

## ARTICLE I. ORGANIZATION OF THE PERSONNEL SYSTEM

### Section 1. Purpose

The purpose of this ordinance is to establish a personnel system that will promote a fair and effective means of employee recruitment and selection, develop and maintain an effective and responsible work force, and provide the means for removal of unsatisfactory employees. Policies are also provided in order to further the following goals:

1. To provide a uniform system of personnel administration throughout the County service.
2. To ensure that recruitment, selection, placement, promotion, retention and separation of County employees are based upon employees' qualifications and fitness, and are in compliance with the Federal and State laws.
3. To assist managers in the development of sound management practices and procedures, and to make effective consistent uses of human resources throughout the County.
4. To ensure, protect and clarify the rights and responsibilities of employees.

In the event of conflict between these rules and any state or federal law, the terms and conditions of that law shall prevail. In the event of the amendment of any ordinance, rule or law incorporated in this document or upon which these provisions rely, these rules shall be deemed amended in conformance with those changes.

### Section 2. Coverage

All employees in the County's service shall be subject to this policy except as provided in this section.

- A. Elected officials, the county manager and county attorney are exempt.
- B. The following employees shall be covered only by the specifically designated Articles and Sections:
  1. Employees governed by the State Personnel Act will be subject to all but Article II;
  2. Employees of the NC Cooperative Extension Service will be subject to all Articles except Article V, Section 1 and Article VI, Sections 1-4;
  3. The supervisor of elections
  4. Temporary employees

### Section 3. Definitions (listed alphabetically)

**Adverse Action.** An involuntary demotion, reduction in pay, transfer, suspension without pay, layoff or dismissal.

**Anniversary Date.** The employee's original date of employment with county service in an established position of 20 or more hours per week

**Appointing Authority.** Any county official with legal authority to make hiring decisions.

**Class.** A position or group of positions having similar duties and responsibilities requiring similar qualifications, which can be properly designated by one title indicative of the nature of work performed, and which carry the same salary range.

**Competitive Service Employee.** An employee of the Department of Social Services, Health Department, or Office of Emergency Management receiving federal grant-in-aid funds and subject to the State Personnel Act.

**Demotion.** The reassignment of an employee to a position or classification having a lower salary range than the position from which the reassignment is made.

**Full-time Employee.** An employee, appointed to an established position, who is regularly scheduled to work forty (40) hours or more per work week, is paid on a salary basis, and is designated by the Board of County Commissioners as full-time.

**Grievance.** Any matter of concern or dissatisfaction arising from the working conditions of an employee, subject to the control of the county.

**Hiring Rate.** The salary paid an employee when hired into county service, normally the minimum of the salary range.

**Maximum Salary Rate.** The maximum salary authorized by the pay plan for an employee within an assigned salary grade.

**Merit Increase.** An increase in salary based on service that exceeds the standard and/or expected performance of the assigned position.

**Merit Bonus.** A lump sum payment to employees who earn a merit increase but are at the maximum salary of the position classification to which they are assigned.

**Part-time Employees.** An employee appointed to an established position, the duties of which are regularly scheduled less than forty hours per week

**Pay Plan.** A schedule of pay ranges arranged by minimum, mid-point and maximum rates with steps between the minimum and maximum rates for each class assigned to a salary range.

**Performance Evaluation System.** An annual review of an employee's job performance, designed to facilitate fair and equitable merit pay decisions, recognizing performance as the basis of pay increases.

**Position.** A group of current duties and responsibilities requiring the full- or part-time employment of one person.

**Position Classification Plan.** A plan that assigns classes (positions) to the appropriate pay grade.

**Probationary Employee.** An individual appointed to a permanent position that has served less than six months in the position.

**Promotion.** The reassignment of an employee to an existing position or classification in the county service having a higher salary range than the position or classification from which the reassignment is made.

**Reclassification.** The reassignment of an existing position from one class to another based on changes in job content.

**Regular Employee.** An employee who has satisfactorily completed the required probationary period.

**Regular Full-time Position.** A position that has been approved by the Board of Commissioners with duties and responsibilities of which are required to be performed on a continuous basis.

**Regular Part-time Position.** A position that has been approved by the Board of Commissioners with duties of which can be performed in less than a regular workday or workweek.

**Salary Grade.** All positions that are sufficiently comparable to warrant one range of pay rates.

**Salary Plan Revision.** The uniform raising or lowering of the salary ranges of every grade within the salary plan.

**Salary Range.** The minimum and maximum salary levels for a given classification for hiring purposes.

**Salary Range Revision.** The raising or lowering of the salary range for one or more specific classes of positions within the classification plan.

**Salary Schedule.** A listing by grade of all the approved salary ranges for various position classifications of county government for hiring purposes.

**Temporary Employee.** An individual appointed to serve in a position for a definite duration, but not to exceed twelve (12) months. (Not eligible for benefits.)

**Temporary Position.** A position for which the duties and responsibilities are required to be met for a specific short period of time, normally not to exceed twelve (12) months and which may or may not require attendance by a person for a full work day and/or work week.

**Transfer.** The reassignment of an employee from one position or department to another.

**Work-Against Appointment.** When qualified applicants are not available, and there is no trainee provision for the class of the vacancy, an employee may be hired to gain the experience on-the-job needed to qualify for the full class they are hired to fill.

#### **Section 4. Merit Principle**

It is the policy of Iredell County that fair treatment be given to all persons seeking employment or currently employed. Equal job opportunity for employment, training, and advancement will be given to all qualified persons without regard to race, religion, color, creed, national origin, sex, age,

political affiliation, or handicapping condition. All personnel actions such as compensation, benefits, promotions, training, career development, transfers, demotions, etc., will be administered in a non-discriminatory manner.

**Section 5. Responsibility of the Board of County Commissioners**

The Board of County Commissioners shall establish personnel policies and rules, including the classification and pay plan, and shall; make and confirm appointments required by law.

**Section 6. Responsibility of the County Manager**

The county manager shall be responsible to the Board of County Commissioners for the administration of the personnel program. The county manager shall appoint, suspend, and remove all county officers and employees, except those elected by the people or whose appointment is otherwise provided for by law. The county manager shall make appointments, dismissals, and suspensions in accordance with G.S. 153A-82 and Articles IV, VIII and IX of this ordinance.

**Section 7. Responsibility of the Director of Human Resources**

The county manager shall appoint a human resources director who shall assist in the preparation and maintenance of the position classification plan and the pay plan and perform such other duties in personnel administration as the manager shall require.

Effective Sept 2, 1992	Revised: 11/1/05
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## **ARTICLE II. THE CLASSIFICATION PLAN**

### **Section 1. Adoption**

The position classification plan, as from time to time approved by the Board of County Commissioners, is hereby adopted as the position classification plan for the county.

### **Section 2. Allocation of Positions**

The county manager shall allocate each position covered by the classification plan to its appropriate class in the plan. Allocation of positions will be based upon a position analysis. The analysis is used for evaluating the level of work found in the workforce and grouping positions with similar kinds of duties on the basis of major factors such as qualification, requirements, responsibility, difficulty, and working conditions.

### **Section 3. Administration of the Position Classification Plan**

- A. The county manager, or person(s) designated by the county manager, shall be responsible for the administration and maintenance of the position classification plan so that it will accurately reflect the duties performed by employees in the classes to which their positions are allocated. Department heads shall be responsible for bringing to the attention of the county manager (1) the need for new positions and (2) material changes in the nature of duties, responsibilities, or working conditions affecting the classification of a position.
- B. New positions shall be established upon recommendation of the county manager with the approval of the Board of County Commissioners. The county manager may (1) allocate the new position to the appropriate class within the existing classification plan or (2) amend the position classification plan to establish a new class to which the new position may be allocated.
- C. When the county manager finds that a substantial change has occurred in the nature or level of duties and responsibilities of an existing position, the county manager shall (1) direct that the existing class specification be revised, (2) reallocate the position to the appropriate class or grade within the existing classification plan, or (3) amend the position classification plan to establish a new class to which the position may be allocated.

### **Section 4. Amendment of the Position Classification Plan**

Classes of positions shall be added to and deleted from the position classification plan by the Board of County Commissioners based on the recommendation of the county manager.

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## **ARTICLE III. THE PAY PLAN**

## **Section 1. Adoption**

The salary schedule, reflecting both grade level and step shall be the pay plan for the County. The schedule will be updated when changes are approved by the Board of County Commissioners and will be maintained in Human Resources office.

## **Section 2. Maintenance of the Pay Plan**

The county manager shall be responsible for the administration and maintenance of the pay plan. The pay plan is intended to provide equitable compensation for all positions when considered in relation to each other, to general rates of pay for similar employment in the private and public sector in the area, to changes in the cost of living, to financial conditions of the county, and other factors. To this end, the county manager shall, from time to time, make a comparative study of all factors affecting the level of salary ranges and shall recommend to the board of county commissioners such changes in salary ranges as are warranted.

## **Section 3. Administration of the Pay Plan**

The pay plan shall be administered in a fair and systematic manner in accordance with work performed. The pay structure shall be externally competitive, shall maintain proper internal relationships among all positions based on relative duties and responsibilities, and shall recognize performance as the basis for pay increases within the established pay plan. To this end, a study of the County's positions will be conducted annually with all positions being reviewed at least every four years. If the results show pay inequity for any classification, the county manager will reallocate the class to the appropriate grade on the existing pay plan within the budget for reclassifications as approved by the Board of Commissioners. The classification plan shall meet the requirements of the State Competitive System for local government employees, while maintaining a county-wide plan.

## **Section 4. Hiring Rate/Starting Salary**

Employees will be hired at Step 0 of their assigned salary grade. Appointments above Step 0 may be made by the county manager when deemed necessary in the best interest of the county, based on such factors as superior qualifications of the applicant, a shortage of qualified applicants available at the hiring rate, years of experience, or the refusal of qualified applicants to accept employment at the minimum step.

## **Section 5. Probationary Step Increase**

Upon satisfactory completion of the probationary period, employees hired at or promoted to step 8 or below of the vacant position classification may be given a 9 step increase.

## **Section 6. Failure to Perform Satisfactorily**

An employee who fails to satisfactorily perform all the essential functions of his/her position may be terminated or the probationary period may be extended for up to nine months. An employee who has completed a probationary period is expected to perform all the essential functions of his/her position at a satisfactory level, or be subject to disciplinary action in accordance with Article VIII of this ordinance.

## **Section 7. Delay of Performance Evaluation**

An employee's absence from work due to sick leave, leave without pay, Workers' Compensation, or any other authorized leave as well as other reasons deemed necessary by the department head is cause for the department head to request an extension for the annual performance evaluation review, so as to allow adequate time for evaluation of performance.

## **Section 8. Merit Increases**

- A. Merit increases are not automatic but may be awarded for excellence in work performance. Each employee who has completed the probationary period may be considered annually for a merit increase on his or her anniversary date.
- B. Once the amount of funds has been allocated by the Board of County Commissioners for merit increases, employees will be evaluated to determine how well they met their performance standards. Merit increases will be based on the performance rating given by the department head and will be granted by the manager only to employees who have performed above the standard for their position.
- C. Employees who have reached the top step of their salary grade may be awarded a merit bonus if the annual performance evaluation is deserving of such bonus.
- D. The effective date of merit increases, when awarded will be the first day of the month following the anniversary month. When an evaluation has been delayed according to Section 7 or a follow-up review is required, any increase awarded will be effective the first day of the month following the date of the delayed or follow-up evaluation.
- E. The annual performance evaluation will be completed during the employee's anniversary month of hire unless the employee has received a promotion. Then the evaluation will be completed during the month in which the promotion becomes effective.

## **Section 9. Payment at a Listed Rate**

- A. Employees covered by the salary plan shall be paid at a listed rate within the salary ranges established for their respective job classes except for employees in a trainee status or employees whose present salaries are above the established maximum rate following transition to a new pay plan.
- B. When employees attain the maximum rate of a salary range for their position, no further salary increase will be received unless (1) the position is reclassified, (2) the employee is promoted to another position with a higher salary range, or (3) the salary for the present position is increased.

## **Section 10. Trainee Salaries**

An applicant hired or employee promoted to a position in a higher class, who does not meet all the established requirements of the position, shall be appointed with the approval of the county manager at a pay rate of 9 steps below the minimum salary. All county employees will be designated

"trainees" based upon recommendations of the department head with the approval of the county manager or Office of State Personnel. An employee in a trainee status shall continue to receive a reduced salary until the department head and the county manager or the Office of State Personnel determine that the trainee is qualified to assume the full responsibilities of the position.

### **Section 11. Pay Rates in Promotion, Demotion, Transfer, and Reclassification**

The rate of pay for an employee who is promoted, demoted, transferred or reclassified shall be established as follows:

- A. When a promotion occurs, the employee's salary shall be increased at least 9 steps or to the minimum rate of the salary range assigned to the class to which he or she is promoted, whichever is greater. The county manager may approve a higher increase when deemed necessary in the best interest of the county, based on such factors as superior qualifications of the employee and the amount of extra responsibility assumed.
- B. If an employee is demoted for cause, the employee's salary may be reduced to any step in the lower salary range, as long as the reduced salary does not fall below the minimum salary rate of that range.
- C. When a transfer occurs from a position in one class to a position in another class, assigned to the same pay range, the employee shall continue to receive the same salary.
- D. When a reclassification occurs and an employee's position is reclassified to a class having a higher salary range, the employee's salary shall be increased to the minimum step of the new pay range, or adjusted 9 steps upward, provided that the adjusted salary does not exceed the maximum of the assigned salary range.

