the public will be cause for disciplinary action or discharge.

**3.36.110 Official County Records.**

- A. Employees shall not falsify, modify or make any other unauthorized alterations of any County record.
- B. Employees shall not alter a time card for any reason, or inaccurately record time worked.
- C. Employees shall not make any unauthorized disclosures of confidential or privileged information maintained by the County.

**3.36.120 Personnel Files and Records.**

- A. An employment history for each County employee will be maintained by the County. The information in the personnel file is the property of the County and shall be maintained in a confidential manner. The personnel file shall include dates of service, positions held, salary history, performance evaluations, notices of disciplinary action taken, and any other information the County may deem appropriate and/or that may be required by law. The file may also include such other information the County determines is appropriate for good personnel management practices.
- B. The official repository of personnel files and records for each County employee shall be maintained by the County Manager. Department files may be established for the purpose of having readily available pertinent employee records.
- C. The personnel file of an employee will be open for inspection by the employee or his/her authorized representative at his/her request during business hours by appointment. The employee or his/her authorized representative, as designated in writing on a case-by-case basis, shall have access to review his/her personnel file in the presence of the County Manager. The employee will have access to all contents of the file except those materials which are a part of the employment/selection process (including letters of reference) and any records relating to investigations of possible criminal offenses. A copy of the material in the personnel file to which the employee has access will be provided to the employee upon request.
- D. The employee's personnel file shall be accessible to the employee's departmental manager and the County Manager and such other individuals as authorized by the County Manager or law.

**3.36.130 Information Technology.**

- A. **Policy.** Churchill County requires employees to use information technology (computer systems, telecommunication and other devices, and electronic information) responsibly.
- B. **Privacy.** Employees should not expect privacy with respect to any of their activities when using Churchill County's computer and/or telecommunication property, systems

or services. Use of passwords or account numbers does not create the expectation of privacy and confidentiality of information being maintained or transmitted. Churchill County reserves the right to review, retrieve, read and disclose any files, messages or communications that are created, sent, received or stored on Churchill County's computer and/or telecommunication systems and/or equipment. The right to review and/or monitor, is for the purpose of ensuring the security and protection of business records, preventing unlawful and inappropriate conduct, and creating as well as maintaining a productive work environment.

Employees are discouraged from using personal devices to conduct County business. Use of personal computers, personal cell phones, personal electronic storage devices or similar equipment to conduct County business does not create an expectation of privacy for the employee for the data created or stored that is related to County business.

Employees are also discouraged from using personal email accounts or personal cloud storage accounts to conduct County business. Use of these tools does not create an expectation of privacy for the employee for data created or stored that is related to County business.

Employees are encouraged to maintain copies of emails and data files on County-owned servers and computers.

C. **Use.** The computers, associated hardware and software, including electronic mail (e-mail) and access to online services (including the internet), as well as voicemail and faxes, belong to Churchill County and, as such, are to be used for business purposes.

1. At the discretion of the department head, very limited or incidental use for personal, non-business purposes is acceptable as long as it is:
  - a. Conducted on personal time (i.e., during breaks or meal periods);
  - b. Does not consume system resources or storage capacity; or
  - c. Does not involve any prohibited uses.
2. Employees loading, importing or downloading files from sources outside Churchill County's system, including files from the internet and any computer disk, must ensure the files and disks are scanned with current virus detection software before installation and execution.
3. Employees may use information technology, including the internet, during work hours on job-related matters to: gather and disseminate information, maintain their currency in a field of knowledge, participate in professional associations and communicate with colleagues in other organizations regarding business issues.
4. An employee's use of Churchill County's computer systems and telecommunication equipment and systems, and other devices constitutes the employee's acceptance of this policy and its requirements.

D. **Prohibited Use.** Employees are directed to discourage others from sending to Churchill County's computer systems any information which may constitute a prohibited use. Prohibited use includes but is not limited to the following:

1. Sending, knowingly receiving and/or responding to, or storing messages that a "reasonable person" would consider to be offensive, disruptive, harassing, threatening, derogatory, defamatory, pornographic, indicative of illegal activity, or

any that contain belittling comments, slurs or images based on race, color, religion, gender, sexual orientation, age, disability or national origin.

2. Sending, knowingly receiving and/or responding to, or storing messages or images that would offend or discriminate on the basis of race, gender, sexual orientation, national origin, religion, age, political belief or disability.
3. Sending, knowingly receiving and/or responding to, or storing chain letters.
4. Sending, knowingly receiving and/or responding to, or storing union-related solicitations.
5. Engaging in political activities including, but not limited to, solicitation or fund raising.
6. Engaging in religious activities including, but not limited to, proselytizing or soliciting contributions.
7. Conducting outside employment in any manner.
8. Engaging in illegal, fraudulent, defamatory or malicious conduct.
9. Downloading, uploading or otherwise transmitting, without authorization:
  - a. Confidential or proprietary information or material
  - b. Copyrighted material
  - c. Illegal information or material
  - d. Sexually explicit material
10. Obtaining unauthorized access to other systems.
11. Using, without explicit authorization, another person's password or account number.
12. Improperly accessing, reading, copying, misappropriating, altering, misusing or destroying the information/files of other users.
13. Loading unauthorized software or software not purchased or licensed by Churchill County.
14. Breaching or attempting to breach any security systems or other malicious tampering of any of Churchill County's electronic systems, including but not limited to introduction of viruses.
15. Using Churchill County's information technology in other than a very limited or incidental way for personal, non-business purposes.

E. **Violation of Policy.** Each employee is to complete and sign an acknowledgement form after receiving this policy. Improper or prohibited use of Churchill County's property, systems or services will result in discipline, up to and including termination.



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## **Chapter 3.40**

### **LEAVE OF ABSENCE PROVISIONS**

#### **Sections:**

- 3.40.010 Vacation.
- 3.40.020 Sick Leave.
- 3.40.030 Leave of Absence.
- 3.40.040 Bereavement Leave.
- 3.40.050 Jury Duty and Subpoenaed Witnesses.
- 3.40.060 Military Leave.
- 3.40.070 Family and Medical Leave.
- 3.40.080 Catastrophic Leave.

#### **3.40.010 Vacation.**

A. **Eligibility.** All regular full-time and part-time appointed officers and employees who have completed six months or more of continuous service on a full-time equivalency basis are eligible for vacation leave credit as follows:

| Years of Service | Maximum Accrual Rate Per Month | Accrual Rate Per Bi-Weekly Pay Period | Maximum Accrual Per Year | Maximum Balance |
|------------------|--------------------------------|---------------------------------------|--------------------------|-----------------|
| 1 thru 5         | 8 hours                        | 3.70 hours                            | 96 hours                 | 240 hours       |
| 6 thru 10        | 12 hours                       | 5.54 hours                            | 144 hours                | 240 hours       |
| 11 thru 15       | 14 hours                       | 6.47 hours                            | 168 hours                | 240 hours       |
| 16 thru 24       | 16 hours                       | 7.39 hours                            | 192 hours                | 240 hours       |
| 25 and over      | 18 hours                       | 8.31 hours                            | 216 hours                | 240 hours       |

Each eligible employee who is overtime non-exempt shall accrue vacation on the basis of regularly scheduled hours worked or on County paid leave status. Each eligible employee who is overtime exempt shall accrue vacation based upon the percent of full-time employment which the employee is regularly scheduled to work. The percent of full-time employment shall be applied to the accrual rate per month shown above for the employee's years of service. For all eligible employees, leave shall accrue and be credited on a bi-weekly basis based on the employee's number of hours in paid status during the same bi-weekly pay period. No employee shall accrue annual leave for more than forty hours in paid status per week. The Board of County Commissioners may by order provide for additional annual leave for long-term appointed officers and employees

B. **Limitation on Vacation Leave Carryover.** Vacation leave is earned and available for use at the beginning of the month following the one in which the qualifying hours are worked. Vacation leave may be taken as accrued or accumulated. Unused vacation leave not exceeding 240 hours may be carried over into the following calendar year. Any unused vacation leave in excess of 240 hours will not be carried over into the next calendar year. Any accrual of

vacation leave benefits in excess of 240 hours, is expressly conditioned on the employee's use of said leave prior to the next calendar year.

C. **Use of Vacation Leave.** The time when vacation leave shall be taken shall be determined by the department head after considering the needs of the department, seniority and wishes of the employee. Except in cases of bona fide employee emergency, requests for vacation shall typically be made at least five working days in advance of the date for which leave is requested. The department head shall establish work and vacation schedules with first consideration to be given to the efficient operation of the department.

D. Appointed officers or employees who have at least six months eligible service who subsequently leave the employment of the County shall be paid for all accumulated vacation leave time at the appropriate pro rata amount per month based upon their length of service. Employees who are terminated for cause shall not be eligible for payoff of unused vacation accrual.

If any officer or employee dies and was entitled to payment for accumulated vacation leave under the provisions of this Title, the heirs of such deceased officer or employee who are given priority to succeed to that employee's assets under the laws of the intestate succession of this state, or the executor or administrator of that employee's estate, upon submission of satisfactory proof to the County Board of their entitlement, shall be paid such amount.

