



LEA COUNTY POLICY AND PROCEDURES MANUAL

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General Provisions

General Provisions

1.1 Purpose

- A. The purpose of the Human Resources Policies and Procedures is to establish consistent, basic policies and practices concerning relations between Lea County and its employees.
- B. The rules contained herein replace and supersede all previously issued rules, policies, and regulations applicable to employees of Lea County.

1.2 Scope

- A. As rules and regulations cannot be readily formulated for every possible situation; these policies and procedures serve as a general basis and guide for the proper, efficient, and effective administration of personnel matters of Lea County.
- B. The provisions of these policies and procedures shall apply to all County employees, with the exception that the provisions governing merit and the grievance of disciplinary actions do not apply to appointed employees who serve at the discretion of elected officials or the County Manager.

1.3 Supplementation of Policy

- A. The County Manager, may issue rules and regulations that are consistent with the terms of these policies and procedure, to provide further guidance and clarification.

1.4 Employee Knowledge and Information Policy

- A. The Human Resources Department shall provide a copy of these policies and procedures to all current and new employees with instructions to read these policies and procedures. Employees shall sign an acknowledgment of receipt for the copy, which shall be maintained in the Human Resources Department.

1.5 Equal Employment Opportunity (EEO) Policy

- A. The County is an equal opportunity employer. The County prohibits discrimination and harassment of any type and shall provide equal employment opportunities to all individuals. The County will not discriminate against any individual on the basis of race, color, age, religion, sex, sexual orientation, gender identity, pregnancy, national origin, disability status, genetic information, protected veteran status, or any other legally protected status.
- B. This anti-discrimination policy applies to all phases of the employment process and includes a prohibition of retaliation against anyone who has asserted their rights under this policy, including:
 - 1. Recruitment
 - 2. Employment
 - 3. Promotion

4. Transfer
 5. Training
 6. Working conditions
 7. Wages and salary administration
 8. Employee benefits and application of policies
- C. The policies and principles of EEO also apply to the selection and treatment of independent contractors, personnel working on our premises who are employed by temporary agencies and any other persons or firms doing business for or with Lea County.
- D. Human Resources will be responsible for the dissemination of this policy. Directors, managers and supervisors are responsible for implementing equal employment practices within each department. The Human Resources department is responsible for overall compliance and will maintain personnel records in compliance with applicable laws and regulations.
- E. Lea County administers our EEO policy fairly and consistently by:
1. Posting all required notices regarding employee rights under EEO laws in areas highly visible to employees.
 2. Advertising for job openings with the statement “We are an equal opportunity employer and all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, pregnancy, age, national origin, disability status, genetic information, protected veteran status, or any other characteristic protected by law.”
 3. Forbidding retaliation against any individual who files a charge of discrimination, opposes a practice believed to be unlawful discrimination, reports harassment, or assists, testifies or participates in an EEO agency proceeding.
 4. Requiring employees to report to their supervisor, an HR representative or general counsel any apparent discrimination or harassment. The report should be made within two working days of the incident.
 5. Promptly notifying Human Resources within 14 days of all incidents or reports of discrimination or harassment and takes other appropriate measures to resolve the situation.
- F. Violations of this policy regardless of whether an actual law has been violated, will not be tolerated. Lea County will promptly, thoroughly and fairly investigate every issue that is brought to its attention in this area and will take disciplinary action, when appropriate, up to and including termination.

1.6 Americans with Disabilities Act (ADA) and the Americans with Disabilities Amendments Act (ADAAA)

- A. Lea County will not discriminate against applicants and individuals with disabilities and, when needed, will provide reasonable accommodations to applicants and employees who are qualified for a job, with or without reasonable accommodations, so that they may perform the essential job duties of the position.
- B. All people with disabilities shall be free from discrimination and provided equal opportunity in accordance with the Americans with Disabilities Act and the Americans with Disabilities Amendments Act as amended. The County does not discriminate against qualified individuals with disabilities in regard to application procedures, hiring, advancement, discharge, compensation, training, conditions and privileges of employment.
- C. When an individual with a disability requests accommodation and can be reasonably accommodated without creating an undue hardship or causing a direct threat to workplace safety, the applicant will be given the same consideration for employment as any other applicant. Applicants who pose a direct threat to the health, safety and well-being of themselves or others in workplace when the threat cannot be eliminated by reasonable accommodation will not be hired. Any applicant with a disability must contact Human Resources for reasonable accommodations.
- D. Lea County will reasonably accommodate qualified individuals with a disability so that they can perform the essential functions of a job unless doing so causes a direct threat to these individual or others in the workplace and the threat cannot be eliminated by reasonable accommodation or if the accommodation creates an undue hardship to Lea County. Contact Human Resources with any questions or request for accommodation.
- E. Lea County does not allow animals in the workplace except for use in law enforcement; however, an individual with a disability may request a reasonable accommodation under the Americans with Disabilities act to bring a service animal to work when medically necessary.
- F. All employees are required to comply with Lea County's safety standards. Current employees who pose a direct threat to the health or safety of themselves or other individuals in the workplace will be placed on leave until an organizational decision has been made in regard to the employee's immediate employment situation.
- G. Individuals currently using illegal drugs are excluded from coverage under this policy.
- H. Human Resources is responsible for implementing this policy, including the resolution of reasonable accommodation, safety/direct threat and undue hardship issues.
- I. As used in this ADA policy, the following terms have the indicated meaning:

1. Disability – a physical or mental impairment that substantially limits one or more major life activities of the individual, a record of such an impairment, or being regarded as having such an impairment.
2. Major life activities – term includes caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, think, communicating and working.
3. Major bodily functions – term includes physical or mental impairment such as any physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting on or more body systems, such as neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin and endocrine. Also covered are any mental or psychological disorders, such as intellectual disability, organic brain syndrome, emotional or mental illness and specific learning disabilities.
4. Substantially limiting – in accordance with the ADAAA final regulations, the determination of whether an impairment substantially limits a major life activity requires an individualized assessment, and an impairment that is episodic or in remission may also meet the definition of disability if it would substantially limit a major life activity when active. Some examples of these types of impairments may include epilepsy, hypertension, asthma, diabetes, major depressive disorder, bipolar disorder and schizophrenia. An impairment, such as cancer that is in remission but that may possibly return in a substantially limiting form, is also considered a disability under EEOC final ADAAA regulations.
5. Direct threat – a significant risk to the health, safety or well-being of individuals with disabilities or others when this risk cannot be eliminated by reasonable accommodation.
6. Qualified individual – an individual who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires.
7. Reasonable accommodation – includes any changes to the work environment and may include making existing facilities readily accessible to and usable by individuals with disabilities, job restructuring, part-time or modified work schedules, telecommuting, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.
8. Undue hardship – an action requiring significant difficulty or expense by the employer.
9. Essential functions of the job – term refers to those job activities that are determined by the employer to be essential or core to performing the job; these functions cannot be modified.

1.7 Administration of Policy

- A. The Human Resources Director, under the supervision of the County Manager, shall administer the personnel management system.