When a reclassification occurs and an employee's position is reclassified to a class having a lower salary range and the employee's current salary falls above the maximum of the range of the lower class, the employee's salary will remain the same until general schedule adjustments or range revisions bring it back within the lower range.

- E. Employees hired in a "work against" status will not receive an increase when reclassified to the higher salary grade if the present salary is at or above 9 of the higher salary schedule.
- F. Employees in an Acting Status may receive an in-range increase while performing duties assigned to a position of a higher pay grade, or may be reclassified to the higher pay grade while in Acting Status. The amount of the increase will be 9 to 18 steps, depending on the degree of higher responsibility as determined by the department head and approved by the county manager.

### **Section 12. Pay Rates in Salary Range Revisions**

If the Board of County Commissioners approves a change in salary range for a class of positions is needed, the salaries of employees whose positions are allocated to that class shall be affected as follows:

- A. When a class of positions is assigned to a higher pay range, employees in that class may receive a 9 step pay increase or an increase to the minimum step of the new range, whichever is higher.
- B. When a class of positions is assigned to a lower pay range, the salaries of employees in that class will remain unchanged. If this assignment to a lower pay range results in an employee being paid at a rate above the maximum step established for the new class, the salary of the employee shall be maintained at that level until such time as the employee's pay range is increased above the employee's current salary.

### **Section 13. Pay for Part-time Work**

Compensation of any employee appointed for less than forty (40) hours a week shall be computed on an hourly or percentage basis. Part-time employees who regularly work twenty (20) or more hours per week will receive the same holidays as the regular employees provided they are regularly scheduled to work on the day the holiday occurs.

### **Section 14. Overtime**

The County abides by all applicable sections of the Fair Labor Standards Act (FLSA) and the FLSA Amendments. When possible, department heads and supervisors are expected to arrange and control the work schedules in their units so that required work will be accomplished without necessitating the use of overtime work as defined by the Fair Labor Standards Act (FLSA). When overtime is required, department heads shall ensure that all applicable overtime accrued for each covered employee is properly recorded.

1. Employees are expected to work during all assigned periods exclusive of meal times. However, they shall not perform work during any time that they are not scheduled to work, unless they receive prior approval from their immediate supervisor, except in cases of emergency. An emergency exists if a condition arises that could reasonably result in damage to property or persons or which requires immediate attention of the employee. Employees who work excess hours due to an emergency shall advise their immediate supervisor of the overtime worked as soon as practical following completion of the work.
2. It is the policy of the county, in agreement with its employees, that employees receive compensatory time off rather than pay. However, the County Manager may approve pay to employees for overtime work when it is not feasible to permit compensatory time off.
3. Employees of EMS who work a 24-hour shift will be paid for overtime at the half-time rate for hours worked over 40 in a 7-day work period as established by the fluctuating workweek schedule under the FLSA.
4. Section 7(k) of the FLSA provides partial overtime exemption for public employees who are engaged in law enforcement activities for up to 28-consecutive work periods. Law enforcement employees will be paid overtime for hours worked over 86 in a 14-day work period.

5. ECOM and other employees who work 12-hour shifts and are not eligible for the special exception under Section 7(k) of the FLSA will be paid overtime or receive compensatory time-off for hours worked over 40 in a 7-day work period.
6. Non-exempt employees, who work in public safety activities, emergency response activities, or seasonal activities, may accrue not more than 100 hours of compensatory time. All other non-exempt employees may accrue not more than **75** hours of compensatory time for overtime hours worked.
7. Employees wishing to use accrued compensatory time must request such leave from their immediate supervisor. Such leave will be granted for the requested time or within a reasonable period when absence during the time requested will unduly disrupt the operations of the department.
8. Accrued compensatory time should be exhausted before vacation leave is used.
9. Non-exempt employees who are called back to work outside of regularly scheduled working hours will be paid at least two hours wages.
10. Unless otherwise approved, holiday, sick leave and vacation hours are not counted as hours worked for computing overtime.
11. Employees exempt from the FLSA are expected to work the number of hours necessary to ensure the satisfactory performance of their duties. An adjustment for excess hours may be made in lieu of the use of accrued vacation or sick leave during a fourteen day work period when the number of hours worked is eighty or more.
12. The county manager or department head may authorize pay for exempt employees, subject to availability of funds, when they are required to work outside normal work hours due to workload, turnover, or other extenuating circumstances which could adversely affect the department if the work was not performed. Payment shall be made at the regular hourly rate of the employee. Department heads, division heads and managerial employees are excluded.
13. The department head may authorize compensatory time, hour for hour, for an exempt employee who is required to work more than 48 hours in a workweek due to workload, personnel scheduling, or other extenuating circumstances. Compensatory time will be limited to an accrual of 80 hours. An employee, who leaves employment of the county for any reason, will not be entitled to pay for unused compensatory time. Department heads, division heads, and managerial employees are excluded from this section.
14. The county manager may authorize overtime pay for exempt and non-exempt employees who are needed to protect the health and/or safety of employees or the citizens of the county in times of disasters or emergency.

## **Section 15. Deductions**

- I. **Payroll Deductions** Only payroll deductions specifically mandated or authorized by Federal, State and/or county officials may be deducted. Other deductions may be made

with the approval of the Finance Officer if requested and authorized by the employee.

## II. **Pay Deductions**

**A. Non-exempt employees.** Pay will be reduced for all hours the employee is scheduled to work but does not in a workweek if:

1. The employee does not have accumulated vacation, sick or compensatory leave to cover the absence.
2. The employee has been approved for leave without pay.
3. The employee is on FMLA and the reason does not qualify for the use of sick leave under the county's sick leave policy or the reason does qualify for the use of sick leave but it has been exhausted, and the employee opts not to use accumulated vacation leave.
4. Disciplinary deductions are imposed for Unacceptable Job Performance and Unacceptable Conduct as stated in the county's policies.

**B. Exempt Employees.** Subject to certain exceptions required or permitted by law, exempt employees will receive their full salary for any workweek in which they perform any work without regard to the number of days or hours worked. Deductions from vacation or sick leave balances for hours or days missed during the workweek is not an improper deduction under FLSA. Deductions in pay may be made from the salaries of exempt employees under the following circumstances.

1. Deductions for less than a day when taken as intermittent or reduced leave within a workweek when FML is taken.
2. Deductions in pay for a full day absence may be made in any workweek if:
  - a. The employee is absent for personal reasons and does not have accumulated vacation leave to cover the day.
  - b. The employee requests and is approved for LWOP for personal reasons.
  - c. The employee is receiving workers compensation benefits.
  - d. The reduction is for disciplinary reasons due to infraction of major safety rules of major significance.
  - e. The reduction is for disciplinary reasons due to serious violations of the County's anti-harassment policy or unacceptable conduct policies, such as abuse of clients, patients, students, or a person over whom an employee has charge or responsibility, abuse of an animal owned or in the custody of the agency, falsification of any kind, possession of unauthorized firearms or other lethal weapons on the job, workplace violence, or being under the influence or the use of alcoholic beverages or controlled substances while at work or performing work for the County.
  - f. The employee works some of the workweek and spends the remainder of the workweek on temporary military leave – short-term training periods for reservists or members of the National Guard. The amount of military pay the employee receives may be used to offset the salary for that particular workweek.

If an exempt employee believes an improper deduction has been made from his/her salary, the following procedure should be followed.

1. Notify your immediate supervisor or human resources of the deduction and reason you believe it was made in error.
2. Pay and other records necessary to determine if the deduction was improper will be reviewed.
3. If it is determined that the deduction was improper, the County will reimburse the employee as promptly as possible, but in no case longer than two pay periods from the identification of the problem.
4. The resolution of the situation will be documented, including confirmation on the part of the employee that the situation has been resolved, and placed with the employee's pay records.
5. The county will take appropriate steps to identify the cause of the improper deduction and prevent a recurrence in the future.

**Section 16. Payroll Procedure**

All employees shall be paid on a bi-weekly basis every other Friday. If payday falls on a holiday, employees will be paid on the payday/holiday if the Federal Reserve is open. Should the Federal Reserve be closed, employees will be paid on the Thursday prior to the holiday.

**Section 17. Effective Date of Salary Adjustments**

Salary adjustments shall become effective on the date of the actual adjustment.

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## **ARTICLE IV. RECRUITMENT AND SELECTION**

### **Section 1. Statement of Equal Employment Opportunity**

It is the policy of the county to maintain a systematic, consistent recruitment program, to promote equal employment opportunities, and to identify and attract the most qualified applicants for employment with the county. This commitment includes a mandate to promote and afford fair treatment to all persons seeking employment or currently employed to assure equal employment opportunity based on ability and fitness regardless of race, religion, color, creed, national origin, sex, age, political affiliation, or handicapping condition. This policy is to be achieved by announcing all position vacancies, evaluating all applicants using the same job-related criteria, and by applying testing methods (when applicable) through the local Employment Security Commission office.

### **Section 2. Recruitment**

#### **Responsibility of the Human Resources Director**

The human resources director is responsible for an active recruitment program to meet current and projected manpower needs, using procedures that will assure equal employment opportunities based on job-related requirements. The director will advise and assist staff and management personnel in all matters regarding implementation of and compliance with the County's Equal Employment Opportunity Policy, and will have the responsibility to examine existing internal policies and procedures which may serve as barriers to implementing the Policy. Recruitment efforts of the Human Resources Department and all county departments will be coordinated in a timely manner.

### **Section 3. Position Vacancy Announcements**

The county will conduct a program of open recruitment in all positions to permit fair competition. All position vacancy announcements shall be posted for a minimum of seven (7) working days at the County Personnel Office and may be listed with the local office of the Employment Security Commission. Optional recruiting publicity shall be carried out through the media, as appropriate. Formal position vacancy announcements shall contain, at a minimum, (1) the title, grade, and location of the position; (2) the closing date of the announcement; (3) a summary of the minimum qualifications and experience required for the position; (4) a summary of the essential functions of the position; (5) the procedures for making application; and (6) a statement of equal employment opportunity.

Before a vacancy announcement is posted, the department head may review the job description and inform the human resources director of any changes in job duties or requirements.

### **Section 4. Application for Employment**

An official county or state application form must be made available to all applicants for any and all position listings. No applications may be accepted by an agency or department; all referrals must be made through the County Human Resources Department or the local office of the Employment Security Commission.

## **Section 5. Applicant Tracking**

The Human Resources Department shall be responsible for maintenance of permanent records of all position vacancy announcements, including posting and closing dates, all optional referral sources used in the recruitment process, and the pool of applicants considered for each vacancy.

## **Section 6. Qualification Standards**

- A. All applicants considered for employment or promotion shall meet the qualification standards established by the class specifications for the position to which the appointment is being made with or without some reasonable accommodation.
- B. All appointments shall be made based upon the job-related qualifications of applicants for employment using fair and valid selection criteria.
- C. Consideration may be given to "trainee" appointments when there is an absence of qualified applicants from which to make a selection. In this instance, the deficiencies may be eliminated through orientation and on-the-job training, and the position is designated in a trainee status by the county manager for general positions and the Office of State Personnel for positions subject to the State Personnel Act.
- D. When there is no trainee provision for the classification of the vacancy or when the classification of the vacancy is above entry level of the series, the appointing authority may appoint an employee below the level of the regular classification in a work-against situation to allow the employee to gain the qualifications needed for the full class.

## **Section 7. Selection**

Department heads shall develop, use, and document, on a consistent, routine basis, a selection process that best suits the county's needs in filling positions within each individual department. All selection methods developed and utilized by the department head shall be valid measures of job performance.

The employment interview is a supplement to and part of the selection process. The primary function of the interview is to obtain data of certain knowledge, skills, abilities of a candidate not available through review of applications or other testing mechanisms. Certain guidelines will be observed to maximize the validity and reliability of the interview process as well as ensure the adherence to current EEOC requirements.

## **Section 8. Appointments**

- A. Before any commitment is made to an applicant, the department head shall forward the application form, documentation, and recommendation for salary to the director of human resources. The Personnel Action Form, the original application for employment, test score sheets (when applicable), and any additional supporting documents shall be reviewed by the director of human resources.

- B. If the duties of the position include operation of county-owned or county-insured vehicles, the department of human resources will, prior to an offer of employment, conduct a review of the driving record of the person to be hired.
- C. After investigating the qualifications and experience of the applicant, the county manager shall approve or reject the applicant and determine the starting salary of the employee.
- D. The sheriff and register of deeds shall have authority over appointments in their respective departments, with the county manager determining the class and salary of new employees.
- E. The Board of County Commissioners must approve the appointment by the sheriff or register of deeds of a relative by blood or marriage of nearer kinship than first cousin or of a person who has been convicted of a crime involving moral turpitude.

## **Section 9. Probationary Period of Employment**

An employee appointed to an established position shall serve a probationary period of not less than six months nor more than nine months. (Law enforcement officers are required to serve a one-year probationary period). The probation period is designed to give the employee time to learn the position and to give the supervisor time to evaluate the employee's potential and performance. During the initial probationary period, the County may terminate the probationary employee's service on the basis of unsatisfactory performance or on the basis of any other non-discriminatory reason deemed sufficient by the County.