The provisions for payoff of vacation upon termination of service shall not apply to elected officials. (See NRS 245.210 (2)d.)

E. No employee shall be permitted to waive vacation for the purpose of receiving double pay. When an employee is not working because of illness or injury and has exhausted his/her sick leave, he/she may, at the discretion of the department head, be permitted to draw his/her vacation leave in lieu of his/her sick leave. Exempt employees must use vacation leave in units of one or more full days.

### **3.40.020 Sick Leave.**

A. All full-time appointed officers and all regular full-time and part-time employees shall be entitled to ten hours of sick leave with pay for each full-time equivalency month of service (4.62 hours per bi-weekly pay period), which shall be accumulated from year to year. For all eligible employees, leave shall accrue and be credited on a bi-weekly basis based on the employee's number of hours in paid status during the same bi-weekly pay period. The bi-weekly accrual for part-time non-exempt employees shall be computed based upon the number of hours in paid status during the pay period, not to exceed 40 hours in paid status per week. The bi-weekly accrual for part-time exempt employees shall be based upon the percent of full-time employment for which the employee is hired. The board of county commissioners may by order provide for additional sick and disability leave for long-term employees.

B. Such sick leave with pay can only be granted upon an approval of the department head in case of bona fide illness of an employee, or of his/her immediate family defined as a husband, wife, child, parent (regardless of where that relative lives) or other relative residing in the employee's household. For the purpose of this policy, bona fide illness shall include the use

of sick leave to care for a newborn of an employee, provided the employee qualifies under the Family and Medical leave provisions of Chapter 3.40.070 of this Title. Sick leave shall be used for all medical and dental appointments or care. Evidence that use of sick leave was necessary in the form of a physician's certificate may be required in any case by the County. Exempt employees must use sick leave in units of one or more full days.

C. Sick leave shall accrue from the start of employment. Sick leave benefits may be granted to any employee during the first six months of his/her employment.

D. In the event that an employee is aware in advance that sick leave benefits will be needed, it shall be the duty of the employee to notify the department head as far in advance as possible in writing of the anticipated time and duration of such sick leave and provide medical certification that he/she will be unable to perform his/her normal work function. An employee will be required to begin using sick leave on the date after which the doctor certifies that he/she is unable to perform his/her normal duties. An employee on sick leave is required to notify the department head at the earliest possible time of the anticipated date on which the employee will be able to resume his/her normal duties. The department head may require a certificate from the physician of the County's choosing that an employee on sick leave is medically unable to perform the essential job function of his/her position and the department head may require such medical certification from time to time until the employee returns to his/her normal duties. In the event that an employee on sick leave fails to return to work as soon as he/she is medically able to perform his/her assigned duties, he/she may be deemed to have resigned his/her position with the County and to have waived all employment rights. Sick leave benefits under this provision shall be paid to the employee on sick leave only for the actual workdays missed due to medical inability to perform normal duties.

E. In the event that an employee exhausts his/her accumulated sick leave and is not medically able to resume his/her normal duties, he/she request an unpaid leave of absence for a period not to exceed six months pursuant to Section 3.40.030 of this Title. Thereafter, the County Board may consider and may renew such unpaid leave of absence at its sole discretion if the employee requests in writing that the County Board renew such unpaid leave and can show that he/she will be able to resume his/her normal duties within an additional six months.

F. Any employee who is receiving Worker's Compensation may, at his/her option, take sufficient sick leave to make up for the difference between the Workman's Compensation payment and his/her regular wage. When a sick leave account is exhausted, the employee will receive Worker's Compensation payments only.

G. Claiming sick leave when physically fit or when not otherwise eligible for sick leave within the provisions of this section shall be cause for disciplinary action, including cancellation of sick leave benefits for that sick-leave "event", suspension, demotion or termination. Except in cases of emergency, if an employee fails to give advance notice when sick leave is needed, payroll deduction for the time taken will result. An employee will be considered to have given appropriate advance notice if he/she notifies his/her supervisor of the need to be absent from work before the beginning of his/her regular work shift, or if there is no practical way of giving such notice, within ten minutes of the beginning of the work shift. In the case of

unanticipated serious illness or injury, notice may be given as soon as reasonably practical.

H. If any officer or employee dies and was entitled to payment for accumulated sick leave under the provisions of this Title, the heirs of such deceased officer or employee who are given priority to succeed to that employee's assets under the laws of the intestate succession of this state, or the executor or administrator of that employee's estate, upon submission of satisfactory proof to the County Board of their entitlement, shall be paid such amount.

I. Upon the death of a County employee or upon election of a County employee to retire under the State of Nevada Public Employee's Retirement System immediately upon separation from County employment, the employee or the employee's beneficiaries are entitled to payment, not exceeding the total sum of seven thousand five hundred dollars (\$7,500), for the employee's unused accrued sick leave according to the number of hours of unused accrued sick leave as follows:

| <u>Years of Employment</u> | <u>Percent Allowed for Payment</u> |
|----------------------------|------------------------------------|
| 3 to 10                    | 35%                                |
| 10 to 20                   | 50%                                |
| Over 20                    | 60%                                |

J. Any County employee who resigns in good standing following two weeks advanced notice or is laid off shall be entitled to payment, not exceeding the total sum of three thousand dollars, for unused sick leave according to the schedule in paragraph I of the section. Except in the case of layoffs, employees who are involuntarily separated from employment shall not be eligible for payoff of unused sick leave accrual.

If payoff is received as a result of layoff, and the employee is later reinstated pursuant to the provisions of the layoff section of this Title, only that sick leave not converted to retirement service credits or paid off at layoff will be reinstated and the amount of payoff and the maximum payoff at any future separation from County will be reduced by the amount paid at layoff.

K. Conversion of Sick Leave Into Retirement Service Credits. An employee who is eligible for purchase of service credits under the Nevada Public Employee's Retirement System ("PERS") and applicable law, may at his or her option convert unused sick leave into service credit under PERS at the rate of one hour of service credit for one hour of sick leave, subject to the following conditions and limitations:

- (a) Employees must have a cumulative total of at least 400 hours of unused sick leave to be eligible for conversion. Accrued sick leave hours of an employee in excess of 400 may be converted into retirement service credit.
- (b) An employee's conversion of unused accrued sick leave into retirement service credits shall be in increments of at least eight hours, subject to a maximum annual limit of 280 hours (7 work weeks)
- (c) Employees desiring to convert unused accrued sick leave into retirement service

credit shall submit a written request, on a County approved form, to the County Manager on or before December 1 of each year. If the employee meets all of the conditions set forth in Paragraph 3.40.020 K, then County shall deduct the designated amount of accrued sick leave from the employee's account and proceed to purchase retirement service credit from PERS in an amount equal to the number of hours elected to be converted by the employee.

- (d) For those employees who elect to purchase retirement credit under PERS and subsequently retire under PERS while employed by the County, shall be eligible to convert their sick leave balance in writing to retirement credit on an hour for hour basis for the balance of retirement credit available for purchase not to exceed the statutory maximum of five (5) years. In the event that a sick leave balance remains after converting as much of the employees sick leave hours to retirement credit as may be allowed under PERS, the remaining balance shall be eligible for the privileges granted under Paragraph 3.40.020 I.
- (e) Upon retirement under PERS while employed by the County, an employee may elect in writing to convert their unused accrued sick leave into retirement service credits up to a maximum of 680 hours.
- (f) The benefits granted under this Paragraph 3.40.020 K may be used in combination with the benefits granted under Paragraph 3.40.020 I or J, if applicable.

### **3.40.030 Leave of Absence.**

A. The County Board may grant a leave of absence without pay to any appointed officer or employee upon request. A department head may grant a leave of absence to an employee in his/her department for a period not to exceed one month. Such leave of absence may be extended for a period not to exceed a total of six months with the concurrence of the County Board. The anniversary date of any employee on leave of absence without pay for more than fourteen consecutive calendar days shall be adjusted by the number of days of leave of absence.

B. The County Board may grant a leave of absence to any County officer authorized to appoint a deputy for a period not to exceed six months if, in the discretion of the Board, such a course appears proper.

C. The employee desiring a leave of absence shall first make application in writing to the department head for such leave. Sick leave and/or vacation leave must be used prior to an employee's going on leave of absence.

D. Leaves of absence may be granted because of pregnancy on request of a department head and concurrence of the County Board.

E. No leave may will be approved to permit an employee to engage in other gainful occupation except when the County Board determines such leave of absence is in the best

interest of the County. If it is found that the employee has accepted unauthorized employment during a leave of absence by another employer, or the employee has engaged in other unauthorized gainful occupation of any kind, then the employee's employment with the County shall be terminated forthwith.

F. All time granted to an employee as a leave of absence without pay pursuant to this section shall not count nor be considered as service time, for the purposes of computing any benefits of employment provided pursuant to this Title.

#### **3.40.040 Bereavement Leave.**

A. In cases of death in an employee's immediate family requiring his/her or her attendance, the employee shall be granted three (3) days off with full pay for each death, if warranted and approved by the supervisor. In addition to the three (3) days of Bereavement Leave, an employee may use up to 24 hours (three days) of sick leave for each death. Immediate family for the purpose of this section shall be limited to relatives within the third degree of consanguinity or affinity and to persons standing in parentis locus.