Workplace Safety

Safety

2.1 Safety Policy

- A. It is the responsibility of each employee to conduct all tasks in a safe and efficient manner complying with all local, state, and federal safety and health regulations and with any special safety concerns for use in a particular area.
- B. Every employee in the County assumes the responsibility of individual and organizational safety. Failure to follow county safety and health guidelines or engaging in conduct that places the employee, fellow employees, or county property at risk can lead to employee disciplinary action up to and including termination.
- C. It is the responsibility of the employee to complete an Accident and Incident Report for each safety and health incident that occurs by an employee or that the employee witnesses. Failure to report such an incident may result in employee disciplinary action up to and including termination.
- D. The County shall have the responsibility to develop and the authority to implement the safety and health program in the interest of a safer work environment.

Drug-Free Workplace

2.2 Drug-Free Workplace Policy

SCOPE

- A. The County is committed to providing a safe work environment that is alcohol and drug free for its employees and the general public. With this goal in mind, the County prohibits the use, possession, sale, attempted sale, manufacture, purchase, solicitation, or transfer of prohibited substances on any County premises or on the job. The County is authorized to test its employees for the use of prohibited substances in accordance with federal, state, and local law.
- B. This policy applies to all employees and all applicants for employment of Lea County. The Human Resource Department is responsible for the administration of this policy.

DEFINITIONS

- C. Prohibited substance means alcohol, drug paraphernalia, substances identified as illegal pursuant to state or federal law (whichever has the higher standard), controlled substances, prescription medications prescribed to someone other than the employee who possesses the medication or in the possession of an employee who does not have a valid prescription, or other substances that can be inhaled, injected, ingested, absorbed, or otherwise introduced into the body in any other way that might alter or impair an individual's perception, coordination, response time, reflexes, vision, mental capacity, performance, or judgment. Employees can not be impaired while at work.
- D. County premises, or on the job, include County parking lots, County-owned and leased vehicles, County facilities, County-owned and leased property, any facility used for business purposes by the County. On the job also includes work activity that occurs outside of Lea County.

PRESCRIPTIONS AND OVER THE COUNTER DRUGS

- E. Employees must report the use of an over-the-counter medication or legally-prescribed medication that affect their ability to perform their job safely. Employees must report the use of the medication immediately to Human Resources if the medication affects the individual's perception, coordination, response time, reflexes, vision, mental capacity, performance, or judgment. Human Resources will inform the employee's supervisor or department head of the employee's ability to perform their job safely.

TYPES OF ALCOHOL AND DRUG TESTING

- F. In accordance with federal and state law, the County may conduct testing under any of the following circumstances:
 - 1. Pre-employment: Final candidates selected for any County position will be given a conditional offer of employment pending, in part, the final results of the pre-employment testing.

2. Random: Employees in safety sensitive positions may be selected at random for drug testing at any interval determined by the County, pursuant to applicable state law. For the purpose of this policy only, the following positions have been designated as being in safety sensitive categories in accordance with the broad criteria of “positions directly affecting public health or public safety”:
 - a. Sheriff’s deputies, including the undersheriff and all supervisory personnel
 - b. Emergency dispatchers
 - c. Detention officers, including supervisory and program-related personnel
 - d. Heavy mobile equipment operators. Heavy mobile equipment includes but is not limited to backhoes, compactors, dozers, front-end loaders, motor graders, scrapers, tractor-trailers, and similar type of equipment
 - e. Employees classified other than heavy mobile equipment operators who spend twenty five (25) percent or more of their time operating heavy mobile equipment
 - f. Employees who operate, inspect or maintain airport equipment
 - g. Employees who supervise or transport inmates, including trustees and work detail inmates
 - h. Environmental officers and technicians
 - i. DWI/Compliance/Treatment officers
 - j. Other positions as determined by the County in accordance with the criteria of directly affecting public health or public safety
3. Reasonable Suspicion: An employee may be tested based on reasonable suspicion that the employee is under the influence of a prohibited substance or alcohol. The employee’s supervisor or other designated employee/individual must transport the employee to the testing facility. Transportation will also be provided by the County to the employee to be transported home. Reasonable suspicion is based on, but not limited to:
 - a. Direct observation of the consumption or possession of alcohol, illegal drugs, or drug paraphernalia
 - b. Abnormal conduct or erratic behavior while at work
 - c. Noted difference or decline in quality of work
 - d. Admission of consumption or possession of prohibited substances
 - e. A report of consumption, possession, or use of prohibited substances provided by a reliable and credible source from which a sworn affidavit has been obtained
 - f. Odors (smell of alcohol, body odor or urine)
 - g. Movements (unsteady, fidgety, dizzy)
 - h. Eyes (dilated, constricted or watery eyes, or involuntary eye movements)
 - i. Face (flushed, sweating, confused or blank look)
 - j. Speech (slurred, slow, distracted mid-thought, inability to verbalize thoughts)
 - k. Emotions (argumentative, agitated, irritable, drowsy)
 - l. Actions (yawning, twitching)
 - m. Inactions (sleeping, unconscious, no reaction to questions)

4. Inspection/Search: Any employee may undergo a search if there is reasonable suspicion that the employee is under the influence or in possession of prohibited substances or alcohol while on duty.
5. Post-Accident: All employees may undergo testing when the employee is involved in a work-related accident that the employee was performing safety sensitive functions with respect to the vehicle if the accident involved the loss of human life; or employee receives a citation under State or local law for a moving traffic violation arising from the accident and the commercial vehicle was disabled, or anyone involved in the accident was immediately transported from the scene for emergency medical care.
6. Discharge of a Firearm: An employee who discharges a firearm in an adversarial situation will be required to undergo drug and /or alcohol testing.

REFUSAL TO BE TESTED

- G. If an employee refuses to be tested, the following situations will be treated in the same manner as a positive test result:
 1. The failure, without specific supervisory authorization, of an employee to appear at the collection site when scheduled, or within thirty (30) minutes of the scheduled time, after receipt of notification to appear for testing
 2. Refusal to provide a specimen
 3. Refusal or failure to provide an adequate specimen when such is not supported by a valid and verified or verifiable medical cause or explanation
 4. Refusal to comply with specimen collection procedures prescribed for the purpose of ensuring the integrity of the specimen
 5. Tampering with or the taking of any action that results in the compromise of the specimen

COLLECTION SITE

- H. When the employee reports to the collection site, the employee must remain at the collection site until the collection is completed. The employee must also:
 1. Provide a valid photo ID
 2. Sign Lea County Alcohol and Drug Testing Acknowledgement Form
 3. Comply with the collector's instructions or failure to do so may be considered a refusal to test
 4. Complete and sign the Custody and Control Form
- I. After satisfactorily completing the collection, signing the Custody and Control Form, witnessing sample specimen provided by employee is sealed by facility, and receiving a copy of the chain-of-custody paperwork, the employee may leave the collection site.

DRUG TEST

- J. Drug test specimens requiring laboratory processing will be processed at laboratories certified by the Department of Health and Human Services (DHHS) under the National Laboratory Certification Program (NLCP).
- K. All drug tests will be collected following strict chain-of-custody procedures using various sample types including, but not limited to, urine, hair, saliva, or blood, as determined by the County.

ALCOHOL TEST

- L. Alcohol testing will be conducted by a breathalyzer or saliva strip at the discretion of the County. Blood specimens may be taken for initial alcohol screening if breath or saliva cannot be obtained.
- M. A test result of blood alcohol content (BAC) level of .02% or more shall be deemed positive for alcohol for employees in departments not listed below.
- N. Law enforcement, Detention, DWI and Compliance, Communication Authority, Road, and Airport personnel shall be deemed positive with a test result of blood alcohol content (BAC) level of more than .00%.