An employee who is promoted after serving the initial probationary period will be expected to meet all the job requirements of the new position within six months of the promotion. If the promoted employee fails to meet the standards within the six-month period, he/she may be demoted or transferred as provided in Section 11 of this Article if a position is vacant. If a position is not vacant, the employee may be dismissed as provided in Article VIII.

Before the completion of the probationary period or review period following promotion, department heads must complete a performance appraisal that indicates whether the employee's performance is satisfactory and if they will be retained in the position.

Under unusual circumstances, the probationary period may be extended for up to three additional months. This is only after an evaluation of the situation, the employee's abilities, and demonstrated potential.

## **Section 10. Promotion**

A candidate for promotion shall be chosen on the basis of his/her overall qualifications for the position in question with the most qualified applicant or employee receiving the promotion. Vacancies in positions shall be filled as far as practicable by the promotions of employees in the service of the county. The past work record, education, knowledge of the job duties and time the employee has with the County will be considerations in determining the most qualified candidate for a promotion. Except in unusual circumstances, an employee will have completed the initial probation period before being considered for a promotion.

If a current employee is chosen for promotion, the department head shall forward the request to the county manager with recommendations for classification and salary along with reasons for selecting the employee over other employees or applicants. After considering the department head's recommendation, the county manager shall confirm or reject the appointment and, if appointed, shall determine the starting salary for the promoted employee.

**Section 11. Demotion**

- A. An employee whose work or personal conduct is unsatisfactory may be demoted provided the employee shows promise of becoming a satisfactory employee in another position. Such a demotion shall be made in accordance with the procedures in Article VIII, Section 4. The employee shall be provided with written notice citing the recommended effective date of the demotion, reasons for the demotion, and appeal rights available to the employee as stated in Article VIII of this ordinance.
  
- B. An employee who wishes to accept a position with less complex duties and reduced responsibilities may request a voluntary demotion. A voluntary demotion is not a disciplinary action and is made without using the procedures in Article VIII of this ordinance.

**Section 12. Transfer**

If a vacancy occurs and an employee eligible for transfer from another department wishes to be considered for the appointment, an written request and application must be forwarded to the human resources director during the recruitment period for the position. Any employee who has successfully completed a probationary period may be transferred to a similar position without serving another probationary period.

Any employee transferred without his/her having requested it may appeal the action in accordance with the grievance procedure in Article IX.

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## **ARTICLE V. CONDITIONS OF EMPLOYMENT**

### **Section 1. Work Period and Work Week**

- A. The standard work period for employees not eligible for the special exception under Section 207(k) of the FLSA will consist of seven consecutive days as established by the county manager. For employees who are eligible for the special exception under Section 207(k) of the FLSA, a standard work period of not less than seven days nor more than twenty-eight consecutive days shall be established by the county manager consistent with the requirements of the FLSA and are subject to overtime provisions set forth in Article III, Section 14.
- B. The normal working hours for employees are from 8:00 am to 5:00 pm with one hour unpaid lunch period.
- C. Alternative work options such as compressed workweek, job sharing, or flex hours may be considered when shown to be in the best interest of the County. When occasions arise where the service to the citizens can be improved through adjustment of an employee's work hours, prior approval must be obtained from the county manager before a department head can make adjustments to work hours of an employee. Individual requests for adjustments to work hours by an employee for personal reasons must be evaluated by the department head to determine the effect on the workload of the department and service to the citizens. The department head must obtain prior approval from the county manager before granting such adjustments.
- D. Part-time employees may be assigned hours that vary from the normal office hours due to the nature of their work and hours of operations of the department.
- E. Punctual and consistent attendance is a condition of employment. Each department head is responsible for maintaining an accurate attendance record of employees.
- F. Employees who are unable to work or report to work on time should notify their supervisor as soon as possible before the workday begins, but no later than 15 minutes after the employee's usual starting time.
- G. An employee who is absent without authorization or notification or who is frequently tardy is subject to disciplinary action, up to and including termination.

### **Section 2. Gifts and Favors**

- A. No official or employee shall accept any gift, favor, or thing of value that may tend to influence that employee in the discharge of duties.
- B. No official or employee shall grant in the discharge of duties any improper favor, service, or thing of value.

### **Section 3. Political Activity Restricted**

- A. Every employee of the county has a civic responsibility to support good government by every available means and in every appropriate manner. Any employee may join or affiliate with civic organizations of a partisan or political nature, may attend political meetings, and may advocate and support the principles or policies of civic or political organizations in accordance with the constitution and laws of the state of North Carolina and the constitution and laws of the United States of America. However no employee of the county shall
1. engage in any political or partisan activity while on duty;
  2. use official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office;
  3. be required as a condition of employment, promotion, or tenure of office to contribute funds for political or partisan purposes;
  4. coerce or compel contributions for political or partisan purposes by another employee of the county; or
  5. use funds, supplies, or equipment of the county for political or partisan purposes.
- B. Employees subject to the Hatch Act may not be candidates for elected office in a partisan election.
- C. Any violation of this section may subject the employee to dismissal or other disciplinary action.

### **Section 4. Unlawful Workplace Harassment**

Purpose. It is the policy of Iredell County that unlawful workplace harassment will not be tolerated. All employees are prohibited from engaging in the harassment of any other employee or other person in the course of or in connection with employment. The desired standard for County employees' behavior is one of cooperation and respect for each other, despite any differences. This policy also prohibits retaliation against employees.

Definitions:

Unlawful workplace harassment is unwelcome or unsolicited speech or conduct based upon one's race, sex, creed, religion, national origin, age, color, or handicapping condition that creates a hostile work environment or quid pro quo.

Hostile work environment is one that both a reasonable person would find hostile or abusive and one that the particular person who is the object of the harassment perceives to be hostile or abusive. Hostile work environment is determined by looking at all of the circumstances, including the frequency of the allegedly harassing conduct, its severity, whether it is physically threatening or humiliating, and whether it unreasonably interferes with any employee's work performance.

Quid pro quo harassment consists of unwelcome sexual advances, requests for sexual favors and other verbal or physical advances of a sexual nature when (1) such conduct is made either

explicitly or implicitly a term or condition of an individual's employment,(2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual.

Retaliation is adverse treatment which occurs because of opposition to unlawful workplace harassment.

Procedure:

1. In any case which the supervisor is witness to or confronted with a situation of harassment, the supervisor will immediately notify the offending party that harassment is not appropriate and will not be tolerated. Ultimate disciplinary action will await completion of the reporting procedure.
2. Any employee who believes he or she is being subjected to any harassment should submit a written complaint to the supervisor, department head or personnel director within 30 calendar days of the alleged harassing action.
3. The official receiving the complaint must conduct a thorough and confidential investigation and provide a written report of findings and recommendations to the County Manager within 30 calendar days from receipt of written complaint.
4. The grievant will be provided a written response of what action, if any, will result from the complaint within 15 calendar days from the date the report of findings was submitted to the County Manager.
5. Either the grievant or offender may appeal the decision to the Personnel Advisory Board within 5 working days from receipt of the decision.
6. An employee who harasses another employee, client, applicant for employment, or member of the public will be subject to the full range of disciplinary action, including dismissal.
7. Harassment does not include the conduct or actions of supervisors intended to provide employee discipline such as deficiency notices, performance evaluations, oral warnings, reprimands or other supervisory actions intended to promote positive performance.

## **Section 5. Outside Employment**

The work of the county takes priority over other employment interests of employees. All outside employment for salaries, wages, or commission and all self-employment must be reported to the employee's department head before such work is to begin. The department head and the county manager will determine whether the outside work would create a conflict of interest or otherwise be incompatible with county service. The assumption of outside employment without prior approval by the county may be deemed improper conduct and subject the employee to disciplinary action, up to and including dismissal.

## **Section 6. Nepotism and Fraternization**

It is the policy of the County to restrict employment of close relatives and people dating or otherwise involved in an intimate relationship between employees within the same department, shift and/or unit unless significant recruitment difficulties exist. (This policy does not apply to the County Youth Home.)

Compliance with this policy is intended to prevent the perception of favoritism among employees and promote a harassment free working environment.

- A. No two members two members of an immediate family or intimate relationship shall be employed within the same department if such employment will result in one supervising the other, or where one occupies a position that has influence over the other's employment, promotion, salary administration, and other related management or personnel considerations.

The term "immediate family" is defined as an employee's wife, husband, mother, father, guardian, son, daughter, brother, sister, grandchild, and grandparent, as well as the various combinations of half, step, in-law, and adopted relationships that can be derived from the family members named herein.

The term "intimate relationship" is defined as an employee's spouse, live-in companion, fiancée, boyfriend/girlfriend, or member of the same sex involved in an intimate relationship.

- B. In the event a relationship develops between a manager or supervisor and employee, the management employee is responsible for bringing the matter to the attention of their supervisor.

In the event a relationship develops between employees, it is the responsibility of the employees for bringing the matter to the attention of their supervisor.

- C. Resolution of the problem may include, but is not limited to: separation of employment for one or both employees or transfer of either employee to another department, unit or shift.

It is management's sole discretion regarding which employee(s) is separated, retained or transferred, depending upon the needs of the County.

- D. The provisions of this section shall not be retroactive, and no action will be taken concerning those members of the same family or relationship employed in conflict with Subsection A above prior to May 17, 1994.
- E. The Board of County Commissioners shall approve the appointment by the Sheriff and register of deeds of a relative by blood or marriage of nearer kinship than first cousin as required by Chapter 153A-103 (1) of the North Carolina General Statutes.

## **Section 7. Travel Expense and Reimbursement**

- A. Vehicles owned by the County may be provided for certain personnel for county business. County vehicles may not be used for personal business.
- B. Travel on official business must be authorized by the department head, and there must be funds remaining in the travel budget to cover the estimated cost. A written request for travel must describe the travel requested, the purpose of the proposed trip, and the period of time away from the county.
- C. County employees and officials traveling away from the county on official business will be reimbursed for mileage (when using their own vehicle), lodging, meals, and expenses as

established by the Board of County Commissioners. The county manager must pre-approve reimbursement for lodging when the travel distance is less than 80 miles each way.

- D. Employees and officials traveling on a reimbursable basis for the county will keep an accurate record of their expenses. No reimbursement will be paid without a written travel claim signed by the employee and approved by the department head. Receipts for the cost of hotels, meals, and related travel expenses must be attached to the written claim.
- E. Nothing shall be charged, paid, or reimbursed for snacks, tobacco products, alcoholic beverages, clothing, medicine or personal care items. Nor, movies or other recreational fees, or travel between the conference site and recreational side trips.
- F. Nothing shall be reimbursed for costs incurred for family members.
- G. Employees who drive their own vehicle on a regular/routine basis may be required to provide the County with a Certificate of Insurance.

### **Section 8. Workplace Violence**

It is the policy of Iredell County to promote a safe environment for its employees. The County is committed to working with its employees to maintain a work environment free from violence, threats of violence, harassment, intimidation, and other disruptive behavior.

Violence, threats, harassment, intimidation, and other disruptive behavior in our workplace will not be tolerated. All reports of incidents will be taken seriously and will be dealt with promptly and appropriately. Such behavior can include, but is not limited to, oral or written statements, gestures, or expressions that communicate a direct or indirect threat of physical harm. Acts of violence include:

“physical violence” – the unjustified threat of future or immediate physical injury upon another under circumstances where the ability to carry out the threat appears reasonable, imminent, or any physical action such as hitting, kicking, or action causing physical injury.

“verbal hostility” – verbal threats toward persons or property, the use of vulgar or profane language toward others, disparaging or derogatory comments or slurs, offensive sexual flirtations and propositions, or verbal intimidation. The term also includes language which, although not derogatory to the personal attributes of another, is unduly harsh or severe in relationship to the business purpose for which it is utilized; i.e., profanity.

“visual hostility” – derogatory or offensive posters, cartoons, drawings, or publications.

Employees are responsible for refraining from participating in violent actions. Employees are also asked to cooperate in maintaining a safe working environment. Do not ignore violent, threatening, harassing, intimidating, or other disruptive behavior. If you observe or experience such behavior by anyone on County premises, report it immediately to a supervisor or department head. Supervisors and department heads that receive such reports should investigate the incident and

initiate appropriate action. **Threats or assaults that require immediate attention by police should be reported first to police at 911.**

Unless authorized, under no circumstances are the following items permitted on County property, including parking areas: all types of firearms, switchblade knives or explosives and other objects carried for the purpose of injuring or intimidating.

Because of the great value placed on the safety and well being of employees by Iredell County, substantiated incidents of violence will be considered Failure in Personal Conduct and the employee will be subject to disciplinary action up to and including dismissal.

Since most serious incidents of workplace violence represent a personal crisis that the individual is unable or unwilling to solve alone, intervention at an early stage provides the individual with the necessary assistance to resolve these issues, prevent escalation, and allow continued productive employment. Employees who are experiencing a personal crisis are encouraged to seek help through the County's Employee Assistance Program. Attendance is confidential and the program provides advice, assessments, and treatment plans based on individual evaluations.

Supervisors and department heads can also utilize the EAP to develop intervention strategies and make decisions that will prevent violent incidents from occurring.