B. To compute the degree of consanguinity, begin with the employee then count the number of degrees of relationship from the employee to the common ancestor to the relative in question. To compute the degree of affinity, begin with the employee then go to the employee's spouse then count the number of degrees of relationship from the employee's spouse to the common ancestor to the relative in question.

#### **3.40.050 Jury Duty and Subpoenaed Witness.**

No deduction shall be made in the salary of an employee who serves on a jury or is subpoenaed to testify in a judicial or quasi-judicial proceeding as a material or expert witness if he/she remits to the County any fee received provided such appearance is not as a result of actions of the employee outside of the scope of his/her employment and is not part of a legal action initiated by the employee. If the employee chooses to retain the fees, he/she will be charged, vacation time, or be placed on a leave without pay status, for the time spent serving. If the employee incurs personal mileage expenses while serving, said employee may retain that portion of the fee attributable to mileage and remit the difference to the County. Employees subpoenaed to appear pursuant to an official subpoena shall immediately notify the department head in writing whether or not they shall remit any witness fee to the County and if not, their leave status while serving. In addition, except as provided below, employees served with subpoenas which may relate to their employment with the County shall notify the County Manager's Office immediately upon being served. This provision does not apply to employees who in the normal course and scope of County employment administer and/or process subpoenas.

#### **3.40.060 Military Leave.**

A. Military leaves of absence will be authorized consistent with the requirements of in accordance with State and Federal law as outlined below. For the purpose of this policy,

recognized military service shall mean full-time service by a person in the armed services during a national emergency or state militia emergency. A military leave of absence is normally granted without pay, however, an employee may exhaust accrued vacation leave, compensatory time off or other leave balances as appropriate prior to commencing leave without pay. In order to be eligible, employees must submit written verification from the appropriate military authority. Whenever possible, the employee shall notify the department head of such leave request at least ten (10) working days in advance of the beginning date of such leave.

B. There shall be no loss of seniority, sick leave or vacation leave rights during such leave. While in a non-pay status on military leave, the employee shall not accrue vacation, sick leave, holidays or any other benefits during the leave. Insurance benefits, such as, but not limited to, health, dental, life and disability insurance for the employee and his/her dependents will not be maintained by the County during the leave while in a non-pay status. The employee may elect to pay the premiums and maintain the insurance during the leave. The premiums must be paid in advance to the County.

C. The County will reinstate employees returning from military leave to their same position or one of comparable seniority, status and pay if they:

1. Have a certificate of satisfactory completion of service;
2. Apply within 90 days after release from active duty or within such extended period, if any, as their rights are protected by law; and
3. Are qualified or are, with reasonable accommodation and effort, able to re-qualify to fill their former position.

D. Exceptions to this policy shall be made whenever necessary to comply with applicable State and Federal laws.

E. Any officer or employee who is an active member of the United States Army Reserve, the United States Naval Reserve, the United States Marine Corps Reserve, the United States Coast Guard Reserve, United States Air Force Reserve, or the Nevada National Guard shall be relieved from his/her duties, upon request, to serve under orders and shall receive his/her regular pay, not to exceed fifteen (15) calendar days in any one (1) calendar year, while on such leave. Military leave under this subsection shall not be treated as vacation leave.

### **3.40.070 Family and Medical Leave.**

A. **Policy** – Public employers are covered under the Family and Medical Leave Act (FMLA), and will comply with the requirements of the FMLA and advise employees if they meet all the FMLA eligibility requirements. The county must provide employees Form WHD-1420 Employee Rights and Responsibilities Under the Family and Medical Leave Act and are also required to post and keep posted this notice in a conspicuous place, even if no employees are eligible. If any provisions of this policy are inconsistent with the federal act and its enabling regulations the act and regulations shall supersede this policy.



1. Eligibility – Employees who have been employed by the county for at least one year and worked for the county at least 1,250 hours for a total of 12 months and are employed at a work site where 50 or more employees work for the county within 75 surface miles of that work site are eligible for FMLA leave. When the 1,250 hours are calculated, the hours an employee was on vacation or on leave, even if that vacation or leave was paid, do not count toward the 1,250 hours worked. However, an employee who has military service obligation must be credited with the hours of service that would have been performed, but for the period of military service. The required 12 months of employment does not have to be consecutive. There may be a break in service as long as it does not exceed seven years. There is an exception to the seven-year condition for USERRA-covered military and written agreements. All employees meeting the above qualifications qualify for FMLA, regardless of their seasonal, temporary, etc., status.
2. Compensation During Leave – FMLA leave will be unpaid leave unless the employee has accrued paid leave and is otherwise eligible to use the leave. If an employee requests leave for the employee’s own serious health condition or for the serious health condition of the employee’s spouse, child, or parent, the employee must use all of his/her accrued paid annual leave, sick leave, compensatory time leave, and personal time off as part of the FMLA leave. (See the applicable collective bargaining agreement for alternate provisions which may apply.) If leave is requested for any of the other reasons identified below, an employee must use all of his/her accrued paid annual leave, compensatory time leave, and personal time off as part of the FMLA leave. The remainder of the leave period will then consist of unpaid FMLA leave. Employees must be made aware that they are required to use sick, annual, compensatory time, and personal leave as appropriate, in the rights and responsibilities notice (Form WH-381: Notice of Eligibility and Rights & Responsibilities).
3. Intermittent or Reduced Schedule Leave – When medically necessary (as distinguished from voluntary treatments and procedures) or for any qualifying exigency, leave may be taken on an intermittent or reduced schedule basis. Leave for bonding with a healthy newborn or placement of a healthy child for adoption or foster care is not considered medically necessary and, therefore, may not be taken on a reduced schedule or intermittent basis unless agreed to by the county. Employees needing intermittent leave or reduced schedule leave must make a reasonable effort to schedule their leave so as not to disrupt the county’s or department’s operations. If leave is foreseeable, the county may require an employee on intermittent leave or reduced schedule leave to temporarily transfer to an available alternative position for which the employee is qualified if the position has equivalent pay and benefits and better accommodates the employee’s intermittent or reduced schedule leave. Intermittent leave and reduced schedule leave reduces the 12-week entitlement only by the actual time used. When an employee, who was transferred, no longer needs intermittent or reduced scheduled leave, the employee must be placed in the same or equivalent position held prior to when the leave commenced.

**B. Duration of and Reasons for Leave**

## 1. Duration of Leave

- a. Any eligible employee, as defined above, may be granted a total of 12 weeks of unpaid FMLA leave (which can run concurrent with paid leave) during a 12-month period (see exception for Military Caregiver Leave as provided in section 3.40.070 C below). This period is measured backward from the date an employee uses any FMLA leave. A “week” is defined as a calendar week, regardless of the number of days the employee normally works. Twelve-weeks does not entitle a part-time employee working three days a week to 60 leave days, but rather 12 weeks.

## 2. Reasons for Leave

- a. FMLA may be granted for the following reasons:
  - (1) The birth of the employee’s child and in order to care for the newborn child;
  - (2) The placement of a child with the employee for adoption or foster care;
  - (3) To care for the employee’s spouse, child, or parent who has a serious health condition;
  - (4) An employee’s own serious health condition that prevents the employee from performing one or more of the essential functions of his/her job. Serious health conditions may include conditions resulting from job-related injuries and/or illnesses; or
  - (5) Due to a qualifying exigency arising when an employee’s spouse, son, daughter, or parent is a military member on covered active duty or has been notified of an impending call to covered active duty.

## 2. Conditions for Leave

### a. Serious Health Condition

A serious health condition is an illness, injury, impairment, or physical or mental condition of incapacity or treatment that involves:

- (1) Inpatient care (overnight stay) in a hospital, hospice, or residential medical care facility.
- (2) Continuing treatment by (or under the supervision of) a health care provider for a period of incapacity of more than three consecutive full calendar days, combined with at least two visits to a health care provider within 30 days of the first day of incapacity or one visit to a health care provider requiring a regimen of continuing treatment, e.g., prescription medication.

### b. Exigency Leave:

- (1) Short-term notice deployment (deployment in seven or less calendar days)
- (2) Military events and activities
- (3) Childcare and school activities
- (4) Family support or assistance programs
- (5) Financial and legal arrangements
- (6) Counseling

- (7) Servicemember's rest and recuperation leave (limited to 15 calendar days for each instance)
  - (8) Post-deployment activities
  - (9) Parental leave for the spouse, son, daughter, or parent of a military member to care for the military member's parent who is incapable of self-care. The leave may be used for arranging for alternate care, providing care, admitting or transferring the patient to a care facility, or attending a meeting with care facility staff
  - (10) Additional activities arising out of active duty that the county and employee agree upon
- c. Covered Active Duty:
- (1) In the case of a member of a regular component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country.
  - (2) In the case of a member of a reserve component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a call or order to active duty in support of a contingency operation.