REPORTING OF TEST RESULTS

- O. Drug and alcohol results shall be reported only to the Human Resource Director or designee.
- P. The written test report shall contain the specimen number assigned by the agency, the laboratory accession number, and results of the tests. All specimens negative on the initial test or negative on the confirmatory test shall be reported as negative. Only specimens confirmed positive shall be reported positive for a specific substance. Below is a list of tests performed:
 - 1. 6-Acetylmorphine
 - 2. Barbiturates
 - 3. Benzoylecgonine-Cocaine Metab
 - 4. Marijuana
 - 5. Methadone
 - 6. Oxycodone/Oxymorphone
 - 7. Propoxyphene
 - 8. Amphetamines
 - 9. Benzodiazepines
 - 10. Extended Opiates
 - 11. MDMA-Methylenedioxymethamphetamine
 - 12. Methaqualone
 - 13. Phencyclidine
 - 14. Alcohol

- Q. The Human Resource Director or designee shall notify applicants and employees of the test results. Only those members of management who need to know shall be made aware of the test results, except as otherwise allowed by law. A positive test may result in termination of employment.

RETESTING

- R. An applicant or employee who tests positive on a drug test may elect to have, at the applicant's or employee's expense, a portion of the original specimen retested by another approved testing facility. The request for a retest must be made within two working days of the applicant's or employee's notification of positive results. The original testing laboratory shall then arrange for the shipment of the sample to the approved testing facility of the employer's choosing. The County shall reimburse the applicant or employee for the retest if the retest is negative.

CONFIDENTIALITY

- S. No laboratory reports or test results shall appear in the employee's personnel file, but shall be placed in the employee's locked medical file, unless they are a part of a disciplinary action taken in accordance with the provisions of the County's Policies and Procedures. Files relating to laboratory reports or test results are confidential and are available on a need to know basis only, or as otherwise allowed by law.

VOLUNTARY ADMISSION

- T. The County encourages employees to voluntarily disclose abuse or misuse of prohibited substance(s) to the Human Resources Department. Provided the voluntarily disclosure is not made in connection with a safety-related incident or prior to any testing, the County may allow an employee to take accrued leave or unpaid leave of absence in order to participate in a County approved rehabilitation program. Employees will also have access to the County's Employee Assistance Program.

CONVICTION OF DRUG AND ALCOHOL CRIMES DURING EMPLOYMENT

- U. Any employee who is arrested or convicted of a misdemeanor or felony criminal drug or alcohol violation must notify the employee's manager immediately. Reporting such information does not automatically result in separation of employment, but the employee might not be allowed to work in a safety sensitive position or operate a County vehicle until the final disposition. The County will evaluate these situations on a case-by-case basis.
- V. Should any County employee have a medical marijuana card and current prescription, then they will be required to provide a signed acknowledgment form. This form will be kept in the employee's medical file located in Human Resources.

2.3 Drug Free Workplace for DOT Safety Sensitive Employees Policy

COUNTY PHILOSOPHY

- A. In compliance with US DOT 49 CFR Part 40 and US DOT Federal Motor Carrier Safety Administration (FMCSA) Part 382, Lea County believes that it has an obligation and right to have alert, drug and alcohol-free employees on the job, and must provide a safe work environment. This means that during working hours, all employees are expected to be free from any substance that can negatively affect job performance or risk the health and safety of employees or the public.
- B. The purpose of this policy is to protect the physical and psychological well-being of all the employees at the County's facilities and job sites and protect the safety of the public as well as comply with Federal regulations. Use of intoxicants and drugs that alter the ability to function on the job in an effective and safe manner will not be tolerated. This testing policy is a critical step in establishing and maintaining an efficient and safe work force and will be applied in conjunction with all established County policies, procedures and programs.
- C. The County will pursue the enforcement of this policy and will make efforts to protect the privacy of its employees.
- D. The Lea County Human Resources Director is the Designated Employer Representative. For questions about alcohol and drug testing, contact the Human Resources department.

SCOPE

- E. This policy applies to employees who are required to maintain a Commercial Driver's License (CDL) to perform their duties as an employee of Lea County.
- F. Covered employees are considered to be in compliance with this policy during the period of the work day (on-duty) as defined below:
 - 1. All time at a carrier or shipper plant, terminal, facility or other property or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by Lea County.
 - 2. All time inspecting equipment or otherwise inspecting, servicing or conditioning any commercial motor vehicle at any time.
 - 3. All driving time (i.e. time spent at the driving controls of a commercial motor vehicle at any time.
 - 4. All time, other than driving time, in or upon any commercial motor vehicle.
 - 5. All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded, or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded.

6. All time spent performing the requirements relating to accidents.
7. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

PROHIBITIONS

G. The following conduct is prohibited for covered employees:

1. No employee shall report to work or engage in work while having alcohol, illegal drugs, or any other disabling or controlled substance in their system.
2. Reporting to work or engaging in work with a breath alcohol level of 0.02 Breath Alcohol Concentration (BrAC) or greater.
3. The possession, sale, storage, transporting or use of alcohol while on-duty and/or on County property.
4. No employee shall perform safety sensitive duties within four (4) hours after using alcohol.
5. No employee involved in an accident and required to take a post-accident alcohol test shall use alcohol for eight (8) hours following the accident, or until the employee undergoes a post-accident alcohol test, whichever comes first.
6. Refusing to submit to any testing required under this policy.
7. No employee shall report for duty or remain on duty requiring the performance of safety sensitive functions when the employee uses any controlled substance, except when the use is pursuant to the instructions of a physician who has advised the employee that the substance does not adversely affect the employee's ability to safely operate a commercial motor vehicle.

REQUIRED TESTS

Pre-employment

- H. All applicants for employment in a covered position will be informed that their employment into a covered position is contingent upon passing a test for controlled substances. Successfully passing the test requires a negative controlled substance as verified by the Medical Review Officer.
- I. Lea County will pay the costs associated with pre-employment testing. Lea County will not pay the candidate's time for a pre-employment test.
- J. Refusal to test by any finalist for a covered position will result in the individual not being hired into that position.