Effective September 1,1992	Revised 1/1/01; 11/1/05
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## **ARTICLE VI. HOLIDAYS AND LEAVE**

### **Section 1. Paid Holidays Observed**

A. The following holidays, and such others as the Board of County Commissioners may designate, shall be observed by county offices:

New Year's Day  
Martin Luther King Day  
Good Friday  
Memorial Day  
Independence Day  
Labor Day  
Veteran's Day  
Thanksgiving Day  
Day after Thanksgiving  
Christmas - two or three days (see the following schedule):

When Christmas falls on:

The County observes:

Sunday

Friday and Monday

Monday

Monday and Tuesday

Tuesday

Monday, Tuesday, Wednesday

Wednesday

Tuesday, Wednesday, Thursday

Thursday

Wednesday, Thursday, Friday

Friday

Thursday and Friday

Saturday

Friday and Monday

When a holiday other than Christmas falls on a Saturday, the preceding Friday will be observed as the holiday. When a holiday other than Christmas falls on a Sunday, the following Monday will be observed as the holiday.

Part-time employees that are eligible for benefits and are normally scheduled to work on the day which the holiday falls shall receive pro-rated holiday pay.

Employees on leave without pay (LWOP) when a holiday occurs are not eligible for holiday pay. Employee must be in pay status eight hours before and eight hours after the holiday in order to be paid.

### **Section 2. Effect of Holidays on Other Types of Paid Leave**

Regular holidays that occur during a vacation, sick, or other paid leave period of any officer or employee of the County shall not be charged as annual, sick or other paid leave.

### **Section 3. Holidays - When Work is Required**

Employees required to perform work on regularly scheduled holidays may be granted compensatory time off at the rate of one hour off for each hour worked on a holiday. Compensatory time off for holiday work shall be granted within six (6) months from the time it is earned.

### **Section 4. Adverse Weather Conditions**

County offices and departments shall remain open for the full scheduled workday unless authorization for early closing or other deviation is received from the County Manager's office. All departments and offices will be given sufficient advance notice of any authorized early closing. Non-emergency personnel scheduled to work that day may be granted administrative leave up to the period of time offices are closed. Administrative leave granted to an employee plus hours actually worked cannot exceed the employee's normal work day. (Note: Employees' who come to work before the delayed opening time, leave after an early closing time, or work although offices are closed are only allowed to record administrative leave equal to the amount of time needed for a normal work day). However, employees must arrive at work by the official time offices open and be on the job at the time of any early closing to be eligible for administrative leave. Employees who leave work before an official early closing time, as well as those employees who report for work late or do not report for work at all, may elect to use compensatory leave or vacation leave for all hours missed during the normal work hours, including the time offices were closed. Unless compensatory, vacation, or sick leave was scheduled prior to an authorized closing, employees who do not report for work subsequent to a day authorized as closed by the County Manager will not receive administrative leave for the day offices were closed. If a non-exempt employee does not have earned compensatory time or earned vacation leave, the hours missed will be leave without pay. Employees who are absent on an approved vacation, sick, regular scheduled day off, or absent for any other purposes other than approved administrative leave for adverse weather conditions will not be entitled to administrative leave time as applicable.

When offices are closed for inclement weather or other unforeseen circumstances, employees on paid administrative leave are to remain on stand-by (available by phone and able to report to work within one hour) for possible recall. If an employee is recalled and is not available or is unable to come in upon recall, then administrative leave will be forfeited, and time off will be charged to compensatory leave, vacation or leave without pay.

Emergency Personnel includes those positions deemed necessary for continuity of operations within the Sheriff's Office, ECOM, EMS, Parks Recreation/Facility Services, Inspections/Code Enforcement, I-CATS, and Solid Waste. Some departments may have internal call-in procedures during an adverse weather day for employees in order to determine if there is a need for them to report to work. This procedure will be handled on a departmental basis and will be communicated to employees by the department head.

### **Section 5. Annual Leave**

- A. Employees serving a probationary period following initial appointment shall not be permitted to take annual leave during the probationary period unless the denial of such

leave will create an undue hardship. Any annual leave granted during this period shall have prior approval of the department head. Law enforcement officers shall be allowed to take accumulated vacation leave after six (6) months of satisfactory service.

- B. Each regular salaried employee occupying an established budgeted position shall earn annual leave each payroll period in accordance with the following schedule of total service:

Years Worked	Regular Employees 40 Hour Wk.	Sheriff, Jail, ECOM 42 Hour Wk.	EMS 56 Hour Wk.
Less than 2	3.0785	3.2308	4.3062
2 but less than 5	3.6923	3.8769	5.1692
5 but less than 10	4.6154	4.8462	6.4615
10 but less than 15	5.5385	5.8154	7.7538
15 but less than 20	6.4615	6.7846	9.0462
20 or more	7.3846	7.7538	10.3385

- C. Annual leave will be accrued on a pro-rated basis when an employee is not in pay status the full pay period. The amount of accrual will be determined by the number of hours the employee is in pay status.
- D. Annual leave may be accumulated without any applicable maximum until the payroll period that includes December 31<sup>st</sup> of each calendar year. Any employee with more than thirty (30) days or 240 hours of accumulated leave at the end of the payroll period that includes December 31<sup>st</sup>, shall have up to 80 hours of the excess accumulation converted to sick leave. Any additional excess accumulation shall be cancelled so that only thirty (30) days or 240 hours are carried forward to the next payroll period.
- E. Annual leave shall be taken in increments of 15 minutes and must be approved by the employee's department head in advance.
- F. Any employee who separates in good standing and is reinstated within one year may receive previous credit time for the purpose of accruing annual leave. The total months of previous service time will be recognized at the end of the probationary period.
- G. An employee who is separated shall be paid for annual leave accumulated to the date of separation, not to exceed a maximum of thirty (30) days or 240 hours. Any advanced annual leave owed the county shall be deducted from the employee's final compensation.
- H. The estate of an employee who dies while employed by the county shall be entitled to payment for all of the accumulated annual leave, not to exceed a maximum of 240 hours.
- I. The above-stated leave schedule shall be increased by .6138 for employees hired prior to 1/1/1997.

- J A new employee coming directly from a NC state, city or county governmental agency may receive credit for years of service at that agency for purposes of determining the vacation accrual rate. To be eligible for the credit, the governmental agency must certify the number of years the employee had attained at the time of separation and/or the service date used for accrual rate purposes and prior approval must be granted by the County Manager.
- K. Compensatory time must be exhausted before annual leave may be granted.

**Section 6. Sick Leave**

Sick leave with pay is not a right which an employee may demand but a privilege granted by the Board of County Commissioners. Iredell County reserves the right to evaluate the misuse of sick time and administer disciplinary action when necessary. Sick leave shall be taken in increments of 15 minutes and must be approved by the supervisor. Compensatory accruals must be exhausted before sick time will be granted.

A. Employees may be granted sick leave for absence due to the following:

- 1. Sickness or bodily injury that prevents the employee from performing his or her regular duties.
- 2. When needed to provide care for an immediate family member. Immediate family is deemed to include spouse, guardian, children, parent, in-laws, and various combinations of half, step, and adopted relationships that can be derived from those named.)
- 3. When needed to provide care for an immediate family member or when needed to accompany the family member to a facility for medical examination or treatment.

Leave for this reason is limited to 80 hours per rolling backward calendar year. (There is no limit on the number of hours to use if the absence has been deemed as a qualifying FMLA absence):

- 1. Medical or dental appointments for employee or immediate family members.
- 2. The birth or adoption of a child.
- 3. Exposure to a contagious disease when continuing work might jeopardize the health of others.
- 4. Death in the employee's immediate family, not to exceed three (3) days for any one occurrence. Additional leave time, under exceptional circumstances, may be authorized by the department head. (Immediate family is deemed to include spouse, mother, father, guardian, children, brother, sister, grandparent, grandchild, plus various combinations of half, step, in-law and adopted relationships that can be derived from those named.)
- 5. To supplement Worker's Compensation Insurance as provided in Section 14 of this Article.

B. If an employee is FMLA-eligible and if the reason for sick leave is an FMLA qualifying reason, then sick leave under this policy must be substituted for FMLA leave, so that both run concurrently.

- C. Employees must notify their immediate supervisor of all requests for sick leave before the leave is taken, or not later than fifteen (15) minutes after the beginning of a scheduled work day. Sick leave may only be taken with the approval of the immediate supervisor. Failure to call in for one (1) consecutive day is considered a voluntary resignation.
- D. Each regular salaried employee occupying a permanently established budgeted position (at least half the month) shall earn sick leave at the rate of 3.6924 hours each pay period (pro-rated for employees working fewer hours as established as the basic workweek). This base rate will be pro-rated based on the number of hours an employee is in pay status during the pay period. Sick leave will be cumulative for an unlimited number of days. At the time of separation, any sick leave owed the county shall be deducted from the employee's final compensation.
- E. As a condition of approving sick leave, the employee's department head, the County Manager, or designee, may require a statement from the physician, or other acceptable proof, that the employee was unable to report for work or that leave was necessary to care for an immediate family member or take the family member to a medical facility for examination or treatment.
- F. Employees on sick leave for more than five (5) working days due to their own personal sickness will be required to provide a doctor's certification that they are able to perform the essential functions of the job before being reinstated to his/her position.
- G. The County Manager, or designee, may advance sick leave to an employee who has exhausted annual and sick leave because of a major operation or illness. This advanced sick leave may not exceed the amount an employee can earn during the current calendar year except with the approval of the Board of Commissioners.
- H. Sick leave earned monthly is allowed as creditable service at the time of retirement to employees who are members of the North Carolina Local Government Employees' Retirement System. One month of credit is allowed for each twenty (20) days of unused sick leave when an employee retires, and an additional month is credited for any part of twenty (20) days unused sick leave left over.
- I. Unused sick leave earned from another North Carolina governmental agency and/or entity will be accepted and transferred to the county as follows:
  - 1. The governmental entity was the employee's place of employment immediately prior to their employment with Iredell County.
  - 2. The total number of days accepted as transferred will be added to the record after completion of the probationary period. Law Enforcement Officers shall have transferred leave added to the record after six months of satisfactory service.
  - 3. Verification of accumulated sick leave must be received in writing from the previous employer.
- J. Employees who resign and are not reinstated with the county within a one-year period shall lose all sick leave credits. No employee shall be paid for any accrued

sick leave at the time of separation from employment.

## **Section 7. Maximum Unpaid Leave Of Absence**

- A. The Department Head may grant an unpaid leave for up to three (3) consecutive days to any employee who has exhausted compensatory, vacation, and sick leave accruals. The County Manager, or designee, upon recommendation of the department head, may grant leave without pay for up to six months to employees who have completed their probationary period for the following reasons:
1. Continuation of education.
  2. Special work that will permit the county to benefit by the experience gained or performed.
  3. A qualifying FMLA condition after exhaustion of the employee's accrued time off.
  4. Accommodation of a disability as defined under ADAA.
  5. Other reasons deemed justified by the County Manager, or designee.
  6. The birth or adoption of a child.
- B. If an employee is FMLA-eligible and if the reason the county manager granted leave without pay under this policy is for an FMLA qualifying reason, then leave under this policy must run concurrent with FMLA. At any time there are discrepancies as set forth in the Maximum Unpaid Leave of Absence Policy for qualifying FMLA absences, FMLA guidelines shall supersede.
- C. Return to work for less than four consecutive weeks will not break the six-month maximum period under this policy. Unpaid leaves of absences are limited to one per rolling calendar year.
- D. Insofar as leave is granted under this policy for an employee disabled under the Americans Disabilities Amendment Act, the County Manager, or designee, may approve additional leave as an accommodation for such disability to the extent that such extension does not create an undue hardship on the county.
- E. Except for extensions of leave under Section D above, any extension of leave under this policy must be approved by the Board of County Commissioners.
- F. The County may request that an employee take an unpaid leave of absence when the employee becomes medically unable to perform his/her job or if the employee's condition could affect the work, safety, or health of any employee or the property of the County.
- G. All compensatory, sick, annual leave and shared leave time (if applicable) respectively must be exhausted before an unpaid leave of absence will be considered.

## **Benefits While on Unpaid Leave of Absence**

1. Annual leave and sick leave will not be accrued while on a non-FMLA unpaid leave of absence.
2. An employee on non-FMLA unpaid leave may be eligible for benefits under the County's group insurance plans, subject to any regulations adopted by the County Commissioners and the regulations of the respective insurance companies at the employee's expense. Failure to pay the employee portion of medical and dental premiums for 30 days will result in termination of insurance coverage. Should a lapse in coverage occur COBRA and HIPPA regulations will apply, and a waiting period must be satisfied. Employee will be responsible for premiums on all voluntary insurance plans.
3. Employee on LWOP for qualifying purposes of FMLA shall be reinstated to his/her former position or an equivalent job. Refusal of an offer of reinstatement will be considered a voluntary resignation. Although the County will make every effort to return an employee on non-FMLA to a former position or equivalent position, employees on non-FMLA will not be guaranteed a reinstatement of former position or equivalent position.

## **Section 8. Leave Under the Family and Medical Leave Act**

In compliance with the Family and Medical Leave Act of 1993, (FMLA) and as amended, all employees who have been employed with Iredell County at least twelve months, and who have worked at least 1,250 hours in the previous 12-month period for the County are eligible for FMLA leave for the circumstances identified below as provided by 29 CFR Part 825.

**Twelve month defined:** The twelve month period for the calculation of FMLA need not be consecutive months; employment periods prior to a break in service of seven years or more will not be counted unless the break is occasioned by the employee's fulfillment of his or her National Guard or Reserve Military obligation (as protected under the USERRA); or a written agreement exists concerning the County's intention to rehire the employee after a break in service. (For more information, see special rules for returning Reservists under USERRA.) The County shall use a rolling 12-month period to measure backward from the date an employee uses any FMLA Leave.