### 3. Limitations of Leave

- a. The entitlement to FMLA leave for the birth or placement of a child for adoption or foster care will expire 12 months from the date of the birth or placement. If both an employee and his/her spouse are employed by the county, their combined time off may not exceed 12 weeks during any 12-month period for the birth, adoption, or foster care of a child, or care of a parent with a serious health condition. Each spouse is, however, eligible for the full 12 weeks within a 12-month period to care for a son, daughter, or spouse with a serious health condition.
- b. Employees may not take more than a combined total of 12 weeks for all FMLA qualifying reasons listed in Section 3.40.070 B.

## C. **Military Caregiver Leave**

### 1. Policy

An eligible employee, as defined in Section 3.40.070 A.1. above, may be granted a total of 26 weeks of unpaid FMLA leave (which can run concurrent with paid leave) during a 12-month period to provide caregiver leave for a seriously ill or injured covered servicemember or veteran who is the employee's spouse, son, daughter, parent, or next of kin. This period is always measured forward from the date an employee takes FMLA leave to care for the covered servicemember or veteran and ends 12 months after that date.

### 2. Eligibility

The Covered Servicemember under the Military Caregiver leave must be:

- a. A current member of the Armed Forces (including a member of the National Guard or Reserves), who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status; or is otherwise on the temporary disability retired list, for a serious injury or illness that:
  - (1) Was incurred by the covered servicemember in the line of duty on active duty in the Armed Forces, or
  - (2) Existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces, and
  - (3) May render the member medically unfit to perform the duties of the member's office, grade, rank, or rating.
  
- b. A covered veteran is an individual who was a member of the Armed Forces (including a member of the National Guard or Reserves), and was discharged or released under conditions other than dishonorable at any time during the five-year period\* prior to the first date the eligible employee takes FMLA leave to care for the covered veteran who is undergoing medical treatment, recuperation or therapy for a serious injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and manifested itself before or after the member became a veteran, and is:
  - (1) A continuation of a serious injury or illness that was incurred or aggravated when the covered veteran was a member of the Armed forces and rendered the servicemember unable to perform the duties of the servicemember's office, grade, rank, or rating; or
  - (2) A physical or mental condition for which the covered veteran has received a U.S. Department of Veteran Affairs Service-Related Disability Rating (VASRD) of 50 percent or greater, and such VASRD rating is based, in whole or in part, on the condition precipitating the need for military caregiver leave; or
  - (3) A physical or mental condition that substantially impairs the covered veteran's ability to secure or follow a substantially gainful occupation by reason of a disability or disabilities related to military service, or would do so absent treatment; or
  - (4) An injury, including a psychological injury, on the basis of which the covered veteran has been enrolled in the Department of Veteran Affairs Program of Comprehensive Assistance for Family Caregivers.

\*The period between 10-28-09 and 3-8-13 is excluded in the determination of the five-year period.

#### **D. Notice of Leave**

- 1. An employee intending to take FMLA leave because of an expected birth or placement or child for adoption or foster care, a planned medical treatment or medical care, or qualifying exigency, shall provide notice for such leave at least 30 days

before the leave is to begin. If a requested leave will begin in less than 30 days, the employee must give notice to his/her immediate supervisor as soon as the necessity for the leave is known. Reasonable advance notice is required for all leaves, even if the event necessitating the leave is not foreseeable. If an employee gives less than 30 days notice, the county may require an explanation.

2. Within five business days (absent extenuating circumstances) of receiving notice that 1) an employee requests to use FMLA leave, or 2) the county acquires knowledge that a leave may be for a FMLA-qualifying reason, the county will complete Form WH-381 Notice of Eligibility and Rights and Responsibilities. Completion of this form will designate if an employee is eligible for FMLA or if an employee is not eligible, the reason(s) why s/he is not eligible. The form will designate if the employee is required to obtain certification related to medical conditions and/or required family relationships. The county may require the use of FMLA leave for any absence which would otherwise qualify as FMLA leave, even if no formal application for such leave was made by the employee, provided notice is given to the employee. Employees cannot waive, nor may the county induce employees to waive their rights under FMLA.

#### **E. Certification of Leave**

##### **1. Certification Forms**

###### **a. Serious health condition**

A request for leave based on the serious health condition of the employee or the employee's spouse, child, or parent must be supported by completion of Form WH-380-E -Certification of Health Care Provider for Employee's Serious Health Condition or Form WH-380-F -Certification of Health Care Provider for Family Member's Serious Health Condition completed by the health care provider. (Note: Attach the employee's current job description to Form 380-E when it is sent to the employee's health care provider.)

The Certification of Health Care Provider form must be completed and returned by the employee within 15 calendar days, absent extenuating circumstances.

###### **b. Exigency leave**

Employees requesting FMLA leave for qualifying exigency are required to complete Form WH-384 Certification of Qualifying Exigency for Military Family Leave and provide a copy of the military member's active duty orders or other documentation issued by the military which indicates that the military member is on covered active duty or call to covered active duty status.

###### **c. Caregiver leave**

Employees requesting FMLA leave for military caregiver leave are required to complete Form WH-385 Certification of Serious Injury or Illness of Covered Service member for Military Family Leave or WH-385-V Certification for Serious Injury or Illness of a Veteran for Military Caregiver Leave within 15-calendar days, absent extenuating circumstances. Employees may also submit invitational travel orders (ITOs) or invitational travel authorizations (ITAs) issued

to any family member to join an injured or ill servicemember at his/her bedside in lieu of forms WH-385 or WH-385-V.

2. Incomplete or Insufficient Certification (cure period)

If a certification is incomplete or insufficient, the employee will be given seven calendar days (unless not practicable under the particular circumstances despite the employee's diligent good faith efforts) to cure any such deficiency. If the deficiencies specified by the county are not cured in the resubmitted certification, the county may deny the taking of FMLA leave. A certification that is not returned to the county is not considered incomplete or insufficient, but constitutes a failure to provide certification.

3. Clarification or Authentication of certification

The county may contact the employee's health care provider for the purpose of clarification or authentication after giving the employee an opportunity to clarify specific discrepancies. Only the Human Resources Director may contact the health care provider.

4. Second and Third opinions

If the county questions the validity of the certification, the county may require, at its expense, the employee obtain a second opinion from a health care provider designated by the county. If the second opinion conflicts with the original opinion, the county may require, at its expense, that the employee obtain the opinion of a third health care provider designated or approved jointly by the county and the employee. This third opinion will be considered final and binding on both parties.

Second and third opinions are not permitted for leave to care for a covered servicemember when the certification has been completed by a Department of Defense or Department of Veterans Affairs health care provider. However, second and third opinions are permitted when the certification has been completed by other health care providers as provided for by law.

Second and third opinions are not allowed on a fitness for duty certification.

5. Recertification

In instances where the minimum duration of leave anticipated by the original certification is more than 30 days, the county may require the employee to recertify that the original medical condition still exists. Such requests can be made no more frequently than the minimum duration of the leave requested (e.g., 40 days) or once every six months in connection with an absence.

In situations in which the minimum duration of leave anticipated by the original certification is less than 30 days, the county may request recertification if the employee requests an extension of leave, the circumstances described by the original certification have changed significantly, or the county receives information casting doubt upon the continuing validity of the certification.

Recertifications are not permitted for leave to care for a covered servicemember.

6. Annual Medical Certification

The county may require the employee to provide new medical certification, not recertification, for his/her first FMLA-related absence in a new 12-month leave year.

**F. Designation Notice**

1. Within five business days (absent extenuating circumstances) of receipt of all required information, the county will make a determination if an employee's request for leave is for an FMLA-qualifying reason. The county will complete Form WH-382 -Designation Notice indicating if leave is approved or not and provide it to the employee.
2. If the county cannot make a determination from the information provided, they will use this form to:
  - a. Indicate the information presented is incomplete or insufficient and provide the employee seven calendar days to provide complete information.
  - b. Provide notice to an employee if a second or third medical certification is required.
3. The county may also use this form to designate a fitness-for-duty certificate which will be required prior to returning to work.

**G. Benefits Coverage During Leave**

1. During a period of FMLA leave, an employee will be retained on the county's health plan under the same conditions that would apply if the employee was not on FMLA leave. To continue health coverage, the employee must continue to make any contributions that s/he would otherwise be required to make. Failure of the employee to pay his/her share of the health insurance premium may result in loss of coverage.
2. If the employee fails to return to work after the expiration of the FMLA leave, the employee may be required to reimburse the county for payment of health insurance premiums during the leave, unless the reason the employee cannot return is due to circumstances beyond the employee's control. The definition of "beyond the employee's control" includes a very large variety of situations such as: the employee being subject to layoff, continuation, recurrence, or the onset of an FMLA-qualifying event; or the spouse's unexpected worksite relocation of more than 75 surface miles from the current worksite.
3. An employee is not entitled to the accrual of any seniority or employment benefits during any unpaid leave. An employee who takes FMLA leave will not lose any seniority or employment benefits that accrued before the date the leave began and will be entitled to any unconditional pay increase, such as cost of living increase, granted to all employees during the FMLA leave period.

**H. Outside Employment** – An employee may not accept other employment during an FMLA absence if the job conflicts with the reason the employee is on FMLA leave; e.g., an employee is on FMLA leave due to a back injury and accepts a job requiring heavy lifting. All other requirements of county's outside employment policy apply.