Post-accident

- K. Lea County conducts post-accident drug testing in accordance with FMCSA 382.303. A covered employee involved in an accident which involves a commercial motor vehicle shall be tested for alcohol and controlled substance as soon as practicable when the accident criteria meets the following DOT requirements:
 - 1. Covered employee was performing safety-sensitive functions with respect to the vehicle if the accident involved the loss of human life or;
 - 2. Covered employee receives a citation under State or local law for a moving traffic violation arising for the accident AND
 - 3. The commercial vehicle was disabled (such that it cannot be driven in daylight hours), OR anyone involved in the accident was immediately transported from the scene for emergency medical care.
- L. If the alcohol test is not within two (2) hours of the accident Lea County shall follow the requirements of 49 CFR 382. Lea County shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If a test required by this section is not administered within eight hours following the accident, Lea County shall cease attempts to administer an alcohol test and shall prepare and maintain the same record. Records shall be submitted the FMCSA upon request.
- M. If the controlled substance test is not administered within thirty-two (32) hours or the alcohol test within eight (8) hours of the accident, Lea County shall cease attempts to administer the test and follow the requirements of 49 CFR 382. Lea County shall cease attempts to administer a controlled substances test and prepare and maintain on file a record stating the reasons the test was not promptly administered. Records shall be submitted to the FMCSA upon request.
- N. It is the responsibility of any covered employee who is subject to a post-accident testing to remain readily available for such testing. If the covered employee is not readily available, he/she may be deemed by Lea County to have refused to submit to testing. This provision shall not be construed to require the delay of necessary medical attention for injured people, to prohibit the employee from leaving the scene of an accident to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.
- O. The results of a post-accident breath or blood test for the use of alcohol or a urine test for the use of controlled substances, conducted by Federal, State or local officials having independent authority for the test(s) shall be considered to meet the requirements of this policy and procedures, and that the results of such test can be obtained by Lea County in a timely manner.
- P. The supervisor of designee must accompany the employee to the drug testing facility.

Random

- Q. Lea County conducts random drug testing on DOT safety sensitive positions, in accordance with FMCSA 382.305. The minimum annual percentage rates for these tests are set, and can be modified, by the Federal Motor Carrier Safety Administration.
- R. The selection of covered employees for random alcohol and/or controlled substance testing shall be made by a scientifically valid method. The random selection and testing dates shall be unannounced and spread reasonably throughout the year with each employee having an equal chance of being tested each time the random selections are made. Each covered employee randomly selected for testing shall immediately, upon notification, report to the testing site.
- S. The number of covered employees selected will be in excess of the actual number required to enable the testing pool to reach the appropriate annualized rate despite absence due to sick leave, vacations or other valid absences.
- T. The supervisor of designee must accompany the employee to the drug testing facility. Lea County will pay testing costs including paid time for random testing.

Reasonable Suspicion

- U. A covered employee must submit to testing for alcohol and/or controlled substance if his or her supervisor or other employer representative meeting the training requirements of FMCSA 382.307 has reasonable suspicion to believe that the employee has violated the driver prohibitions of this policy. The determination that reasonable suspicion exists to require the employee to undergo an alcohol and/or controlled substance test must be based on specific, contemporaneous, articulable observation concerning the appearance, behavior, speech or body odors of the covered employee. Additionally, findings may also include indications of the chronic and withdrawal effects of controlled substances.
- V. If an alcohol test is required under this section, the time constraints and documentation are the same as those for post-accident alcohol, within two (2) hours. The supervisor shall prepare a report indicating the reason for any delay. Alcohol testing must be accomplished within eight (8) hours of the request; after eight (8) hours all attempts shall cease to obtain an alcohol test.
- W. If a controlled substance test is required under this section, the time constraints and documentation are the same as those for a post-accident alcohol, within two (2) hours. The supervisor shall prepare a report indicating the reason for any delay. Controlled substances testing should be accomplished within thirty-two (32) hours of the request; after thirty-two (32) hours all attempts shall cease to obtain a controlled substances test.
- X. A written record shall be made of the observations leading to an alcohol and/or controlled substance reasonable suspicion test, and signed by the department supervisor or other employer

representative that made the observation, within 24 hours of the observed behavior or before the results of the controlled substance test are released, whichever is earlier.

- Y. The supervisor or designee must accompany the employee to the drug testing facility.

Return to Duty

- Z. Before a covered employee returns to performing a safety sensitive function after engaging in prohibited conduct, the covered employee shall undergo a return to duty controlled substance and/or alcohol test. All return to duty controlled substance testing must be direct observed per 49 CFR part 40. The return to duty test result for controlled substance must indicate a verified negative result for use. The return to duty test result for alcohol must indicate an alcohol concentration of less than 0.02.

- AA. The supervisor or designee must accompany the employee to the drug testing facility.

Follow Up

- AB. All drivers who have engaged in prohibited conduct and are eligible to return to duty, shall be subject to unannounced follow-up alcohol and/or controlled substance testing for up to sixty (60) months. The number and frequency of such follow-up testing shall be as directed by the substance abuse professional, and shall consist of at least six (6) tests in the first 12 months following the employee's return to duty. The substance abuse professional may terminate the requirements for follow-up testing at any time after the first six (6) tests have been administered, if the substance abuse professional determines that such testing is no longer necessary. All follow up controlled substance testing must be direct observed per 49 CFR part 40. Follow-up testing will be conducted at the employee's expense.

HANDLING TEST RESULTS AND CONFIDENTIALITY OF RESULTS

- AC. All reports and documentation generated under the requirements of 49 CFR part 382 and this policy will be maintained in accordance with the requirements of 49 CFR part 382.
- AD. Confidentiality and access to records under Lea County Drug and Alcohol Policy for DOT Safety Sensitive Employees will be kept in accordance to Federal drug and alcohol testing US DOT 49 CFR part 40 and US DOT Federal Motor Carrier Safety Administration (FMCSA) part 382.
- AE. A covered employee is entitled, upon written request, to obtain copies of any records pertaining to the employee's use of alcohol or controlled substance. Except as required or allowed by law or expressly authorized, records may be released to another identified party only with the specific, written consent of the covered employee authorizing release of the information to the party. The release request must specifically identify the individual to whom the information may be released and must specify the terms of the employee's consent for use of this information.

AF. Except as required or allowed by law or expressly authorized or required in this section, Lea County shall not release to a third party information contained in records required to be maintained under 49 CFR 382.

AG. Lea County is required to obtain, pursuant to an employee's signed consent, information regarding the drug and alcohol testing of the applicant including any refusals to be tested, during the preceding two (2) years of the date of application for employment. Departments are required to make reasonable effort to collect the information post-job offer, prior to the contingent employee's first day on the job. Departments should document the attempts made to collect this information.

AH. The department must ensure completion of the CDL Holder Pre-Employment Form for past two years where the contingent employee was required to hold a Commercial Driver's License (CDL).

AI. This process check also applies to employees transferring from a non-DOT safety sensitive position into a covered position.

REQUIREMENT TO SUBMIT TO ALCOHOL AND CONTROLLED SUBSTANCE TESTING

AJ. Any covered employee subject to testing under the requirements of 49 CFR 382 or this policy and procedures must submit to being tested for alcohol and/or controlled substances immediately, or as soon as possible, upon notification to do so by his or her supervisor or other designated employer representative. Failure to immediately report for at test will, in most cases, result in the driver being deemed as refusing to submit which carries the same consequences as appositve controlled substances test or an alcohol test with a concentration of 0.04 or greater. In most cases, refusals to be tested will result in immediate termination.

EMPLOYEE VOLUNTARY ADMISSION OF ALCOHOL OR CONTROLLED SUBSTANCE USE

AK. Employees who admit to alcohol misuse or controlled substances use are not subject to the referral, evaluation or treatment requirements of CFR part 40, provided that:

1. The employee does not self-identify in order to avoid testing under CFR part 40 rules;
2. The employee makes the admission of alcohol misuse or controlled substances use prior to performing a safety sensitive function; and
3. The employee does not perform a safety sensitive function until Lea County is satisfied that the employee has been evaluated and has successfully demonstrated compliance with any education or treatment requirements in accordance with the recommended treatment plan as established by the evaluator.