**Reason for FMLA leave:** FMLA leave may be taken for:

- (1) The birth of a child;
- (2) The placement of a child in the employee's home through adoption or foster care;
- (3) To care for the employee's spouse, child, or parent (not including in-laws) who have a serious health condition;
- (4) A serious health condition that makes the employee unable to perform his/her job (as defined below);
- (5) Qualifying military exigency leave; and
- (6) Military caregiver leave.

## **Definitions:**

**A serious health condition** is defined as an illness, injury, impairment, or physical or mental condition that involves either:

- (1) Inpatient care (*i.e.*, an overnight stay) in a hospital, hospice, or residential medical-care facility, including any period of incapacity (*i.e.* inability to work, attend school, or perform other regular daily activities) or subsequent treatment in connection with such inpatient care; **or**
- (2) Continuing treatment by a health care provider which includes a period of incapacity lasting more than three consecutive, full calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also includes: treatment two or more times by or under the supervision of a health care provider (*i.e.* in person visits the first visit within 7 days and both within 30 days of the first day of incapacity); **or**
- (3) One treatment by a health care provider (*i.e.* an in-person visit within 7 days of the first day of incapacity) with a continuing regimen of treatment (*e.g.* prescription medication, physical therapy); **or**
- (4) Any period of incapacity related to pregnancy or for prenatal care. A visit to the health care provider is not necessary for each absence; **or**
- (5) Any period of incapacity or treatment for a chronic serious health condition that continues over an extended period, requires periodic visits (at least twice a year) to a health care provider, and may involve occasional episodes of incapacity. A visit to a health care provider is not necessary for each absence; **or**
- (6) A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective. Only supervision by a health care provider is required, rather than active treatment; **or**
- (7) Any absences to receive multiple treatments for restorative surgery or for a condition that would likely result in a period of incapacity of more than three days if not treated.

## **Spouses Employed by the County**

When a husband and wife are both employed by the county, they are limited to a combined total of 12 workweeks of leave if the leave is taken to care for the birth or placement of a child with the couple for adoption or foster care. This limitation does not prohibit either employee from taking additional basic FMLA leave for which he or she may be eligible, such as leave taken to care for a child with a serious health condition or because of the serious health condition of the employee.

A husband and wife will be eligible for a combined 26 weeks of Military Caregiver Leave. If the husband or wife also takes additional basic FMLA leave (combined or individual), that leave also will count toward the 26 weeks of combined Military Caregiver Leave during a single 12-month period.

## **Notice of Need for FMLA Leave**

If the leave is foreseeable (birth or placement, planned medical care, leave due to active duty of immediate family member), employees must provide at least thirty (30) days advance notice. If

circumstances prevent providing the thirty days advance notice, then the employee should provide as much notice as possible.

If an employee fails to give the required notice for foreseeable leave with no reasonable excuse, the employee may be denied the taking of the leave until the employee provides adequate notice of need for the employees should make every reasonable effort to schedule medical treatments so as not to disrupt the ongoing operations of the department.

When the employee requests leave for planned medical treatment, the employee must consult with the employer before scheduling the treatment in order to work out a schedule that meets the needs of both employee and employer, subject to the approval of the healthcare provider.

### **Intermittent FMLA Leave**

Leave on an intermittent or reduced schedule basis may be available when medically necessary due to an employee's serious health condition or an employee's immediate family member's serious health condition or for a qualifying military exigency. Military Caregiver Leave may be taken intermittently or on a reduced leave schedule when medically necessary.

Employees taking intermittent leave must follow their department's standard call-in procedures absent unusual circumstances. Failure to call in for one (1) consecutive day will be considered a voluntary resignation.

In some instances the County may transfer an employee on intermittent or reduced schedule leave to an alternate position for which the employee is qualified and which better accommodates periods of recurring leave. While employees on FMLA may request a transfer, transfers are allowed at the sole discretion of the County (to be determined on a case-by-case basis).

### **Documentation Supporting FMLA Leave**

Your reason for the leave must be covered under FMLA and you must provide a completed FMLA Certification of Health Care Provider Form supporting the need for the leave. A request for reasonable documentation of family relationship verifying the legitimacy of a FMLA Leave may also be required.

Employees will have fifteen (15) days in which to return a completed Certification Form following receipt of the form from Human Resources. If the Certification form is incomplete or insufficient, an employee will be given written notification of the information needed and will have seven (7) calendar days after receiving such written notice to provide the necessary information. If an employee fails to provide timely certification after being required to do so, the employee may be denied the use of leave under FMLA. Unauthorized leave may result in disciplinary action, up to and including dismissal.

If there is reason to doubt the validity of the medical certification, a second opinion, related to the health condition may be required. If the original certification and the second opinion differ, a third opinion, at the expense of the County, may be required. The opinion of the third health care provider, which the County and the associate jointly select, will be the final and binding

decision. A human resources representative shall have the responsibility of contacting the health care provider for clarification purposes related to the medical certification. A request for Active Duty Leave must be supported by the Certification of Qualifying Exigency for Military Family Leave Form as well as appropriate documentation, including the covered military member's active duty orders. A request for Military Caregiver Leave must be supported by the Certification for Serious Injury or Illness of Covered Service Member Form as well as any necessary supporting documentation.

### **Recertification**

The county may not ask for recertification any more frequently than every 30 days or once the minimum duration of the incapacity set forth by the health care provider in the original certification is reached.

### **Substitution of Paid Leave**

All leaves under this policy will be unpaid for exempt and nonexempt employees, unless FMLA runs concurrent with paid leave. Employees are required to exhaust accrued compensatory time, sick time and annual leave respectively for FMLA absences. Accrued compensatory, sick time, and annual leave are not required or allowed when an employee is on disability and receiving disability pay or benefits under an employer sponsored insurance program (such as Worker's Compensation). If all paid leave is exhausted during a qualifying FMLA absence, employee has the option to apply for shared leave or be placed on leave without pay for the duration of the FMLA absence. Guidelines set forth in the County's Shared Leave Policy and Maximum Unpaid Leave of Absence Policy shall be administered and run concurrent with FMLA. Should there be any discrepancies between the FMLA, Shared Leave, or Maximum Unpaid Leave of Absence Policy, FMLA rules and regulations shall supersede. All paid and unpaid leave time shall run concurrent with FMLA.

Supervisors are responsible for documenting FMLA leave on the employee's time sheet and seeing that the appropriate codes are entered for time and attendance. Available compensatory leave should be used first, sick leave if applicable, and annual leave before LWOP or Shared Leave may be considered. Employees who are out on FMLA leave are expected to report every pay period to their supervisor to ensure proper completion of timesheets.

### **Benefits during FMLA Leave**

1. Annual leave and sick leave will be accrued while on paid or unpaid FMLA leave on a prorated basis determined by the number of hours an employee is in paid status during the pay period.
2. An employee on paid leave status during FMLA will receive holiday pay. Employee will not receive holiday pay while on unpaid leave status during an FMLA absence.
3. An employee on paid or unpaid FMLA leave will be retained on the county's group hospitalization plan at the same level, and under the same conditions as, provided prior to the employee's leave. Employee contributions for dependent health insurance coverage and voluntary insurance products maintained during the period of leave must be paid by the employee.

4. Employees will be required to reimburse the county for insurance premiums paid on their behalf if the employee fails to return to work after FMLA leave except if the reason is the continuation, recurrence, or onset of a qualifying FMLA reason which is verified by a health-care provider or other circumstances beyond the employee's control. Premiums may be recovered through small claims court or from deduction in wages or vacation pay that would otherwise be included in the final paycheck.
5. If an employee does not return from FMLA leave, COBRA will be triggered when FMLA leave ceases for any reason except when extended leave is granted under the County's Maximum Leave without Pay Policy.
6. The availability of other plan benefits during FMLA leave is governed by each benefit booklet.

### **Reinstatement**

If an employee is capable of performing all essential functions of his/her last regular job upon returning from FMLA leave, the employee will be reinstated to his/her former position or an equivalent job (equivalent defined as virtually identical to the original job in terms of pay, benefits, and other employment terms and conditions) provided the employee furnishes a healthcare provider's medical verification of such capability. Refusals of an offer of reinstatement will be treated as a voluntary resignation. The right of reinstatement with restoration of pay and benefits is conditioned upon the employee's ability to perform all essential functions of the last regular position held prior to leave.

FMLA leave will cease immediately when: (1) the employee does not timely provide the necessary information to support the need for FMLA leave (such as medical certification); (2) the employee would otherwise be subject to separation (for example, the position is being eliminated and the employee would otherwise be subject to layoff; the employee is discharged for cause, etc.); or (3) the employee gives unequivocal notice (verbal or written) of his/her intent not to return to employment; or (4) FMLA leave is exhausted.

When FMLA leave ceases, group health coverage, reinstatement rights, and restoration rights also cease.

Disciplinary action, including discharge, continues to apply to employees on FMLA leave as if the employee had remained in active service.

Upon reinstatement, the employee will be restored to coverage under all employee benefit plans in which he/she was participating in the last regular job held prior to the FMLA leave, unless the employee has changed his/her election.

### **Restricted Activity during a FMLA Leave**

Employees on a qualifying FMLA leave shall not be employed in any capacity during the leave. Employees are prohibited in engaging in activity that would appear impossible or prohibited within the guidelines of the medical certification. Failure to comply may result in disciplinary action, up to and including termination.

### **Failure to Return from Leave**

If an employee takes FMLA leave in excess of the weeks for which he/she is eligible or fails to return from leave as scheduled, the employee will not be assured a position with the County upon return and may be subject to disciplinary action up to and including termination.

## **SECTION 8 (a). FMLA: Military Family Leave Entitlements**

### *Interaction with State Military Leave Laws*

*Certain states require employers to provide greater or different job-protected leave to family members of persons in the military. When applicable, the County complies with all such military family leave laws. When leave provided under one of these laws is covered under the federal FMLA, it also shall count toward the employee's federal FMLA entitlement and as FMLA Leave under this Policy. These military family leave laws vary by state, and the employee should contact Human Resources if you have questions about them.*

Amendments to the FMLA by the National Defense Authorization Act (NDAA), Public Law 110-181, expanded the FMLA to provide leave for any qualifying exigency arising out of the fact that an employee's spouse, son (of any age), daughter (of any age) or parent, defined as a covered military member, is on active duty (or has been notified of an impending call or order to active duty) in the United States Armed Forces, National Guard or Reserves, or is retired member of the Armed Forces or Reserves and has been notified of an impending call or order to active duty in support of a contingency operation. The NDAA also amended the FMLA to allow eligible employees to take up to 26 weeks of job-protected leave in a "single 12-month period" to care for a covered service member with a serious injury or illness. These two new types of FMLA leave are known as the military family leave entitlements.

**Qualifying Exigency Leave:** Under the terms of the statute, qualifying exigency leave is available to a family member of a military member in the Armed Forces, to include National Guard or Reserves. Iredell County shall grant an eligible employee up to a total of 12 workweeks of leave during the normal 12-month period established for FMLA. Under the terms of the statute, qualifying exigency leave is available to a family member of a military member in the Armed Forces, to include National Guard or Reserves.

**Qualifying exigencies include:** Issues arising from a covered military member's short notice deployment for a period of seven days from the date of notification; military events and related activities sponsored or promoted by the military, military service organizations, or the American Red Cross that are related to the covered active duty or call to covered active duty status of a covered military member; certain childcare and related activities arising from the covered active duty or call to covered active duty status of covered military members; making or updating financial and legal arrangements to address a covered military members' absence; attending counseling provided by someone other than a health care provider for oneself, the covered military member, or the child of the covered military member; taking up to five days of leave to spend with a covered military member who is on short-term temporary leave during deployment; attending to certain post-deployment activities, including attending arrival ceremonies, reintegration briefings and events, and other official ceremonies or programs sponsored by the military for a period of 90 days following the termination of the covered military member's covered active duty status, and addressing issues arising

from the death of a covered military member. Covered active duty means, 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; and 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.

**Notice of the Need to Take Qualifying Exigency Leave:** An employee must provide notice of the need for qualifying exigency leave as soon as practicable. If the leave is foreseeable, Human Resources should be notified on the same day or the next business day. If the need for leave is unforeseeable, an employee must comply with normal call-in procedures when calling in absent.

**Certification for Qualifying Exigency Leave:** Upon request for leave, an employee will be required to provide a certification of qualifying exigency for military family leave (Form WH-384) and supporting documents as listed on the Form WH-384. A certification will be required for each individual qualifying exigency arising out of the same call to duty.

Son or daughter of a covered service member means biological, adopted, foster, stepchild, legal ward or a child for whom the service member stood in loco parentis. The child may be of any age. Parent is defined as, biological, adoptive, step or foster father or mother or any other person who stood in loco parentis to the employee. The term “parent” does not include in-laws.