I. **Periodic Reporting** – Any employee on FMLA leave must notify county periodically of his/her status and intention to return to work. The county has the authority to determine how often the employee must provide this notification.

J. **Change in Duration of Leave**

1. Return Prior to Expiration

If an employee wishes to return to work prior to the expiration of the approved FMLA leave period, s/he must notify the supervisor within two business days prior to the employee's planned return. Employees may be required to provide a fitness-for-duty certification (if indicated on the designation notice) specifically addressing the employee's ability to perform the essential functions of his/her job, prior to returning to work if the FMLA leave of absence was due to the employee's own serious health condition. Employees required to present a fitness-for-duty certification may be delayed in restoration to employment until certification is provided. Second and third opinions are not allowed on a fitness-for-duty certification.

2. Request an Extension of Leave

An employee who requests an extension of FMLA leave due to the continuation of a qualifying exigency, care for servicemember, continuation, recurrence, or onset of his/her own serious health condition, or of the serious health condition of the employee's spouse, child, or parent, must submit a request for an extension, in writing, to the county. This written request should be made as soon as the employee realizes that s/he will not be able to return at the expiration of the leave period. Any additional time requested beyond the FMLA 12-week period (or 26-week period for caregiver leave) will not be considered as FMLA. Rather, such time, if approved by the county, will be characterized as either paid or unpaid leave, thereby ending the county's reinstatement obligations included in Section 3.40.070 K. (See the applicable collective bargaining agreement for alternate provisions which may apply.)

K. **Return from Leave**

1. Upon returning to work, an employee on FMLA leave will be restored to his/her most recent position or to a position with equivalent pay, benefits, and other terms and conditions of employment. The county cannot guarantee that an employee will be returned to his/her original position. The county will determine whether a position is an "equivalent position" as defined by FMLA. Employee's right to restoration, however, cease at the end of the applicable 12-month FMLA leave year.
2. Employees may be required to provide a fitness-for-duty certification (if indicated on the designation notice) specifically addressing the employee's ability to perform the essential functions of his/her job, prior to returning to work if the FMLA leave of absence was due to the employee's own serious health condition. Employees required to present a fitness-for-duty certification may be delayed in restoration to employment until certification is provided. Second and third opinions are not allowed on a fitness for duty certification.
3. Key employees may be denied job restoration if such denial is necessary to prevent substantial and grievous economic injury to the operations of county and the



employee was given written notice they were considered a key employee at the time they gave notice of FMLA leave or when the leave commenced.

L. **Failure to Return from Leave** – Failure of an employee to return to work upon the expiration of an FMLA leave of absence will subject the employee to disciplinary action, up to and including termination, unless the county has granted an additional (paid or unpaid) extension. (Note: Refer to county's other leave policies.) Nothing in this policy limits the county's obligations of reasonable accommodation under the Americans with Disabilities Act, as amended.

### **3.40.080 Catastrophic Leave.**

A. **Definitions:**

1. The employee is unable to perform the duties of their position because of a serious illness or accident which is life threatening or which will require a lengthy convalescence.
2. "Lengthy Convalescence" means a period of disability which the attending physician determines will exceed ten (10 weeks).
3. "Life Threatening" means a condition which is diagnosed by a physician as creating a substantial risk of death.

B. **Establishing the Catastrophic Leave Account.**

1. The County Manager will establish an account for catastrophic leave for employees.
2. An employee may request, in writing, that a specified number of hours of his/her accrued sick leave be transferred from his/her account to the catastrophic leave account. Hours transferred to a Catastrophic Leave Account will be converted to a dollar value donated based on the rate of pay of the donor.
3. An employee may not transfer to the catastrophic leave account any hours of sick leave, if the balance of his/her account after the transfer is less than four hundred (400) hours. Sick leave will be transferred at the rate of one hour for one hour credit donated.
4. The maximum number of hours which may be transferred in any one calendar year from any employee is forty (40). The minimum number of hours which may be transferred in any one calendar year is eight (8) hours annual and twenty-four (24) hours sick. leave will be placed in a pool, however, the employee may transfer hours to the catastrophic leave account for use by a particular employee, who has been determined to be eligible to receive the leave.
5. Any hours of annual or sick leave which was transferred from any employee's account to the catastrophic leave account may not be returned or restored to that employee. This subsection does not prevent the employee from receiving leave pursuant to Section D of this Article.

**C. Request for Catastrophic Leave.**

1. An employee who is himself/herself affected by a catastrophe as defined in Section A, may request, in writing, that a specified number of hours of leave be transferred from the catastrophic leave account to his/her account. The maximum number of hours that may be transferred to an employee pursuant to this section is 240 per catastrophe. Catastrophic leave may be used when the subject of the catastrophe is a member of the employee's immediate family. Catastrophic leave will be deducted from the Catastrophic Leave Account based upon the dollar value and the rate of pay of the employee receiving the catastrophic leave.
2. The request must include:
  - a. The employee's name, title and classification; and
  - b. A description of the catastrophe and the expected duration of that catastrophe.
3. An employee may not receive any leave from the catastrophic leave account until he/she has used all his/her accrued annual, sick and other paid leave.
4. An employee who receives leave from the account for catastrophic leave is entitled to payment for the leave at a rate no greater than his/her own rate of pay.

**D. Approval of Transferring the Catastrophic Leave.**

1. The County Manager or his designee, may approve the transfer of a specified number of hours of leave from the catastrophic leave account to the account of any employee who is eligible to receive such leave.
2. The decision of the County Manager or his designee concerning the approval of leave pursuant to Subsection A is final and is not subject to the dispute resolution procedure, judicial review or review by the Board of County Commissioners.

**E. Review of Status of Catastrophe; Termination of Leave; Disposition of Hours Not Used.**

1. The County Manager or his designee shall review the status of the catastrophe of the employee and determine when the catastrophe no longer exists. This determination is final and not subject to the dispute resolution, judicial review by the Board of County Commissioners.
2. The County Manager or his designee shall not grant any hours of leave from the catastrophic leave account after:
  - a. The catastrophe ceases to exist; or
  - b. The employee who is receiving the leave resigns or his/her employment with the County is terminated.
3. Any leave which is received from the catastrophic leave account which was not used at the time the catastrophe ceases to exist or upon the resignation or termination of the employment of the employee must be returned to the catastrophic leave account.

**F. Maintenance of Records on Catastrophic Leave.**

1. Personnel shall maintain the records and report to the County Manager any information concerning the use of a catastrophic leave account to evaluate the effectiveness, feasibility and the cost of carrying out this provision.

**G. Employee; Definition.**

1. The term "employee" as used in this policy includes only those employees covered by the Agreement.

**H. Substantiation of Catastrophic Condition.**

1. The County Manager or his designee may require written substantiation of the catastrophic condition which is life threatening or which will result in a lengthy illness by a physician of his choosing. The cost of such written substantiation shall be borne by the County.

## **Chapter 3.44**

### **LAYOFF PROCEDURE**

#### **Sections:**

- 3.44.010 General.
- 3.44.020 Order of Layoff.
- 3.44.030 Seniority Defined.
- 3.44.040 Displacement and Demotion to a Lower Classification.
- 3.44.050 Re-employment Lists.
- 3.44.060 Notice of Re-employment.
- 3.44.070 Benefit Eligibility.

#### **3.44.010 General.**

When the County Board determines that a reduction in staffing is or may be warranted, the following procedures will be followed. The County retains full authority and discretion to determine what alternative measures, if any, are appropriate under the circumstances. The County may invoke any number of alternative measures, including but not limited to offering a voluntary reduction of hours or days of work, reducing employee's hours or days of work, pay reductions for certain classifications, or layoffs.

#### **3.44.020 Order of Layoff.**

A. Layoffs shall be by classification within each department. Within each classification, employees will be selected for layoff based on a combination of factors, including but not necessarily limited to past performance and productivity, qualifications, initiative, effective work habits, attendance and punctuality. In cases where the County determines that performance and other factors are essentially equal between two or more employees, casual workers shall be laid off first, then probationary employees shall be laid off, and then part-time regular employees shall be laid off. Among probationary and part-time regular employees, seniority in class, seniority in current department, and seniority in County employment will be the deciding factors. Ties in seniority within class in the same employment status and department will be broken by total seniority within department. Ties in seniority in department will be broken by seniority in County employment.

B. The County reserves the right to deviate from this order whenever circumstances warrant.

#### **3.44.030 Seniority Defined.**

For purposes of this provision, seniority shall be defined as the full-time equivalency of the length of continuous service from the employee's last date of hire into the employee's current job class.

**3.44.040 Displacement and Demotion to a Lower Classification.**

Employees subject to layoff may voluntarily demote to a vacant position in:

1. A comparable classification, as determined by the County Manager,
2. A lower classification within the department in which the employee previously held regular status, or;
3. A lower classification provided the employee meets the minimum qualifications for the class and can, through a non-competitive examination, establish proof to the satisfaction of the County Manager that he/she is capable of performing the job.