AL. Lea County will take no adverse action against an employee making a voluntary admission within the parameters of this policy. If an employee self discloses, the supervisor should notify the

Human Resources department immediately. Lea County may refer the employee for an evaluation with a Substance Abuse Professional (SAP).

AM. The employee must complete the initial evaluation with the SAP as soon as possible, and no longer than five (5) business days from the time of self-disclosure. If the employee has failed to complete the evaluation as directed, it will be considered misconduct and Lea County will take disciplinary action up to and including termination.

AN. Employees who have voluntarily admitted use are not qualified to perform safety sensitive functions and will be placed on a paid medical leave or assigned non-safety sensitive work duties if available and appropriate.

AO. The employee will be allowed to return safety sensitive duty when the SAP determines that the employee is in full compliance with recommended education or treatment and has an established follow up program in place. The employee will be required to take and pass a non-DOT return to duty drug and/or alcohol test prior to return to safety sensitive duty. The employee will be required to submit to follow up testing at an interval and number established by the evaluating counselor. Employees who are returned to duty following voluntary admission shall be required to sign a last chance agreement with Lea County.

AP. Any employee returned to duty following a voluntary admission may be required to consent to follow-up, non-DOT Lea County Drug and Alcohol Policy for DOT Safety Sensitive Employees subject to Federal drug and alcohol testing US DOT 49 CFR part 40 and US DOT Federal Motor Carrier Safety Administration (FMCSA) part 382.

AQ. If during the follow-up period, the employee fails to comply with the recommended treatment or fails a follow-up drug and/or alcohol test, it will be considered prohibited conduct under 49 CFR part 40. The employee who has engaged in prohibited conduct will be required to comply with all applicable requirements under the DOT rules. Employees who have engaged in prohibited conduct are subject to immediate disciplinary action by Lea County up to and including termination.

TESTING PROCEDURES AND RESULTS

Alcohol Testing Procedures

AR. The instrument that will be used to determine the presence of alcohol is the Evidential Breath Testing device (EBT). Only qualified Breath Alcohol Technicians shall be used to conduct breath alcohol testing according to 49 CFR part 40. If test results are negative, the Breath Alcohol Technician will inform Lea County and the employee and no further action is needed. If the result of the screening test is an alcohol concentration of 0.02 or greater, a confirmation test shall be performed. If the result of the confirmation test is 0.02 or greater but less than 0.04, the driver will be immediately removed from safety sensitive function and placed on a paid leave for at least

24 hours or the next working day whichever comes first. The driver will also be required to take a County required breath alcohol test prior to performing any safety sensitive function. If the result of the confirmation test is 0.04 or greater the employee will be subject to the same consequences as testing positive for a controlled substance.

Controlled Substance Procedures

- AS. Lea County is required to use the split sample method of collection when conducting the test for controlled substances. The collection of samples for controlled substances testing shall be conducted by qualified collection technicians following the guidelines as published in 49 CFR part 40. The employee will be required to show the collection technician the contents of his/her pockets. If the employee possesses a substance that is obviously intended to adulterate or substitute a specimen, a direct observation shall be immediately conducted in accordance with federal protocols.
- AT. An employee who requests, at the employee's expense, to have a test performed on a split specimen following a positive drug result on the primary specimen must make their request made to Human Resources within 48 hours of the notification of the positive results. Lea County will reimburse the employee for the testing cost if the test result does not re-confirm the non-negative test. Time loss incurred while seeking an evaluation or participating in treatment programs as well as the time needed to submit to follow-up testing shall be at the employee's expense.
- AU. If, at any time, the employee refuses to submit to an observed collection when it is required under any of the circumstances outlined in 49 CFR part 40, it will be deemed a refusal to submit.
- AV. If the screening test indicates a negative result, Lea County will inform the employee and no further action is needed. If the test result of the primary specimen is positive for drugs, adulterated or substituted the MRO shall notify the County of the verified test result. The employee will be offered the opportunity to request that the MRO direct the split specimen be tested in a different DHHS certified laboratory to reconfirm the presence of the drug(s), adulterant, or substitution for which a non-negative result was obtained. The MRO shall honor this request if it is made within 48 hours of the employee having been notified of a verified non-negative test result. The result on the split specimen will be transmitted to the MRO. While waiting for the test result to be completed on the split specimen the employee shall not be permitted to perform safety sensitive functions and shall be placed on paid leave. If the test results of the split specimen fail to reconfirm the non-negative result of the primary specimen, the MRO will cancel the test and report the reasons as required by 49 CFR part 40.
- AW. A canceled test is considered neither positive nor negative.

Shy Bladder or Shy Breath Syndrome

- AX. If an employee has a medical condition that prevents an acceptable sample from being collected, the employee will be required to have a medical examination conducted by a physician acceptable

to the employee and the MRO. The employee will have five (5) business days to obtain a physician's statement verifying that a qualifying medical condition exists that would have prevented the employee from providing an acceptable sample. If the employee has failed to keep the appointment with the physician the employee may be disciplined up to and including termination. If the employee is unable to get an appointment with a physician in the five (5) day period, the employee is required to notify Lea County Human Resources immediately of the situation.

AY. Lea County will assist the employee to find a qualified physician to conduct the examination. If, after the examination is completed and the physician has determined that the employee does not have a qualified medical condition that would prevent an acceptable urine/breath sample from being obtained, the test result will be reported as a refusal to submit.

Requirement to Submit to Observed or Monitored Urine Specimen Collection

AZ. Under certain circumstances, a covered employee may be required to submit to an observed specimen collection. Some situations that will require the specimen collector to conduct an immediate direct observation collection are:

1. Providing a sample that is not within the acceptable temperature range.
2. Providing an obviously adulterated specimen.
3. Conduct that clearly indicates an attempt to adulterate or substitute a specimen.
4. Return to duty test.
5. Follow up testing.

BA. In other cases, Lea County has the right to request an observed collection for follow up or return to duty testing. The MRO has the right to require a direct observation in other circumstances such as an invalid or cancelled test result.

BB. The covered employee is required to submit to the observed specimen collection when requested. Failure to permit an observed or monitored collection when requested will be deemed a refusal to submit.

CONSEQUENCES OF ENGAGING IN PROHIBITED ALCOHOL AND/OR CONTROLLED SUBSTANCE USE OR TREATMENT/FOLLOW UP VIOLATIONS

BC. The County has a zero-tolerance policy. Employees who violate any provision of this policy shall be subject to immediate discipline up to and including termination.

Referral, Evaluation, and Treatment

BD. Employees in violation of this policy will be subject to discipline. The DOT safety sensitive employee must still be given a list by the SAP and must undergo evaluation in order to be eligible to work in any DOT safety sensitive position for any company/county in the future.

BE. The employee shall be evaluated by a qualified SAP. If determined necessary by the SAP, the employee must properly follow any education, treatment or rehabilitation program identified. The employee must be re-evaluated by the SAP to determine that the employee has properly followed, and complies with the prescribed treatment or rehabilitation program.

BF. The employee shall undergo a return to duty drug and/or alcohol test with a result indication an alcohol concentration less than 0.02 and/or a negative controlled substances test.