**Military Caregiver Leave:** An employee who is a spouse, son or daughter of a covered service member and/or parent of a covered service member, or next of kin of a covered service member with a serious injury or illness may be granted up to a total of 26 workweeks of paid or unpaid leave during a “single 12-month period” to care for the service member. A covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness or a veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces, including a member of the National Guard or reserves at anytime during the period of 5 years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy. A serious injury or illness is one that was incurred by a member of the Armed Forces, including a member of the National Guard or Reserves means an injury or illness that was incurred in the line of duty on active duty in the Armed Forces and that may render the service member medically unfit to perform the duties of his or her office, grade, rank, or rating. In the case of a veteran, who was a member of the Armed Forces, including a member of the National Guard or Reserves that was incurred by a member in line of duty on active duty in the Armed Forces or existed before the members active duty and was aggravated by service in the line of duty on active duty in the Armed Forces and that manifested itself before or after the member became a veteran The FMLA “serious health condition” does not apply to this leave. The “single 12-month period” for leave to care for a covered service member with a serious injury or illness begins on the first day the employee takes leave for this reason and ends 12 months later, regardless of the 12-month period established by the employer for other types of FMLA leaves. An eligible employee is limited to a combined total of 26 workweeks of leave for any FMLA-qualifying reason during the “single 12-month period.”

**Military Caregiver Certification Requirements:** The same notice requirements apply to military caregiver leave as apply to FMLA leave for serious health condition of an employee or of an employee's immediate family member.

**Certification for Requirements Military Care Giver:** Pursuant to 29 CFR 825.310 (b) and (c), medical certifications for military caregiver leave will be required. Certifications of military caregiver leave will require employee to provide information sufficient to establish the employee's need for leave including the following facts: (1) a statement of medical facts regarding the service members' health condition, specifically, facts relating to whether the injury or illness renders the service member medically unfit to perform the duties of his or her military office, grade, rank, or rating and whether the member is receiving medical treatment, recuperation or therapy; (2) information sufficient to establish that the service member is in need of care; (3) a description of the care to be provided to the service member and an estimate of the leave needed to provide the care; (4) the relationship of the employee to the service member. Certification of the need for military caregiver leave shall be subject to the same time requirements as FMLA leave. Acceptable documents in lieu of the Certification Form WH-385 for military caregiver leave are invitational travel orders (ITO), invitational travel authorizations (ITA).

**Calculating the Amount of Military Caregiver Leave:** An employee is eligible for 26 weeks of leave to care for the service member during a single 12-month period. This leave is provided on a per covered service member per injury basis. An employee is entitled to a combined total of 26 workweeks of leave for any FMLA qualifying reason in a year in which she or he takes military caregiver leave. The single 12-month period begins the first day the employee takes military caregiver leave and ends 12-months later. Military caregiver leave may also be taken on an intermittent or reduced leave schedule.

## **Section 9. Child Involvement Leave**

To comply with G.S. 95-28.3 as amended effective December 1, 1993, employees will be granted at least eight hours of unpaid per calendar year to attend or otherwise be involved in activities at their child's school for the following reasons:

1. Parental involvement in the schools.
2. To meet with a teacher or administrator of any elementary school, middle or junior high school, high school, college, college registration, or childcare program.
3. Any employee for tutoring and mentoring in the schools or with a community service organization.

### **Examples of Exclusions:**

Child Involvement Leave will not be allowed for certain exclusionary reasons, including, but not limited to specialized activities or instruction such as athletics, dance, art, music lessons, horseback riding, gymnastics, or organized clubs for children, such as Boy Scout, Girl Scouts, etc. as referenced in G.S. 110-86.

**Employees may take leave under the following conditions:**

1. The department head has the option to require at least 48 hours notice before the time desired for the leave;
2. Leave time taken will be taken at a mutually agreed upon time between the immediate supervisor and the employee.
3. The department head may require a written verification from the child's school that the employee attended or was otherwise involved at that school during the time of leave to their supervisor at the time the employee returns to work.

Time not used by December 31 each year shall be forfeited and will not roll over to the next year.

**Definitions:**

**School:** Includes public, private, church schools, preschools, daycare facilities, and colleges.

**Parent:** Any employee who is a parent, guardian, or person standing in loco parentis of a school-aged child.

**Child:** Birth to age 18 and up to age 22 for college registration purposes.

**Section 10. Bereavement Leave**

This policy is written to establish guidelines for the use of bereavement leave due to the death in the employee's immediate family or death of a co-worker. As appropriate to the situation, the Department Head, immediate Supervisor, and Human Resources Director or County Manager (or designee) may serve as designated officials to attend the funeral of a county employee or county employee's immediate family member. Associated travel expenses for designated officials shall be eligible for reimbursement as specified in the Iredell County Accounting Procedures Manual.

**A. Death of Immediate Family:**

1. An employee who has a member of his/her immediate family taken in death may receive up to three (24 hours) off to range and/or attend funeral activities. Under exceptional circumstances, the department head may authorize additional leave.
2. Bereavement leave for an immediate family member will be charged to sick leave.
3. Immediate family is deemed to include spouse, mother, father, guardian, children, brother, sister, grandparent, grandchild, in-laws, plus various combinations of half, step, and adopted relationships that can be derived from those named.
4. Proof of death must be given to department head if requested.

**A. Death of County Employee:**

1. The Department Head may send a designee(s) if he/she or the immediate supervisor is unable to attend.

2. Other County employees attending the funeral and/or visitation will charge the absence to earned compensatory, vacation leave, or leave without pay respectively. Department Heads may allow employees to make up time away from the department within the same workweek when such extra work will not create an overtime situation.
3. In the event the number of employees wishing to attend the funeral exceeds that necessary to carry out the operations of the department, Department Heads may assign employees from another unit to fill in for employees attending.
4. Should a death occur in a small department of the County, the department head and County Manager, or designee, will consider options such as using volunteers, closing the office, and reassigning employees from another department to determine the best method of handling the operations of the office.

### **Section 11. Military Leave**

A regular employee who is a member of the National Guard or Armed Forces Reserve will be allowed ten (10) workdays of military training leave annually, with partial compensation. If the compensation received while on military leave is less than the salary that would have been earned during this same period as an active employee, the employee shall receive partial compensation equal to the difference in the base salary earned as a reservist or a guardsman and pay that would have been earned during this same period as a county employee. The effect will be to maintain the employee's pay at the normal level during this ten (10) workday period. On rare occasions due to annual training being scheduled on a federal fiscal year basis, an employee may be required to attend two periods of training in one calendar year. For this purpose only, an employee shall be granted an additional ten days of military leave during the same calendar year. If such military duty is required beyond this ten (10) workday period, the employee shall be eligible to take accumulated vacation leave or be placed on leave without pay status. While on military leave with partial pay or without pay, the employee's leave credits and other benefits shall continue to accrue as if the employee remained with the County during this period. An employee's health coverage will be maintained during military leave at the same level and status as during regular work period. An employee must arrange for optional benefit premiums to be paid while on leave. Employees who are Guardsmen and Reservists have all job rights specified in the Vietnam Veterans Readjustment Assistance Act.

### **Section 11(a). Reinstatement Following Military Service**

Under the Uniformed Services Employment and Reemployment Rights Act (USERRA), there are time limits for returning to work that are based on the duration of the employee's military service. Time limits are as follows:

1. Time in service is for less than 31 days – employee must report to work by the beginning of the first regularly scheduled workday eight hours after he or she returns home from the military, or
2. Time in service is from 31-180 days – employee must submit an application for employment no later than 14 days after completion of the service, or

3. Time in service is for 181 days or more – employee must submit an application for employment no later than 90 days after completion of service, and
4. An employee called to extended active duty with the United States Military Forces, who does not volunteer for service beyond the period for which called, shall be reinstated with full benefits provided the employee is able to perform the duties of the former position or similar position or is unable to perform the duties of the former position or a similar position due to disability sustained as a result of military service, but is able to perform the duties of another position in the service of the County. In this case, the employee shall be employed in such other position that will provide the nearest approximation of the seniority, status, and pay which the employee otherwise would have been provided if available.

An employee returning from military leave and qualifying for USERRA benefits may have the time of service counted toward the FMLA 12 month employment test and the FMLA 1,250 hour requirement for FMLA eligibility.

## **Section 12. Civil Leave**

### **A. Non-Job Related Civil Leave**

An employee called for jury duty may use civil leave with pay for the period of time required to be at court and will receive any fees received for jury duty. Employees are expected to report to work when court duty ends before the end of the regular workday. Additional time off is not given when jury duty occurs on a day the employee is scheduled off from work.

An employee subpoenaed to appear as a witness in court or directed by officials to provide testimony during an official investigation, may use civil leave with pay for the period of absence required.

### **B. Job Related Civil Leave**

The time an employee whose official job duties require attendance in court or at a job related legal proceeding will be considered work time. The hours attending will be included in the total hours worked for the week. Employees must turn over to the county any witness fees or travel allowances awarded in connection with official duties.

## **Section 13. Educational Leave**

### **A. Leave for Specific Courses with Non-Reimbursement**

A leave of absence at full pay during regular work hours may be granted to an employee to take one (1) course at a time which will better equip the employee to perform assigned duties. The employee must submit a course outline to the department head so he/she can determine if the course will better equip the employee to perform assigned duties. A copy of the course outline and the department head's justification will be submitted to the County Manager, or designee, for

approval. No reimbursement option is available in conjunction with a leave with pay for educational purposes.

### **Extended Leave and Benefits**

A leave of absence at full or partial pay for a period not to exceed twelve (12) calendar months may be granted to an employee who has completed the initial probation period and is enrolled full-time in an institution of higher learning and pursuing courses which directly relate to an employee's job. The decision to grant such leave will be based on such factors as workload, critical nature of employee's job, chances of the employee returning to duty, and how beneficial the course(s) will be to the current job duties. Such leave must be recommended by the Department Head and County Manager and approved by the Board of Commissioners.

#### **B. Reimbursement for Specific Courses**

An employee may receive reimbursement for one (1) course at a time taken outside of working hours which will better equip the employee to perform assigned duties. To be eligible for reimbursement, an outline of the course content must be submitted to the department head. If the department head determines the course will better equip the employee to perform assigned duties, he/she will submit a recommendation for approval to the County Manager, or designee.

If the County Manager, or designee, approves a leave or reimbursement for tuition, fees, and books for specific courses taken, employee must provide a notice of successful completion (passing grade or better) and provide receipts in order to be reimbursed.

#### **C. Eligibility Requirements**

1. Must be employed for one consecutive year.
2. Most recent performance evaluation must be rated at a 2 or above.
3. Must not have not received any disciplinary action within prior year.
4. If employee receives disciplinary action or a performance evaluation below average (rating below a 2) during the course of study all reimbursement rights or paid time off under this program will be forfeited.
5. Must not have exceeded more than 40 hours of sick time absences (excluding death in family and qualifying FMLA absences) within prior year.
6. Eligibility will be re-evaluated for each course of study.
7. Upon successful completion of each course of study, employee must remain employed with the county for a period equal to one time the educational course received or the employee shall reimburse the county for all compensation or reimbursement, received during the course of leave. In the event disciplinary action up to and including termination are warranted, this agreement does not serve as a binding contract between the employee and the County. Should a

termination be necessary, employee is obligated to reimburse the county for the courses of study or for paid time off for educational purposes.

**D. Benefits while on Educational Leave with Pay**

An employee on approved educational leave with full pay shall continue to earn sick leave, annual leave, and any other benefits to which county employees are entitled to. An employee on educational leave with partial pay shall earn proportional leave credits.

**E. County Required Educational Leave/Training:**

Educational leave/training required for each county department or as required by the county shall be granted in accordance with Fair Labor Standards Act 29 CFR Part 553 and 785 regulations which covers employer required training.

**Section 14. Worker's Compensation Leave**

An employee absent from duty because of sickness or disability covered by the North Carolina Worker's Compensation Act may receive Worker's Compensation benefits and elect to use accumulated compensatory time, sick, or vacation leave respectively as a supplemental payment for the seven day waiting period under the Worker's Compensation Act if a physician has certified that the employee is unable to perform any duties.

The County will offer light duty work to employees who have been medically approved for such work as outlined in the Return-to-Work section below. Absence due to an on-the-job injury runs concurrent with the employee's FMLA leave entitlement.

Upon reinstatement, an employee's salary will be computed on the basis of the last salary earned plus any increment or other salary increase to which the employee would have been entitled during the disability covered by Worker's Compensation.

Temporary full-time and part-time employees will be placed in a leave without pay status and will receive all benefits for which they may be adjudged eligible under the Worker's Compensation Act.

**Section 15. Return-to-Work Program**

The purpose of this program is to return injured employees to a job suitable to their work restrictions as soon as medically feasible. Early return-to-work and light duty programs promote a quicker recovery, improve morale, allow injured employees to earn their normal wages, and help departments maintain their productivity. Iredell County Department Heads and Elected Officials are expected to consider light-duty assignments within their departments in full consideration of any work restriction placed on an injured employee.

- A. Any employee with a work-related injury resulting in limitations of light duty will be eligible for this program.

- B. The attending physician will provide clear, written restrictions and approve light duty work assigned to the employee based on those restrictions.
- C. To the extent possible, employees participating in this program will be returned to their normal department. When limitations prevent light duty work in the normal department or work within the limitations is not available, the workers compensation administrator will locate an assignment in a different department that is compatible with restrictions.
- D. Employees in this program will be assigned a temporary supervisor if moved to a different work unit or department. The employee will be subject to the same work rules and regulations as any other employee, and will be required to perform work within the limitations established by the treating physician.
- E. Employees participating in this program will receive their regular hourly rate for each hour worked, and the cost will be charged to the employee's normal work department. If the County Manager determines it is in the best interest of the County employees may be charged to the Workers Compensation Internal Service Fund.
- F. The light duty assignment will be temporary and may be discontinued when:
  - 3. The treating physician returns the employee to full duty,
  - 4. The physician prohibits the employee from participating in a light duty assignment,
  - 5. The physician indicates the employee has reached maximum medical improvement and will not be able to return to regular position, or
  - 4. There is no longer an appropriate task within the County that would accommodate the employee's capabilities, or
  - 5. An employee has been on light duty for a period of six months. All light duty cases will receive a thorough re-evaluation at this point to determine if such duty is to be continued and/or if reclassification and/or reassignment to another position are warranted.