**3.44.050 Re-employment Lists.**

The names of regular classified employees who have been laid off or have been demoted in lieu of layoff shall be placed on a re-employment list. The re-employment list shall be by department and classification with employees listed in order of displacement with the employee displaced last or last to be laid off appearing first on the list. Re-employment lists shall be used on a priority basis to fill any vacancies in classified positions which occur in the department and classification where the layoff occurred. The names of employees laid off or demoted shall remain on the re-employment list for up to one (1) year from the date of layoff or demotion.

**3.44.060 Notice of Re-employment.**

A. The employee subject to recall shall be sent written notice of re-employment by registered U.S. mail to the last known address of record on file with the County. It shall be the responsibility of each employee on layoff to keep the County advised of his/her current whereabouts. The employee shall be given ten (10) calendar days notice to report to duty in his/her former classification, and is requested to respond within three (3) calendar days as to his/her intentions.

B. If the employee does not respond or report for duty at the time requested, the employee shall be considered to have resigned and their name will be removed from the re-employment list. Any and all of the employment rights granted to an employee on layoff shall terminate upon such employee's failure to accept any position offered to him/her by the County for which he/she is qualified.

C. Extensions of time limits may be granted by the County Manager.

**3.44.070 Benefit Eligibility.**

**A. Benefits Upon Layoff.**

1. Employees who are laid off shall be paid for all accrued benefits, including vacation benefits, that would be payable in the event of any termination of employment, as of the date of layoff. (see Sick Leave Payoff paragraph)
2. An employee who is laid off and his/her dependents shall be eligible to continue the County's group health coverage at the individual's expense pursuant to the Consolidated Omnibus Reconciliation Act of 1984 (COBRA).

3. While on layoff, no employee shall accrue any seniority or benefits, even if eventually re-employed.

**B. Benefits Upon Re-Employment.**

Upon re-employment by the County, an employee shall be credited with service performed prior to their being laid off and will accrue vacation at the accrual rate applicable as if the employee had not been laid off. Sick leave balances, if any, will be reinstated at the time of re-employment. Employees, upon re-employment, will be eligible for insurance benefits as if they are a new hire unless they had maintained coverage or unless otherwise provided by the insurance carriers. Only employees who are reemployed within the one year period shall be eligible for restoration of leave and service time credits provided within this Chapter.

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## **Chapter 3.48**

### **COMPLAINT RESOLUTION PROCEDURE**

#### **Sections:**

- 3.48.010 Purpose.
- 3.48.020 Complaint Defined.
- 3.48.030 Complaint Resolution Procedure.
- 3.48.040 Written Records of Formal Complaints.
- 3.48.050 Freedom from Reprisal.
- 3.48.060 Failure to Act.

#### **3.48.010 Purpose.**

The purpose of the complaint resolution procedure is to promote improved employee-employer relations by establishing a procedure for the prompt settlement of work-related problems and complaints, as near as possible to the point of origin.

#### **3.48.020 Complaint Defined.**

An employee complaint is a dispute concerning the interpretation or application of a specific section of this Chapter of the County Code which provides a specific benefit to the employee, that is not subject to the discretion of management.

#### **3.48.030 Complaint Resolution Procedure.**

A. **Informal Meeting with Supervisor.** The complaint shall first be discussed on an informal basis by the employee with his/her immediate supervisor within five (5) working days from the date of the action causing the complaint. The supervisor will review the problem, make every effort to resolve the complaint at this level and give the employee an answer within five (5) working days

#### **B. Formal Written Complaint to Department Head.**

1. In the event the employee believes the complaint has not been satisfactorily resolved, the employee may submit a formal complaint in writing to the Department Head. The complaint shall contain a description of the action that caused the problem and must explicitly specify the Chapter of the County Code the violation of which is being alleged as the basis for the complaint and the remedy requested.
2. Within ten (10) working days of receipt of the complaint the Department Head shall schedule a meeting with the complaining employee to discuss the complaint. Within five (5) working days of the meeting, the Department Head shall provide a written decision to the complaining employee.

C. **Appeal to County Manager.** If the employee believes the complaint has not been satisfactorily resolved, the employee may appeal, within five (5) working days, to the County Manager. The appeal shall be submitted in writing and shall state the specific nature of the



appeal. The County Manager shall review the complaint and the Department Head's decision, and take any investigative/inquiry action as he/she may deem appropriate. The County Manager shall notify the employee and the Department Head, in writing, of his/her decision within fifteen (15) working days of the receipt of the appeal.

D. **Appeal to County Board.** If the employee believes the complaint has not been satisfactorily resolved, the employee may appeal, within five (5) working days, to the County Board of Commissioners by filing a written appeal with the Clerk of the Board. The County Board shall schedule and conduct a hearing using the following procedures:

1. The hearing shall be closed to the public, unless the employee requests a public hearing, except that if the complaint is from a group of employees the hearing shall be public.
2. The complaining employee, at his/her expense, and the County may be represented by counsel.
3. County Board review shall be based on the record of the proceedings before the County Manager and the final determination of the County Manager, with no new testimony taken.
4. Each party may submit written argument to the County Board. The written argument shall not exceed ten (10) 8-1/2 x 11 inch typewritten pages and shall be submitted at least seven (7) calendar days before the hearing for inclusion in County Board agenda materials. If such written argument is not received within this time frame, it shall be deemed waived.
5. Each party shall be allotted fifteen minutes for presentation of oral argument to the County Board.
6. The hearing shall be audio recorded unless the employee requests and makes arrangements for a stenographic reporter. If a stenographic reporter is used, the County shall pay one-half of the fee for such reporter. Any transcripts requested shall be paid for by the party requesting the same.
7. The County Board may affirm, reverse or modify the decision of the County Manager.
8. The decision of the County Board shall be made within thirty (30) working days of the hearing and shall be final and binding.

**3.48.040 Written Records of Formal Complaints.**

All documents, communications, and records dealing with the processing of a formal complaint shall be kept in a separate file in the office of the County Manager and shall not be kept in the personal history file of any of the participants.

**3.48.050 Freedom from Reprisal.**

An employee filing a formal complaint in conformity with this procedure shall have freedom from reprisal.

**3.48.060 Failure to Act.**

If the finding or resolution of a complaint at any step of the procedure is not appealed within the prescribed time, said complaint shall be considered settled on the basis of the last answer provided, and there shall be no further appeal or review. Should management not respond within the prescribed time, that action shall be considered to be a denial and the complaint shall proceed to the next step.

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## **Chapter 3.52**

### **DISCIPLINARY PROCEDURE**

#### **Sections:**

- 3.52.010 General.
- 3.52.020 Reasons for Discipline.
- 3.52.030 Types of Disciplinary Action.
- 3.52.040 Notice of Intended Disciplinary Action.
- 3.52.050 Predisciplinary Conference.
- 3.52.060 Notice of Discipline or Rejection of Discipline.
- 3.52.070 Review Process for Minor Discipline.
- 3.52.080 Appeal Process for Disciplinary Action.
- 3.52.090 Final and Binding Review.
- 3.52.100 Appeal Hearing Procedure.
- 3.52.110 Serving of Notices.
- 3.52.120 Summary Suspension.
- 3.52.130 Right to Representation.

#### **3.52.010 General.**

A. The expected standard for employees of the County shall be to render the best possible service to the public, to reflect credit upon the County service, and to serve the public interest. The continued employment of an employee shall be conditioned on good behavior and satisfactory performance of duties.

B. The procedures set forth in this section shall not apply to probationary employees who are rejected during probation, to casual workers, to any employee serving in a seasonal or temporary appointment, or to officers or employees in the unclassified service of the County. These procedures shall not apply to a reduction in force, or a reduction in pay which is part of a reclassification action or reorganization approved by the County Board.

C. Any appointing authority may initiate disciplinary action for cause. As used in this section, "disciplining authority" shall mean an elected or appointed department head or the County Manager who initiates the disciplinary action.

D. The procedures set forth in this section shall not preclude an employee from entering into a written agreement with the County to settle a pending disciplinary matter, and further shall not preclude an employee from waiving any of the notice provisions herein provided for, as part of that written settlement agreement.

#### **3.52.020 Reasons for Discipline.**

Disciplinary action, up to and including termination of employment may be taken against an employee for unsatisfactory performance or for misconduct including, but not limited to the following:

- A. Absence from work without permission, failure to report after a leave of absence has expired or been canceled or failure to report to one's supervisor or department head when absent.
- B. Claiming sick leave when physically fit or when not otherwise eligible for sick leave
- C. Acceptance by the employee from any other source than the County of any form of remuneration for the performance of his/her duties, except as may be provided by law.
- D. Conduct unbecoming an employee in County service or discourteous treatment of the public or a fellow employee, or any other act of omission or commission tending to injure the public service.
- E. Conviction of any felony or of any criminal act involving moral turpitude.
- F. Disorderly or immoral conduct.
- G. Engaging in outside employment not specifically authorized.
- H. Improper or unauthorized use of equipment, funds, property, supplies or vehicles.
- I. Incompetence or inefficiency.
- J. Insubordination or failure to follow the orders of one's supervisor or department head.
- K. Dishonesty or intentional misrepresentation or concealment of any fact in connection with obtaining employment.
- L. Neglect of or inattention to duty or tardiness.
- M. Negligent or willful damage to public property or waste of public funds, supplies or equipment.
- N. Willful Violation of this Title or Department policies.
- O. Use of alcoholic beverages or illegal drugs while on duty.
- P. Being under the influence of alcoholic beverages or illegal drugs while on duty.
- Q. Any other act or failure to act or incompetence which in the judgment of the appointing authority is sufficient to show the employee to be unsuitable or unfit to be employed in his/her position.