BG. The employee will be subject to unannounced follow up alcohol and/or controlled substance tests following his or her return to duty. The number and frequency shall be as directed by the substance abuse professional and consist of a least six (6) tests in the first 12 months following the employee's return to duty. The SAP may terminate, at his or her discretion, the follow up tests at any time after the first six (6) tests have been administered.

Available Work for Employees Removed from Safety Sensitive Duties

BH. Lea County will not be required to provide non-safety sensitive work for a covered employee who has violated any of the provision of this policy. If however, an employee has made a voluntary admission of use in accordance with this policy then non-safety sensitive work may be offered, if available, on a case-by-case basis.

CONSEQUENCES OF AN ALCOHOL TEST RESULT OF AT LEAST 0.02 BUT LESS THAN 0.04

BI. Any covered employee tested under the provisions of 49 CFR 382 or this policy that is found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall not perform or continue to perform safety sensitive functions. Testing positive may result in immediate termination.

BJ. If the employee is permitted to undergo treatment prescribed by an SAP, the employee may not return to work until the start of the employee's next regular scheduled duty period, but not less than 24 hours following administration of the test. The employee may not be permitted to return to safety sensitive duties without the completion of a treatment program, and follow up testing as provided in the section above.

BK. If the result of the confirmation test is 0.04 or greater the employee will be subject to the same consequences as testing positive.

BL. Lea County will not provide non-safety sensitive work for a covered employee tested under the provisions of 49 CFR 382 or this policy who is found to have an alcohol concentration of 0.02 or greater but less than 0.04. additionally, the employee may be required to pass a County required return to duty test, which results in an alcohol concentration of 0.02 before he or she begins their next regularly scheduled duty period.

EDUCATIONAL INFORMATION ON EFFECTS OF ALCOHOL AND CONTROLLED SUBSTANCES

BM. All covered employees will receive training and/or education materials on the effects of alcohol and controlled substances on a person's health, work and personal life; signs and symptoms of an alcohol or controlled substance problem; and available methods of intervention when an alcohol or controlled substances program is suspected. Supervisors are required to complete annual drug workplace training.

PRESCRIPTION MEDICATIONS AND OVER THE COUNTER DRUGS

BN. Employees are responsible to report to duty free from the effects of any controlled substance or alcohol. Covered employees must report the use of prescriptions and over the counter drugs that could have a disabling effect or otherwise adversely affect the covered employee's fitness for duty or job performance to their immediate supervisor. The employee is not required to provide the name of the prescription and/or the over the counter drug.

BO. It is the covered employee's responsibility to determine from the physician, pharmacist, or other health care professional whether or not the prescribed or over the counter drugs could affect the covered employee's fitness for duty or impair job performance or if the medication is listed on the prohibited controlled substance listing as published by the DOT.

BP. Covered employees may be required to provide a written medical authorization to work from a physician upon reporting the use of prescription or over the counter drugs. Failure to report the use of prescription or over the counter drugs that have disabling effects or otherwise affect the covered employee's fitness for duty while at work and failure to provide proper evidence of medical authorization to work may result in discipline, up to and including termination.

CERTIFICATE OF RECEIPT

BQ. Each covered employee will be required to sign a certificate of receipt certifying that he or she has received a copy of this policy, which is the basis for implementing the requirements of the U.S. Department of Transportation Federal Motor Carrier Safety Administration rules and regulations pertaining to alcohol and controlled substances testing of covered employees.

Workplace Harassment

2.4 Anti-harassment Policy

Policy

- A. The County strives to create and maintain a work environment in which people are treated with dignity, decency, and respect. The environment of the County should be characterized by mutual trust and the absence of intimidation, oppression, and exploitation. Lea County will not tolerate unlawful discrimination or harassment of any kind, whether based on sex, sexual orientation, gender identity, race, color, religion, national origin, age, disability status, genetic information, or marital status or any other protected classification. This policy applies equally to all forms of harassment based on a protected classification and the procedures described in this policy shall be followed for all such harassment. This policy also applies when a Lea County employee is subject to harassment in the workplace by someone outside of Lea County.
- B. All employees, regardless of their positions, are covered by and are expected to comply with this policy and to take appropriate measures to ensure that prohibited conduct does not occur. Appropriate disciplinary action will be taken against any employee who violates this policy. Based on the seriousness of the offense, disciplinary action may include verbal or written reprimand, suspension, or termination.
- C. Managers and supervisors who knowingly allow or tolerate discrimination, harassment or retaliation, including the failure to immediately report such misconduct to Human Resources, are in violation of this policy and subject to discipline.
- D. All County employees and members of the public have a right to be free from harassment from employees on official duty. Lea County employees are prohibited from engaging in harassing conduct in the workplace. Employees are also prohibited from engaging in conduct outside of work that creates a hostile work environment at work. Any act of harassment based upon a protected classification is a violation of Lea County policy.

Prohibited Conduct Under This Policy

- E. Lea County, in compliance with all applicable federal, state, and local anti-discrimination and harassment laws and regulations, enforces this policy with the following definitions and guidelines:
 - 1. Discrimination.
 - a. It is a violation of Lea County's policy to discriminate in the provision of employment opportunities, benefits, or privileges; to create discriminatory work conditions; or to use discriminatory evaluative standards in employment.
 - b. Discrimination of this kind may also be strictly prohibited by a variety of federal, state, and local laws, including Title VII of the Civil Rights Act of 1964, the Age

Discrimination Act of 1967, and the Americans with Disabilities Act of 1990. This policy is intended to comply with the prohibitions stated in these anti-discrimination laws.

- c. Discrimination in violation of this policy will be subject to disciplinary measures up to and including termination.

2. Harassment

- a. Lea County prohibits harassment of any kind, including sexual harassment, and will take appropriate and immediate action in response to complaints or knowledge of violations of this policy. For purposes of this policy, harassment is any verbal or physical conduct designed to threaten, intimidate, or coerce an employee, co-worker, or any person working for or on behalf on Lea County.
- b. The following examples of harassment are intended to be guidelines and are not exclusive when determining whether there has been a violation of this policy:
 - 1. Verbal harassment includes comments that are offensive or unwelcome regarding a person's national origin, race, color, religion, age, sex, sexual orientation, pregnancy, appearance, disability, gender identity or expression, marital status or other protected status, including epithets, slurs, and negative stereotyping.
 - 2. Nonverbal harassment includes distribution, display, or discussion of any written or graphic material that ridicules, denigrates, insults, belittles or show hostility, aversion or disrespect toward an individual or group because of national origin, race, color, religion, age, gender, sexual orientation, pregnancy, appearance, disability, sexual identity, marital status or other protected status.