**Section 16. Administrative Leave**

Administrative leave with pay may be granted by the county manager when circumstances are such that the manager deems it to be in the best interest of the county and the employee for work to be temporarily halted. All such use of administrative leave will be reported to the Board of Commissioners at its next regularly scheduled meeting.

Effective September 1, 1992	Revised 11/1/05; 12/1/08; 7/1/11
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## **ARTICLE VII. EMPLOYEE BENEFITS**

### **Section 1. Insurance Benefits**

- A. The County may provide individual hospitalization insurance to all employees occupying budgeted positions established at least 30 hours per week (75% time.) To be eligible, employees shall be enrolled in the programs in accordance with the provisions of the insurance contracts and on the first day of the month following a thirty-day waiting period.

Revised for employees hired on and after effective 7/1/06

- B. Deductions shall be allowable, at the option of the employee, to provide hospitalization coverage for dependents in accordance with the provisions of the insurance contracts.
- C. The County may make other group insurance plans available for its employees upon authority of the Board of Commissioners.
- D. The County may provide a retiree group hospitalization plan for employees who are eligible and elect to retire from the N. C. Local Governmental Retirement System.

### **Section 2. Unemployment Compensation**

Employees who are laid off or dismissed from the county service may apply for unemployment compensation through the local office of the Employment Security Commission. Eligibility for unemployment compensation will be determined by the Employment Security Commission.

### **Section 3. Old Age and Survivor's Insurance (Social Security)**

The county, to the extent of its lawful authority and power, shall extend Social Security benefits for its eligible employees in accordance with the provisions of the Social Security Act.

### **Section 4. Retirement Benefits**

Each employee in a budgeted position, working a minimum of 1000 hours per year, will be enrolled in the Local Government Employees' Retirement System. Employees contribute, through payroll deduction, six percent (6%) of their gross salary each month to the system. The county contributes an actuarially determined percentage of the gross payroll each month to the system.

### **Section 5. Death Benefit**

If an employee dies while still in active service with at least one year as a contributing member of the Retirement System, the employee's beneficiary will receive a lump sum payment in an amount established by the Retirement System. This benefit is also paid if the employee dies within 180 days after the last day for which he or she is paid a salary.

## **Section 6. Law Enforcement Officers' Separation Allowance**

- A. The county shall provide a special separation allowance to qualified officers who retire on a basic service retirement and who meet all of the following qualifications:
  - 1. The officer must have completed thirty years or more of creditable service, or have attained fifty-five years of age and completed five or more years of creditable service.
  - 2. The officer must not yet be age sixty-two.
  - 3. The officer must have completed at least five years of continuous service as a law enforcement officer immediately prior to service retirement.
- B. Payment of the separation allowance will cease if the officer (1) reaches age sixty-two, (2) dies, or (3) is re-employed in any capacity by the state of North Carolina or any of its political subdivisions.

## **Section 7. Supplemental Retirement Income Plan for Law Enforcement Officers**

All law enforcement officers automatically become a member of the State Supplemental Retirement Income Plan on the date of hire.

## **Section 8. Benefits - Other (Fixed)**

The county provides the following additional benefits to employees:

- A. Workers' Compensation - Provides coverage to all full- and part-time employees to cover medical expenses and lost time from work due to work-related injuries.
- B. Employee Assistance Program (EAP) - Provides assistance to all employees and immediate family members in resolving family problems, alcoholism, marriage difficulties, financial trouble, stress, drugs, and depression.
- C. 401(K) Plan - Supplemental Retirement Income Plan of North Carolina, which provides an automatic contribution by the employer for all participating members of the Local Government Employees' Retirement System.

## **Section 9. Benefits - Other (Flexible)**

Additional deductions or benefits may be allowed at the option of the employee, under the provisions of the insurance contracts, and may be payroll deducted:

- A. Miscellaneous insurance
- B. United States saving bonds
- C. Credit union
- D. Deferred compensation plans - providing supplemental long-term retirement under Section 457 of the Internal Revenue Code
- E. FlexPlan – provided by Section 125 of the Internal Revenue Code, allowing employees to spend pretax dollars on insurance premiums and deductibles, uncovered health and medical expenses, and dependent child-care expenses
- F. United Way contributions

**SECTION 10. SERVICE RECOGNITION**

Iredell County provides a service recognition program for employees who work in a regular full-time budgeted position. Service awards or other type recognition may be given after an employee has completed five years of continuous service and at each five-year increment thereafter.

Current and new employees may be given credit for time worked in a temporary full-time or part-time capacity for purposes of service recognition. To be eligible for the credit, the employee must be transferred from the temporary position to a regular full-time budgeted position without a break in service.

Current employees may be given credit for prior service in a full-time capacity with the County provided they returned to full-time employment (in another capacity or prior to the adoption of the reinstatement policy) within one year of separation.

Prior service credit may be given to employees that leave full-time County employment and return to work under the provisions of the reinstatement policy.

Credit for service time given under this policy will be counted to determine the level of service award/recognition the employee will receive. It will not be used to make a current or new employee eligible for any other benefit.

Effective September 1, 1992	Revised 11/1/05
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## **ARTICLE VIII. SEPARATION, DISCIPLINARY ACTION, AND REINSTATEMENT**

### **Section 1. Types of Separation**

All separations of employees from positions in the service of the county shall be designated as one of the following: resignation, reduction in force, disability, retirement, dismissal, or death.

- A. An employee may terminate his/her service by submitting a resignation to the appointing authority. Normally it is expected that an employee will give at least two weeks notice prior to the last day of work, which is the official date of separation.
- B. If an employee is absent without approved leave for a period of at least three consecutive scheduled workdays, the county will consider the employee as resigning without notice.
- C. All compensation due upon the death of an employee will be paid to the estate of the deceased employee. The date of death will be recorded as the separation date for computing compensation.

### **Section 2. Reduction in Force**

In the event that a reduction in force becomes necessary, consideration shall be given to the quality of each employee's performance as documented by current performance appraisals, organizational needs, and seniority in determining those employees to be retained. Employees who are laid off because of a reduction in force shall be given at least two (2) weeks' notice. No permanent employee shall be separated while there are temporary employees serving in the same class in the same department, unless the permanent employee is not willing to transfer to the position held by the temporary employee.

### **Section 3. Disability**

An employee with a disability may be separated from employment when he/she cannot perform the essential functions of his/her position with or without reasonable accommodation. An employee with a "disability" is a person who has a physical or mental impairment that substantially limits one or more major life activities (e.g. hearing, seeing, walking, performing manual tasks, etc.); a record of such impairment; or is generally regarded as having such an impairment. The employee or the county may initiate action for disability separation, but in all cases consideration for disability separation shall be supported by medical evidence as certified by a competent physician and obtained voluntarily from the employee involved. The county may request a physical examination at its expense and by a physician of its choice. However before any qualified disabled employee is separated, the County will make every reasonable effort to accommodate the employee either by restructuring the position in question, where possible; modify existing work schedules, equipment or devices; or by reassignment to a vacant position whose essential functions the disabled employee can perform in a satisfactory manner.

## **Section 4. Discipline and Dismissal**

An employee whose work is unsatisfactory over a period of time shall be notified by the department head in what way the employee's work is deficient and what must be done if the work is to be satisfactory.

Any regular employee, regardless of occupation, position or profession may be warned, demoted, suspended or dismissed by the appointing authority in accordance with the provisions of this policy.

There are two bases for the discipline or dismissal of employees: (1.) Unsatisfactory job performance; and (2.) Unacceptable personal conduct.

### **1. Unsatisfactory Job Performance Defined**

The term "unsatisfactory job performance" means work related performance that fails to satisfactorily meet job requirements as specified in the relevant job description work plan, or as directed by the management of the work unit or agency and/or grossly inefficient job performance. Dismissal for grossly inefficient job performance is administered in the same manner as unacceptable personal conduct. The supervisor shall make determination of satisfactory performance; there is a presumption that the determination is proper and factually supported.

The following examples relating to unsatisfactory job performance are representative of, but not limited to, those sufficient for discipline, up to and including dismissal:

1. Inefficiency, negligence or incompetence in performance of duties.
2. Careless, negligent or improper use of County property or equipment.
3. Physical or mental incapacity to perform duties as certified by physician. [See Sec.3 Disability]
4. Discourteous treatment of the public or other employees.
5. Absence without approved leave.
6. Improper use of leave privileges.
7. Habitual pattern of failure to report for duty at the assigned time and place.
8. Failure to complete work within time frames established in work plans or work standards.

### **2. Unacceptable Personal Conduct Defined**

Unacceptable personal conduct is behavior of such a detrimental nature that the functioning of the County may be impaired, the safety of persons or property may be threatened, or the laws of the government may be violated.

The following examples relating to unacceptable personal conduct are representative of, but not limited to, those sufficient for discipline, up to and including dismissal:

1. Conduct for which no reasonable person should expect to receive prior warning.
2. Job related conduct that constitutes a violation of state or federal law.
3. Entry of a plea of "no contest" to or conviction of a felony or an offense involving moral turpitude that is detrimental to the agency's service.
4. The willful violation of know or written work rules.
5. Conduct unbecoming an employee that is detrimental to the agency's service or county service.
6. The abuse of clients, patients, students, or a person over whom the employee has charge or to whom the employee has a responsibility, or of an animal owned or in the custody of the agency.
7. Falsification of an employment application or other employment documentation.
8. Insubordination which is the willful failure or refusal to carry out a reasonable order from an authorized supervisor. Insubordination is considered unacceptable personal conduct for which any level of discipline, including dismissal, may be imposed without prior warning.
9. Absence from work after all authorized leave credits and benefits have been exhausted.
10. Possession of unauthorized firearms or other lethal weapons on the job.
11. Sexual or racial harassment of a coworker, applicant for employment, client or member of the public.
12. Brutality or violence in the performance of duties.
13. Use of alcoholic beverages or controlled substances that would impair the employee's physical or mental capabilities while on duty, except that prescribed medication may be taken within the limits set by a physician.

### **3. Warnings**

Either unsatisfactory job performance or unacceptable personal conduct constitutes just cause for discipline or dismissal. The categories are not mutually exclusive, as certain actions by employees may fall into both categories, depending upon the facts of each case.

- A. **Written Warning:** at least one written warning documenting the specific reasons for the warning must be issued to an employee prior to the employee being suspended, demoted, or dismissed for unsatisfactory job performance. During a meeting with the employee, the supervisor or designated management representative will inform the employee of the specific performance deficiencies, the specific corrective actions that must be made, the time frame allowed to make improvements and the consequences of failing to make required improvements. The information will be placed in the employee's personnel file.

- B. Final Written Warning with statement that further action may result in dismissal: a final written warning, issued by the department head, serves notice to the employee that corrective action must be taken immediately in order to avoid disciplinary action. A disciplinary conference will be held with the employee using the same procedure as set forth in A above. The employee must be informed, either orally or in the warning, that failure to correct the unsatisfactory job performance may result in dismissal. Any determination by the department head concerning dismissal shall be discussed with the county manager and made in accordance with the provisions of the dismissal policy.
- C. For dismissal for unsatisfactory job performance, warnings for unacceptable personal conduct may be included along with warnings for unsatisfactory job performance.
- D. The basic timeframe for corrective action is 60 days unless management otherwise sets a specific timeframe.
- E. Disciplinary warnings become inactive after 18 months unless extended in writing or a second warning occurs during the 18-month timeframe.

#### **4. Demotions**

Disciplinary demotions may be accomplished in two ways:

1. The employee may be demoted to a lower classification with or without loss in pay.
2. The employee may be reduced to a lower step in the same pay grade with a corresponding loss of pay. In no event shall an employee's pay be reduced below the minimum of his/her current pay grade unless the employee is demoted to a lower classification. Prior to the decision to demote an employee for disciplinary reasons, the department head must conduct a pre-demotion conference with the employee. This pre-demotion conference shall be accomplished in the same fashion as the pre-dismissal conference.

#### **5. Dismissal**

Before a regular employee may be dismissed, whether for misconduct or unacceptable performance, the following shall occur:

1. The supervisor recommending dismissal shall discuss the recommendation with appropriate hiring authority and receive authorization to hold a conference with the employee.
2. The department head shall provide the employee with a written notice of proposed disciplinary action, which will include the nature of the proposed action, its recommended effective date, the reason(s) for the action, and a date and time for a pre-disciplinary conference.
3. The department head shall conduct the conference with the employee. A second management representative or security personnel may be present at management's discretion. No attorneys representing either side may attend the conference. At this conference, the employee may present any response to the proposed disciplinary action to the department head.