### **3.52.030 Types of Disciplinary Action.**

As used in this section, "disciplinary action" shall mean any of the following and may be taken singly or in combination:

A. **Oral Warning.** An oral warning or a performance evaluation report is not subject to the appeal process outlined below.

B. **Written Reprimand.** A written reprimand shall be provided to an employee prior to being placed in the employee's personnel file. Such reprimands shall not be subject to the appeal process outlined below, but the employee shall have the right of rebuttal by providing a written statement which will be included in the personnel file along with the written reprimand.

C. **Suspension without pay.** Fringe benefits such as vacation and sick leave shall not accrue during a period of suspension without pay. However, health, dental and life insurance shall remain in effect during a period of suspension without pay. For performance issues, exempt employees may not be suspended without pay for less than one week and suspensions must be in one-week increments. For policy violations (such as safety violations, harassment, etc.), exempt employees may be suspended in full-day increments (rather than one-week increments). Suspensions without pay for three (3) days or less shall be subject to the review process beginning in section 3.52.070, below. Suspensions without pay for more than three (3) days shall be subject to the appeal process beginning in section 3.52.080, below.

D. **Reduction in pay level.** The movement of an employee from one step in the salary range to a lower step in the same range. Such action shall be subject to the appeal process beginning in section 3.52.080, below.

E. **Disciplinary Demotion.** The required movement of an employee from a position in one class to another position having a lower maximum rate of pay because of unsatisfactory performance or behavior. (See also "Salary Upon Demotion" in Chapter 3.08 of this Title.) Disciplinary demotion shall be subject to the appeal process beginning in section 3.52.080, below.

F. **Discharge.** Such action shall be subject to the appeal process beginning in section 3.52.080, below.

G. Employees' signed copies of the above items A-F must be placed in employees' master personnel file, and a copy provided to employees.

### **3.52.040 Notice of Intended Disciplinary Action.**

A. In cases of proposed disciplinary action, except an oral warning, or written reprimand, the proposed disciplinary action shall be served on the employee personally or by mail. The written notice of intended disciplinary action which shall include:

1. The reasons for the disciplinary action, those facts alleged to be the basis for the intended action and copies of any documents or materials upon which the disciplinary action is based;

2. The specific action proposed to be taken, including any time period or other conditions associated with the discipline;
3. The proposed effective date of the intended disciplinary action; and
4. The right of the employee to respond to the proposed disciplinary action either in writing or orally, at the option of the employee. The employee shall be advised that he/she has five (5) working days within which to file a written response or request, in writing, an informal Predisciplinary conference before the disciplining authority or his/her designee. The notice shall inform the employee that failure to make a timely request for a Predisciplinary conference or to appear at the Predisciplinary conference, if requested, shall forfeit all of the employee's appeal rights.

B. A copy of the notice of intended disciplinary action shall be placed in the employee's personnel file.

#### **3.52.050 Predisciplinary Conference.**

When an employee has requested an opportunity to respond orally, the disciplining authority or his/her designee shall cause an informal Predisciplinary conference to be held within five (5) working days from the date when the employee's request was received to review the basis of the proposed disciplinary action and to provide the opportunity for the employee to answer the charges. The disciplining authority or his/her designee shall allow the employee to present relevant information which may cause the disciplinary authority to reverse or modify the proposed disciplinary action. Failure of the employee to request a Predisciplinary conference or to appear at the Predisciplinary conference, if requested, shall forfeit all of the employee's appeal rights.

#### **3.52.060 Notice of Discipline or Rejection of Discipline.**

A. If the employee does not respond or upon conclusion of the Predisciplinary conference, the disciplining authority or his/her designee shall, within ten (10) working days, by written notice to the employee and the supervisor, affirm, reduce or abandon the proposed disciplinary action.

B. If the decision is to affirm or reduce the proposed disciplinary action, such action shall be served on the employee personally or by mail. The written notice of disciplinary action shall include:

1. The reasons for the disciplinary action, those facts alleged to be the basis for the disciplinary action and copies of any documents or materials upon which the disciplinary action is based;
2. The specific action proposed to be taken, including any time period or other conditions associated with the discipline;
3. The effective date of the disciplinary action; and
4. The right of the employee to appeal the disciplinary action. The employee shall be advised that he/she has five (5) working days within which to file a written appeal of

the disciplinary action.

C. A copy of the notice of disciplinary action shall be placed in the employee's personnel file.

D. If the notice is to abandon all disciplinary action, the notice of intended disciplinary action shall be removed from all personnel files.

**3.52.070 Review Process for Minor Discipline.**

A. An employee who has been suspended without pay for three (3) days or less has the right to a review of the minor disciplinary action taken by a department head other than an elected department head by filing a written notice with the County Manager requesting review within five (5) days from the date of the notice of discipline. The review request must state specifically the reason or reasons upon which it is based. Failure to file within the time allowed constitutes abandonment of appeal rights.

B. If a review of a minor disciplinary action has been requested, the County Manager shall conduct or cause to have conducted an informal investigation of an employee who has been subject to minor disciplinary action. This review shall be based on the written record and the County Manager may, at his/her discretion, meet with the employee and others as may be appropriate. The County Manager shall, within thirty (30) working days after the conclusion of the review certify his/her decision in writing to the employee and the department head. The decision of the County Manager shall be final and binding.

**3.52.080 Appeal Process for Disciplinary Action.**

A. An employee who has been discharged, demoted, reduced in salary, or suspended without pay for more than three (3) days has the right to appeal the disciplinary action by filing a written notice of appeal within five (5) days from the date of the notice of discipline. The appeal must state specifically the reason or reasons upon which it is based. Failure to file within the time allowed constitutes abandonment of appeal rights.

B. An appeal of a disciplinary action taken by a department head other than an elected department head shall be submitted to the County Manager for final review. The employee shall file his/her written notice of appeal with the County Manager within five (5) days from the date of the notice of discipline.

C. An appeal of a disciplinary action taken by the County Manager or by an elected department head shall be submitted to the County Board for final decision. The employee shall file his/her written notice of appeal with the Clerk of the County Board within five (5) days from the date of the notice of discipline.

D. An appeal to the County Manager or to the County Board will not be accepted unless the appellant has first sought relief through the established Predisciplinary conference procedure.



E. The Clerk of the County Board shall, within ten (10) working days after receipt of the appeal to the County Board, inform each member of the County Board, the County Manager and other persons named or affected by the appeal or the filing of the appeal.

**3.52.090 Final and Binding Review.**

A. If the disciplinary action has been appealed the County Manager or the County Board, as appropriate, shall conduct or cause to have conducted a hearing on the appeal of an employee who has been subject to disciplinary action. The County Manager or the County Board, as appropriate, may serve as hearing officer or may appoint a Hearing Officer to conduct a hearing on his/her or its behalf.

B. The County Manager, the County Board, as appropriate, or the Hearing Officer if the appeal is heard directly by an appointed hearing officer, shall assume responsibility for scheduling and conducting the hearing in accordance with the provisions of this Chapter.

C. If the appeal is heard by a Hearing Officer, the Hearing Officer shall conduct the hearing and prepare a report which will include findings of fact and recommendation(s). The County shall be bound by the Hearing Officer's findings of fact but the County Manager or the County Board, as appropriate, may reserve final authority to accept, modify or reject the recommended decision of the Hearing Officer.

D. If the disciplinary action has been appealed to the County Manager, the County Manager shall, within thirty (30) working days after the conclusion of the hearing or upon receipt of the Hearing Officer's findings and recommendation(s), certify the findings and his/her decision in writing to the employee and the department head. The decision of the County Manager shall be final and binding.

E. If the disciplinary action has been appealed to the County Board, the County Board shall, within thirty (30) working days after the conclusion of the hearing or upon receipt of the Hearing Officer's findings and recommendation(s), certify the findings and its decision in writing by majority vote of the County Board to the employee, the elected department head and/or the County Manager. The decision of the County Board shall be final and binding.

F. If the decision is to affirm the disciplinary action, the decision shall be placed in the employee's personnel file. If the decision is to modify or reverse the disciplinary action, such action shall be implemented. If modified, the decision shall be placed in the employee's personnel file. If reversed, the notice of the intended disciplinary action and the notice of disciplinary action shall be removed from all personnel files.

**3.52.100 Appeal Hearing Procedure.**

A. Upon notice of the timely receipt of an appeal, the County Manager, County Board, as appropriate, or Hearing Officer shall schedule an appeal hearing. The County Manager, County Board, as appropriate, or Hearing Officer, shall provide the employee written

notice of the date, time and place of the hearing no less than ten (10) working days in advance of the scheduled hearing date. Any time limits contained in this section may be extended upon mutual agreement of the County Manager and the employee.