3. Sexual Harassment

- a. Sexual harassment is a form of unlawful employment discrimination under Title VII of the Civil Rights Act of 1964 and is prohibited under Lea County's anti-harassment policy. According to the Equal Employment Opportunity Commission (EEOC), sexual harassment is defined as "unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature...when...submission to or rejection of such conduct is used as the basis for employment decisions...or such conduct has the purpose or effect of...creating an intimidating, hostile or offensive working environment."
- b. Sexual harassment occurs when unsolicited and unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature:
 - 1. Is made explicitly or implicitly a term or condition of employment.
 - 2. Is used as a basis for an employment decision.
 - 3. Unreasonably interferes with an employee's work performance or creates an intimidating, hostile or otherwise offensive environment.
- c. Sexual harassment may take different forms. The following examples of sexual harassment are intended to be guidelines and are not exclusive when determining whether there has been a violation of this policy:

1. Verbal sexual harassment includes innuendoes, suggestive comments, jokes of a sexual nature, sexual propositions, lewd remarks, and threats; requests for any type of sexual favor (this includes repeated, unwelcome requests for dates); and verbal abuse or “kidding” that is oriented toward a prohibitive form of harassment, including that which is sexual in nature and unwelcome.
2. Nonverbal sexual harassment includes the distribution, display, or discussion of any written or graphic material, including calendars, posters, and cartoons that are sexually suggestive or show hostility toward an individual or group because of sex; suggestive or insulting sound; leering; staring’ whistling; obscene gestures; content in letters, notes, facsimiles, emails, photos, text messages, tweets, and internet postings’ or other forms of communication that are sexual in nature and offensive.
3. Physical sexual harassment includes unwelcome, unwanted physical contact, including touching, tickling, pinching, patting, brushing up against, hugging, cornering, kissing, fondling, and forced sexual intercourse or assault.

Retaliation

- F. No hardship, loss, benefit or penalty may be imposed on an employee in response to:
 1. Filing or responding to a bona fide complaint of discrimination or harassment.
 2. Appearing as a witness in the investigation of a complaint.
- G. Lodging a bona fide complaint will in no way be used against the employee or have an adverse impact on the individual’s employment status. However, filing groundless or malicious complaints is an abuse of this policy and will be treated as a violation.
- H. Any person who is found to have violated this aspect of the policy will be subject to discipline up to and including termination.

Confidentiality

- I. All complaints and investigations are treated confidentially to the extent possible, and information is disclosed strictly on a need-to-know basis. The identity of the complainant is usually revealed to the parties involved during the investigation, and the HR Director and/or third-party investigator will take adequate steps to ensure that the complainant is protected from retaliation during and after the investigation. All information pertaining to a complaint or investigation under this policy will be maintained in secure files within the HR department.

Complaint Procedure

- J. Lea County has established the following procedure for lodging a complaint of harassment, discrimination or retaliation.
1. Complaints should be submitted, in writing, within 14 days after an incident has occurred, to Human Resources. All employees who observe, or become aware of harassment, also have an obligation to bring the matter to Human Resources, even if they are not the victim of harassment.
 2. Upon receiving a complaint or being advised by a supervisor or manager that violation of this policy may be occurring, the HR Director will notify the County Manager and review the complaint with the County Attorney.
 3. The HR Director will initiate an investigation within five (5) days to determine whether there is a reasonable basis for believing that the alleged violation of this policy occurred.
 4. If necessary, the complainant and the respondent may be separated during the course of the investigation, either through internal transfer or administrative leave.
 5. During the investigation, Human Resources or a third-party investigator will interview the complainant, the respondent and any witnesses to determine whether the alleged conduct occurred. All employees are required to cooperate with any investigation by the County in response to an allegation of harassment. Refusal to cooperate in an investigation may result in disciplinary action, up to and including termination.
 6. Upon conclusion of an investigation, the HR Director or third-party investigator conducting the investigation will submit a written report of the findings to Human Resources. If it is determined that a violation of this policy has occurred, the HR Director will recommend appropriate disciplinary action up to and including termination. The County will follow the Formal Discipline Procedures.
 7. If the investigation is inconclusive or if it is determined that there has been no violation of policy but potentially problematic conduct may have occurred, the HR Director may recommend appropriate preventive action and/or training.
 8. Once a final decision is made, the HR Director will with the complainant and the respondent separately and notify them of the findings of the investigation. If disciplinary action is to be taken, the respondent will be informed of the nature of the discipline and how it will be executed.

Appeal

- K. Any affected employee, who is dissatisfied with the conclusion or results of an investigation, or with any corrective measures taken, may appeal the decision to the County Manager. Any such appeal should be in writing and must include the nature of the employee's dissatisfaction with the conclusions or results of the investigation. Any qualifying disciplinary appeal must follow the grievance process.

Protection Against Retaliation

- L. The County will not retaliate against an individual who reports sexual harassment in good faith. Such retaliation in and of itself is grounds for disciplinary action, up to and including termination

without prior progressive discipline. Retaliation is a serious violation of this policy and should be reported immediately.

Discipline

- M. Unlawful discrimination and/or harassment, including sexual harassment, of employees, or members of the public, may be cause for dismissal. If the County determines that discrimination and/or harassment has occurred or that counseling, training, disciplinary measures or termination are appropriate, it will take appropriate measures to correct the problem following the County's disciplinary procedures. Serious cases of discrimination and/or harassment constitute cause for termination without prior progressive discipline.
- N. Employees who knowingly make false allegations of sexual discrimination and/or harassment may be subject to disciplinary action.

Mandatory Training

- O. Periodic mandatory training for all employees, including supervisors, managers and elected officials will be provided by the County to increase knowledge of the workplace discrimination and/or harassment policy, state and federal laws and the process for enforcing the policy.

Vendors, Customers, and the General Public

- P. Employees should report sexual discrimination and/or harassment from vendors, customers, other County employees and the general public utilizing the Policy.

Workplace Violence

2.5 Workplace Violence Policy

Policy

- A. Lea County prohibits and will not tolerate any form of workplace violence by employees, supervisors, or third parties (e.g. vendors, patrons, residents, visitors). While no employer is immune from workplace violence and no employer can totally prevent it, the County will make reasonable efforts to prevent workplace violence and will take appropriate disciplinary action against employees who violate this policy. The County will also seek the criminal prosecution of those employees or third parties who violate the law by committing acts or threats of violence against County employees.
- B. Employees should not place themselves in peril, nor should they attempt to intercede during an incident.
- C. Anyone found to be responsible for threats of or actual violence or other conduct that is in violation of these guidelines will be subject to prompt disciplinary action up to and including termination of employment.

Workplace

- D. For purposes of this policy, the workplace is defined as any location where County work is authorized and is being performed. This policy, however, is not applicable to conflicts between household members and the employee occurring at the employee's domicile.

Prohibited Conduct

- E. For purposes of this policy, workplace violence includes but is not limited to the following below. This list is illustrative only and not exhaustive. No form of workplace violence will be tolerated.
 - 1. Making threatening remarks (through any means) that would cause a reasonable person to fear for their safety or the safety of others. This includes suggestions or insinuations that violence is appropriate to solve a workplace problem.
 - 2. Physical attacks, hitting, fighting, pushing, throwing objects, or any unconsented physical contact which is likely to cause fear or emotional distress in a reasonable person.
 - 3. Intentionally destroying or threatening to destroy property owned, operated, or controlled by the County or a County employee.
 - 4. Behavior that would cause a reasonable person emotional distress or creates a reasonable fear of injury, such as stalking, shaking a fist at an individual, closing distance and intentionally invading an individual's personal space.
 - 5. Committing acts motivated by, or related to, sexual harassment or domestic violence.