4. The department head will consider the employee's response, if any, to the proposed disciplinary action. If management's decision is to dismiss the employee, a written letter of dismissal shall be prepared containing the specific reasons for dismissal, the effective date of the dismissal and the employee's appeal rights. The employee shall be informed of the decision and furnished, either in person or by mail, a copy of the letter of dismissal. The decision will be communicated to the employee within three days of the conference. The county manager will be provided with a written notice of action taken.
5. Upon dismissal on the basis of job performance, an employee may be given up to two weeks notice. With the prior approval of the county manager, a payment of up to two weeks salary may be made in lieu of a notice. Notice of pay in lieu of two weeks notice shall apply only to dismissals in exceptional circumstances based on job performance.

## **Section 5. Suspensions**

### **A. Disciplinary Suspension**

1. A non-exempt employee may be suspended without pay for disciplinary purposes for causes relating to any form of personal conduct at any time during the disciplinary process or in conjunction with a final written warning for unsatisfactory job performance. A disciplinary suspension without pay must be for at least one full work day but no more than two full workweeks.
2. Exempt employees may be suspended without pay for not less than one full workweek but not more than two full workweeks.
3. An employee who has been suspended without pay must be furnished a statement in writing setting forth the specific acts of omissions that are the reasons for the suspension and the employee's appeal rights.
4. An employee may be suspended without notice by the department head for causes related to personal conduct in order to avoid undue disruption of work, to protect the safety of persons or property, or for other serious reasons. When a department head suspends an employee without notice, the employee shall be required to leave county property at once and remain away until further notice. The department head shall notify the county manager immediately. A written summary giving the circumstances and facts leading to the immediate suspension shall be prepared; one copy shall be delivered to the employee by certified mail, one copy shall be filed in the employees' personnel file, and one copy shall be filed with the county manager.

### **A. Investigatory Suspension**

1. Investigatory suspension with pay may be used to provide time to investigate, establish facts, and reach a decision concerning an employee's status. Investigatory suspension with pay may be appropriately used to provide time to schedule and hold a pre-dismissal conference. Also, the county may elect to use an investigatory suspension in order to avoid undue disruption of work or to protect the safety of persons or property. An investigatory suspension with pay shall not exceed 30 calendar days unless extended in writing with reasons for the extension.

2. During the investigation, hearing or trial of an employee on any criminal charge or during the course of civil action involving an employee, the department head may suspend the employee with pay for the duration of the proceedings as a non-disciplinary action. However, the investigation, hearing, trial, or civil action must involve matters that may form the basis for disciplinary actions in order for the non-disciplinary suspension to be allowed.
3. If no action has been taken by management by the end of 30 calendar days and no extension has been made, one of the following must occur: 1.) reinstatement of the employee with full pay, 2.) appropriate disciplinary action based on the results of the investigation; 3.) reinstatement of the employee with not less than one day, nor more than two full weeks pay deducted from his or her salary. The decision to deduct pay is to be based upon management's determination of the degree to which the employee was responsible for or contributed to the reasons for suspension. This period constitutes a disciplinary suspension without pay and must be effected in accordance with the provision of that section.
4. A pre-suspension conference is not required where an employee is suspended with pay for the purpose of an investigation.
5. An investigatory suspension with pay is not appealable.

Effective September 1, 1992	Revised 01/1996 (Sections 4 & 5)
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## **Section 6. Employee Appeal**

An employee wishing to appeal a reprimand, demotion, suspension, or dismissal may present the matter using the grievance procedure prescribed in Article IX of this ordinance.

## **Section 7. Reinstatement**

- A. An employee who resigns while in good standing or who is separated because of reduction in force may be reinstated within one year of the date of separation with the approval of the department head and the county manager. The salary paid a reinstated employee shall be as close as possible, given the circumstances of each employee's case to the salary step previously attained by the employee. An employee that is reinstated shall be credited with previous service time and previously accrued sick leave.
- B. An employee who enters extended active duty with the Armed Forces of the United States, the Public Health Service, or with a reserve component of the Armed Forces will be granted reinstatement rights provided under federal law.

Effective September 1, 1992
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## ARTICLE IX. GRIEVANCE PROCEDURE

### Section 1. Purpose

The grievance procedure provides an adequate and fair means for hearing matters of concern to county employees.

### Section 2. Coverage

This grievance procedure applies to all departments and all employees of the county. A grievance is defined as any matter of concern or dissatisfaction arising from the working conditions of an employee subject to the control of the county. A grievance might involve alleged safety or health hazards, unsatisfactory physical facilities, surroundings, materials or equipment, unfair or discriminatory supervisory or disciplinary practices, unjust treatment by fellow workers, unreasonable work quotas, or any other grievance relating to conditions of employment.

### Section 3. Policy

Every employee shall have the right to present a grievance in accordance with these procedures free from interference, coercion, restraint, discrimination, penalty, or reprisal.

### Section 4. Procedure

- A. **Step One.** An employee must file a grievance, either orally or in writing, with the immediate supervisor, within fifteen (15) calendar days of the date of the incident giving rise to the grievance. If the employee alleges sexual harassment by the immediate supervisor or division head, the employee may file the complaint directly with the department head or personnel director, as set forth in Article V, Section 4. If the grievance concerns an appeal of a dismissal, it shall be filed directly with the appointing authority at Step Three. The supervisor should consult with the division head or any employee or officer deemed necessary to reach a correct, impartial, and equitable determination and shall give the employee an answer as soon as possible, but within five (5) working days of receipt of the grievance.
- B. **Step Two.** If the employee is dissatisfied with the response at Step One, or fails to receive an answer within the designated time, the employee may file the grievance in writing with the department head, within five (5) working days of receipt of the immediate supervisor's written decision. The grievance shall state concisely the basis for the grievance and, if based on alleged discrimination, indicate whether the alleged discrimination was based on race, color, handicap, national origin, sex, age, or religion. The department head shall review the decision at Step One with the division head and shall make a determination on the merits of the grievance. The department head shall render a decision in writing within ten (10) working days.

There shall be no further appeal for employees of the Sheriff's and Register of Deed's offices. However, the Sheriff and Register of Deeds may elect to forward the appeal to the county manager or personnel board for an advisory recommendation.

- C. **Step Three (General Employees).** If the employee is dissatisfied with the response at Step Two, or if he or she fails to receive an answer within the designated period, the employee may

forward the written grievance to the county manager within five (5) working days of receipt of the Step Two decision. The employee may request a decision from the county manager directly, or may request a hearing before the Personnel Advisory Committee with a recommended decision by the committee. If the employee requests a decision directly, the county manager will render a written decision within five (5) working days of receipt of the grievance. If the employee or the county manager requests the services of the Personnel Advisory Committee, the procedures set forth in Section 5 of this article will apply.

- D. **Step Three (Competitive Service Employees).** If a competitive service employee is not satisfied with the Step Two decision or if he/she fails to receive an answer within a reasonable period of time, he/she may file the appeal with the State Personnel Commission with thirty (30) days after receipt of notice of the local department head's Step Two decision.

The decisions of the State Personnel Commission shall be binding in appeals of local employees subject to the State Personnel Act if the Commission finds that the employee has been subjected to discrimination or in any case where a binding decision is required by applicable Federal standards. However, in all other local employee appeals, the decision of the State Personnel Commission shall be advisory to the local appointing authority.

### **Section 5. Personnel Advisory Committee**

There is established a Personnel Advisory Committee, composed of five persons designated by the Board of County Commissioners, with authority to hear employee grievances and make recommendations to the county manager; and to advise the county manager on county personnel problems. An employee or the county manager may request a hearing, which shall be transcribed or recorded. The hearing shall be conducted within thirty (30) days from the date the hearing is requested. The Personnel Advisory Committee, the grievant, and any person whose alleged conduct is the cause of the grievance shall have the right to call and cross-examine witness and offer other evidence. The hearing shall be conducted by the chairman of the committee. The Personnel Advisory Committee shall submit its recommended decision to the county manager and employee as soon as possible but within fifteen (15) calendar days of the hearing.

Each member of the Advisory Personnel Board shall be a qualified voter of the County, and shall be known to be in sympathy with the merit principle of personnel administration. Members of the Advisory Personnel Board shall serve three (3) year staggered terms; but shall not be eligible for more than two (2) consecutive three (3) year terms on the Board. Members of the Advisory Personnel Board will elect one of its members as Chairman, who will preside at all meetings. The County shall provide clerical support to the Advisory Board to perform such duties as the Advisory Board may direct.

### **Section 6. Final Decision on the Grievance**

- A. Upon receiving the recommendations of the Personnel Advisory Committee, the county manager shall inform the employee and the department head, in writing, his final decision. The final decision will be furnished within ten (10) calendar days of receipt of the recommended decision of the Personnel Advisory Committee.
- B. Employees who appeal to the State Personnel Commission will be given the final decision

within ten (10) days of receipt of the recommended decision of the State Personnel Commission, or sooner if their decision is binding.

**Section 7. Maintenance of Records**

All documentation, records, and reports will be retained for a minimum of three (3) years and shall be held by the personnel director. These records will be subject to review by the grievant, the employee's department head, and the county manager.

**Section 8. Other Remedies Preserved**

The existence of the grievance procedure does not preclude any individual from pursuing any other remedies available under law.

Effective September 1, 1992	Revised 1/1/97
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**ARTICLE X. PERSONNEL RECORDS**

**Section 1. Personnel Records Maintenance**

Such personnel records as are necessary for the proper administration of the personnel system will be maintained by the personnel director. The county shall maintain in personnel records only information that is necessary and relevant to accomplishing legitimate personnel administration needs.

## **Section 2. Information Open to the Public**

The following information on each county employee is public information.

- A. Name
- B. Age
- C. Date of original employment or appointment to county service
- D. Current position title
- E. Current salary
- F. Date and amount of most recent change in salary
- G. Date of most recent promotion, demotion, transfer, suspension, separation, or other change in position classification
- H. Office to which the employee is currently assigned

## **Section 3. Access to Personnel Records**

As required by G.S. 153A-98, any person may have access to the information listed in Section 2 of this article for the purpose of inspection, examination, and copying during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the Board of County Commissioners may adopt. Any person denied access to any record shall have a right to compel compliance with these provisions by application to a court for writ of mandamus or other appropriate relief.

## **Section 4. Confidential Information**

All information contained in a county employee's personnel file, other than the information listed in Section 2 of this article will be maintained as confidential in accordance with the requirements of G.S. 153A-98 and shall be open to public inspection only in the following instances:

- A. The employee or his or her duly authorized agent may examine all portions of the employee's personnel file, except (1) letters of reference solicited prior to employment and (2) information concerning a medical disability, mental or physical, that a prudent physician would not divulge to a patient.

- B. Information obtained regarding the medical history or condition of an employee with a disability shall be maintained on separate forms in separate files which shall not be accessible to county personnel or others, except that (1) managers may be informed concerning necessary restrictions to the work or duties of the disabled employee and necessary accommodations; (2) safety and first aid personnel may be informed, when appropriate, if the disability might require some emergency treatment; and (3) governmental officials investigating compliance under the Americans with Disabilities Act may be provided any relevant information upon request. Also, a licensed physician designated in writing by the employee may examine the employee's medical record.
- C. A county employee having supervisory authority over the employee may examine all material in the employee's personnel file.
- D. By order of a court of competent jurisdiction, any person may examine all material in the employee's personnel file.
- E. An official of any agency of the state or federal government, or any political subdivision of the state, may inspect any portion of a personnel file when such information is deemed by the person having custody of the file to be necessary and essential to the pursuance of a proper function of the inspecting agency. But no information shall be divulged for the purpose of assisting in a criminal prosecution of the employee or for the purpose of assisting in an investigation of the employee' tax liability.
- F. A record shall be made of each disclosure and placed in the employee's file (except disclosures to the employee or the supervisor.)

### **Section 5. Remedies of Employees Objecting to Material in File**

An employee who objects to material in his or her file may place in the file a statement relating to the material that the employee considers inaccurate or misleading. The employee may seek the removal of such material in accordance with the grievance procedure.

### **Section 6. Penalty for Permitting Access to Confidential File by Unauthorized Person**

Any public official or employee who knowingly and willfully permits any person to have access to any confidential information contained in an employee personnel file, except as expressly authorized by the designated custodian, may be judged guilty of a misdemeanor and upon conviction be fined in an amount not to exceed five hundred dollars.

### **Section 7. Destruction of Records**

No public official may destroy, sell, loan, or otherwise dispose of any public record, except in accordance with G.S. 121-5(b), without the consent of the State Department of Cultural Resources. Whoever unlawfully removes a public record from the office where it is usually kept, or whoever alters, defaces, mutilates, or destroys it, will be guilty of a misdemeanor and upon conviction will be fined not less than ten dollars or more than five hundred dollars as provided in G.S. 132-3.

## **ARTICLE XI. IMPLEMENTATION OF POLICY**

### **Section 1. Conflicting Policies Repealed**

All policies, ordinances or resolutions that conflict with the provisions of this policy are hereby repealed.

### **Section 2. Separability**

If any provision of this policy or any rule, regulations or order thereunder of the application of such provisions to any person or circumstances is held invalid, the remainder of this policy and the application of such remaining provisions of this policy of such rules, regulations or orders to persons or circumstances other than those held invalid will not be affected thereby.

### **Section 3. Violations of Policy Provision**

An employee violating any of the provisions of this policy shall be subject to suspension and/or dismissal, in addition to any civil or criminal penalty, which may be imposed for the violation of the same.

### **Section 4. Effective Date**

This policy shall become effective as of September 1, 1992.