B. The County Manager, County Board, as appropriate, or Hearing Officer shall be deemed to be the administrative law judge in the proceedings conducted pursuant to this Chapter.

C. The hearing shall be closed to the public unless the employee and the County, prior to the commencement of the hearing, requests in writing that it be open to the public.

D. Oral evidence shall be taken only on oath or affirmation.

E. Each party shall have these rights: to call and examine witnesses; to introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which party first called him to testify; and to rebut the evidence against him. If the employee does not testify on his/her own behalf, he/she may be called and examined as if under cross-examination.

F. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely upon in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in a civil action. The rules of privilege shall be effective to the extent that they are otherwise required by statute to be recognized at the hearing, and irrelevant and unduly repetitious evidence shall be excluded.

G. Either by deposition or at the hearing, the employee may be examined and may examine or cause any person to be examined. The employee shall be allowed to appear personally at the hearing, and he/she shall have the right to legal counsel or lay representation of his/her choice, at his/her expense, at all times throughout the proceeding, and be allowed to produce such competent evidence in his/her own defense and in rebuttal of the charges as he/she or his/her representative may wish to offer.

H. The hearing shall be recorded by a stenographic reporter with the cost of the reporter borne by the County. If any transcript is ordered by the employee or the County, the party ordering the transcript shall bear the cost of the transcription. If both the employee and the County order transcriptions, the cost of the transcription, shall be borne equally by the County and the employee.

I. The County Manager, County Board, as appropriate, or Hearing Officer shall have the power to subpoena and require the attendance of witnesses, and the production of books, papers and other evidence pertinent to the hearing, and to administer oaths to witnesses.

J. In arriving at a decision or recommendation, the County Manager, County Board, as appropriate, or Hearing Officer may consider any prior disciplinary actions taken against the employee, or any prior proceedings under this section.

K. Failure of the employee to appear at the hearing shall be deemed a withdrawal of his/her appeal and the action of the County Manager or department head shall be final, unless, in the opinion of the County Manager or County Board, as appropriate, the circumstances were beyond the employee's control.

**3.52.110 Serving of Notices.**

Written notices shall be served either by direct personal service on the person affected, or by certified mail, return receipt requested. Mailed notices to the County Manager, a department head, an appellant and/or his/her designee, or the County Board shall be effective upon deposit with the United States Postal Service.

**3.52.120 Summary Suspension.**

Prior to any disciplinary proceedings under this section, the disciplining authority may summarily place any County employee on an immediate suspended status with or without pay. Such suspensions shall be made only in cases where the employee's continued active duty status might, in the sole opinion of the disciplining authority, constitute a hazard to the employee or others, tend to bring the County service into discredit, or prolong acts or omissions of improper employee conduct. If the disciplinary action or suspension is not subsequently ordered and/or affirmed, the employee shall be reinstated in status and restored all pay and fringe benefits lost during such summary suspension.

**3.52.130 Right to Representation.**

An employee subject to a meeting or an investigation that may result in disciplinary action, a Predisciplinary conference or an appeal hearing has the right to be represented by an employee representative or an attorney retained by the employee at the employee's expense.

**3.52.140 Retention Schedule for Disciplinary Action.**

A. Disciplinary actions and written documents pertaining to such actions shall remain in an employee's permanent personnel file according to the following retention schedule:

1. Written reprimands, with no further disciplinary action or suspension, shall be retained in the employee's personnel file for a period of at least thirty-six (36) months from the date of said reprimand.

2. Disciplinary documents relating to short suspensions (three days or less) shall be retained in the employee's personnel file for a period of at least sixty (60) months.

3. Disciplinary documents relating to severe suspension (more than three days) or for serious breaches of ethics shall be retained in the employee's personnel file for at least one hundred twenty (120) months.

B. After the expiration of the retention periods set forth above, an employee may request in writing that the disciplinary documents regarding a written reprimand or suspension be removed from their personnel file. The County shall remove the disciplinary documents from the employee's personnel file upon the employee's written request if the employee has:

1. No record of previous infractions and/or no pattern of violating standards,
2. Met the County's expected standards during the retention period, and
3. Received no subsequent disciplinary action during the applicable retention period.

C. An employee shall not be entitled to have the disciplinary documents removed from their personnel file if they do not meet the County's expected standards, have subsequent disciplinary action during the applicable retention period, and/or if the disciplinary action was taken because the employee's conduct is considered a breach of ethics, workplace violence, and/or illegal harassment.

D. The County may retain records beyond the retention periods with a written explanation of the purpose for retaining the records.

E. A disciplinary action removed pursuant to this section shall be sealed, together with any related materials included in the employee's personnel file, and shall have no further effect, save and except that said disciplinary action may be reopened and used in any subsequent discharge proceedings against the employee or in any litigation arising therefrom or in any litigation arising out of the events giving rise to the disciplinary action or any litigation respecting the actions or conduct of the employee during his employment by the County.

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## **Chapter 3.56**

### **EMPLOYEE MANAGEMENT COMMITTEE**

#### **Sections:**

- 3.56.010 Established - Composition - Selection.
- 3.56.020 Vacancies.
- 3.56.030 Committee Officers; Meetings.
- 3.56.040 Duties of Officers.
- 3.56.050 Duties - Quorum.
- 3.56.060 Open Meetings.

#### **3.56.010 Established - Composition - Selection.**

- A. There is established an Employee Management Committee.
- B. This committee shall consist of seven (7) members, five (5) members to be selected from the employees of the county and two (2) members to be selected from the managers of the county. Every effort will be made to obtain a broad countywide participation by department, operations or worksites. All terms shall be for a period of two (2) years and elections shall be held for the available posts as the employee management committee members' terms expire. The initial terms of the committee members shall be staggered and the length of each term shall be determined by the committee.
- C. Except as noted in subsection B of this section, all nominations shall be solicited from each department within the county on the last payday in May of the year preceding the expiration of the members' terms. Thereafter, on the last payday in June preceding the expiration of the members' terms, a general election shall take place among the county employees and management staff. Employee members of the county employee management committee shall be elected by a plurality of those employees participating or voting in the general election and management members shall be selected by the department heads. The specific manner and nature in which the election shall be transacted shall be determined by the County Manager.

#### **3.56.020 Vacancies.**

County employee management committee members who fail, refuse, resign or are otherwise unable to fulfill and serve the term to which they are elected shall be removed from membership by a majority vote of the members of the committee. The committee shall thereafter solicit nominations for the post from the department heads of the county or the employees of the county, depending upon whether the vacancy occurred in the representation comprising management or employees, and shall, thereafter, at the next regularly scheduled meeting, appoint a new member to fulfill the unexpired portion of the available term. The appointment shall be by majority vote of the members of the committee.

#### **3.56.030 Committee Officers; Meetings.**

Officers of the committee shall include a chair, vice chair, secretary and treasurer. The

officers of the committee shall be chosen by majority vote of the members. The committee shall adopt such rules for the conduct of its business as it deems necessary. It shall meet at least once each six (6) months and at such other times as a committee officer or any member may determine.

**3.56.040 Duties of Officers.**

A. The chair shall preside over and conduct all meetings and shall be the spokesperson for the committee to the board and county manager.

B. The vice chair shall act in the absence of the chair and perform all duties if the office of the chair becomes vacant. He shall further perform such other duties designated him by the chair or committee.

C. The secretary shall be responsible for the maintaining of all records, other than those deemed financial, including, without limitation, meeting minutes, meeting notices, and committee rosters bearing contact information, with the clerk of the board of county commissioners. The secretary shall also be responsible for the provision of records to the board or other county officials as required.

D. The treasurer shall be responsible for all financial records of the committee and for the collection and receipt of monies for all committee related events. When collecting and disbursing monies, the treasurer shall be assisted by at least one other committee officer or member.

**3.36.050 Duties of Committee; Quorum.**

A. The employee management committee shall serve in a consultative and advisory capacity to the county board and the county manager. It shall be the function of the committee to receive, consider and make recommendations on matters relating to personnel administration, policy and procedures; to provide a means of communication for disseminating countywide information to employees in each department in the county regarding the personnel program; and to provide a forum for the hearing of individual suggestions and concerns.

All recommendations shall be made by a majority vote of a quorum of the committee members and forwarded to the county board and the county manager. The committee's authority and responsibility is to make recommendations and does not negotiate on behalf of any individual or group.

B. A quorum shall consist of four (4) or more members of the committee, at least three (3) of whom shall be employee representatives and one of whom shall be a management representative.

**3.56.060 Open Meetings.**

The provisions of title 19, chapter 241 of the Nevada Revised Statutes (open meeting law) shall apply to meetings of the county employee management committee, when convened in its advisory capacity, to consider any of the following matters:

- A. Formulation of personnel related policy and procedures;
- B. Expenditure of public funds; or
- C. Nomination and selection of committee members.



## **Chapter 3.60**

### CHAPTER REVIEW

This Chapter of the Churchill County Code shall be reviewed at least biennially by the Employee Management Committee for the purpose of ensuring that the personnel rules remain in compliance with applicable federal and state laws.

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