Prohibited Weapons

- F. The County prohibits the possession or use by county employees of weapons including, but not limited to firearms, knives, explosives, or other devices intended by their design or function to inflict bodily injury while on duty on county property, at county worksites, and in county vehicles, with the following exceptions:
1. Law enforcement personnel may possess and use such weapons as are permitted by their individual department policies.
 2. Possession and or the use of lock-blade knives with a blade length not exceeding four inches, or specialty tool type knives are permitted for job related purposes only.
 3. Detention officers assigned for the transport of federal detainees.

Protective or Restraining Orders

- G. County employees who have been granted court-ordered protection which extends to the workplace must notify their supervisor and the Human Resources Department who will work together to develop a plan to implement safety measures.

Reporting Workplace Violence

- H. Lea County is committed to enforcing this policy against all forms of workplace violence. However, the effectiveness of our efforts depends on employees telling us about all incidents of workplace violence, including threats of violence. Reporting procedures are as follows:
1. If the incident or threat presents an immediate risk of injury, law enforcement must be contacted at once by dialing 911, and then contact Human Resources.
 2. Otherwise, employees who witness or experience any workplace violence or learn of threats should report it immediately to Human Resources or by contacting their direct supervisor. Employees are encouraged to submit a Workplace Violence Incident Report as soon as possible.
 3. If reported to the supervisor, the supervisor must relay the report to Human Resources without delay followed by submittal of the Workplace Violence Incident Report within 24 hours of an alleged workplace violence infraction.
 4. In addition, if an employee feels that they or someone else may have been subjected to conduct that violates this policy, the employee should likewise report it.

Investigation and Discipline

- I. Lea County will thoroughly investigate all complaints of workplace violence. Acts of workplace violence are among the most serious forms of misconduct and will result in discipline commensurate with the severity of the misconduct.

Employee Assistance Program

- J. Lea County provides an employee assistance program (EAP) for all employees. The EAP is designed to help individuals manage personal problems that can impact their well-being and work performance. Treatment is confidential (unless an EAP counselor is required by law to disclose

information, such as child abuse) and will not become a part of an employee's personnel file. For more information about the EAP, contact the Human Resources Department.

No Retaliation

- K. County employees are encouraged to report workplace violence. Lea County prohibits any form of discipline, reprisal, intimidation, or retaliation for good faith reporting incidents or workplace violence of any kind, pursuing a workplace violence complaint, or cooperating in related investigations.

Administration of this Policy

- L. The Human Resources Department is responsible for the administration of this policy. If you have any questions regarding this policy or if you have questions about workplace violence that are not addressed in this policy, please contact the Human Resources Department.

Workplace Bullying

2.6 Workplace Bullying Policy

Policy

- A. The County defines bullying as “repeated inappropriate behavior, either direct or indirect whether verbal, physical or otherwise, conducted by one or more persons against another or others, at the place of work and/or in the course of employment.” All employees will be treated with dignity and respect.
- B. The purpose of this policy is to communicate to all employees that the County will not tolerate bullying behavior. Employees found in violation of this policy will be disciplined up to and including termination.
- C. Bullying may be intentional or unintentional. However, it must be noted that where an allegation of bullying is made, the intention of the alleged bully is irrelevant and will not be given consideration when meting out discipline. As in sexual harassment, it is the effect of the behavior upon the individual that is important. The County considers the following types of behavior examples of bullying:
 - 1. Verbal Bullying-slandering, ridiculing or maligning a person or his/her family; persistent name calling that is hurtful, insulting or humiliating; using a person as the butt of jokes; abusive and offensive remarks.
 - 2. Physical Bullying-pushing, shoving, kicking, poking, tripping, assault or threat of physical assault; damage to a person’s work area or property.
 - 3. Gesture Bullying-nonverbal threatening gestures or glances that convey threatening messages.
 - 4. Exclusion-socially or physically excluding or disregarding a person in work-related activities.
 - 5. Social Media-social media can become a forum for inappropriate, unwelcome remarks about employees by supervisors or among co-workers. This kind of behavior will not be tolerated.

Motor Vehicle

2.7 Motor Vehicle Policy

Policy

- A. All motor vehicles operated for County business shall be operated by supervisor-approved employees in a safe manner.
- B. A County employee who drives a County vehicle is encouraged to remember that County employees work for the public and are always in the public eye. Employees will exercise good judgment in utilizing their vehicle, and will not drive or use it to cause an unfavorable comment, or reflect discredit on the County. The public's favorable impression of a driver's behavior and use of the vehicle is of the utmost importance.

Applicability

- C. This policy applies to the following groups:
 - 1. Any employee who operates a County vehicle
 - 2. Any contract worker who operates a County vehicle in the course and scope of County business
 - 3. Any employee who operates a rental vehicle for County business
 - 4. An employee-owned vehicle being used in the course and scope of County business

Guidelines

- D. Employees assigned a vehicle will not operate it outside of Lea County unless on official business and with prior approval of Department head.
- E. Employees will not operate an official vehicle within eight (8) hours after the consumption of any alcoholic beverages. Employees will not be under the influence of alcohol or any drug that may impair their driving. Employees will not possess, consume, purchase or transport alcoholic beverages in a County vehicle.
- F. The use of County vehicles to travel to and the parking of County vehicles at places of entertainment, particularly those that serve alcohol, is strongly discouraged. The parking of County vehicles at establishments whose sole business is the sale and/or serving of alcohol is prohibited except when related to an employee's official duties.
- G. Family members or other guests may accompany a County employee in a County vehicle. However, employees will not expose family members or authorized passengers to undue danger. If a commissioned officer is required to respond to a potentially dangerous incident, the employee will stop and have the passenger exit in a safe area. Individuals other than the County employee are permitted to operate the vehicle only in cases of medical or safety emergency.

- H. Employees who drive County vehicles are permitted to use County fuel cards or an approved method of payment to purchase fuel. Employees who drive their own vehicles on county business will be reimbursed for mileage only when a pool car is not available and with prior Department Director approval.
- I. Employees eligible to take County vehicles home on a regular basis are limited to the County Manager, Department Directors and employees specifically authorized by the County Manager, or commissioned deputies and the Sheriff. Employees who drive a County vehicle to and from home to work will receive a pay deduction in their paycheck for the use of the County vehicle.
- J. Employees will be appropriately attired when operating a County vehicle.
- K. Employees should not let their vehicle run idle unnecessarily. When leaving a County vehicle parked and unattended, employees shall lock the ignition and doors and retain the key on their person unless impossible or impractical because of duty requirements.
- L. Employees not using their vehicle for a period of seven (7) days or more will park their assigned vehicle in a Lea County designated County parking area until they return to their position. If an employee is on light duty, depending on their job function, another vehicle may be assigned during that time.
- M. Employees are fully responsible for ensuring the care, cleaning and scheduled preventive maintenance of their assigned vehicles, but are prohibited from personally performing, or allowing anyone other than an authorized mechanic to perform any mechanical repairs or alterations. Employees are expected to notify their immediate supervisor of any problems or damages to the assigned vehicle within 24 hours of the incident.
- N. Employees will not smoke or use tobacco products, including electronic cigarettes, inside a County vehicle. While operating a County vehicle, employees will not consume food.
- O. Employees may not alter the body, appearance, markings, mechanical, electrical, radio systems or add equipment to a vehicle or rearrange accessories without prior approval of their Department Director. Employees may not place bumper stickers, window stickers, magnetic ad/placard plates or stickers on the vehicle unless authorized by the Department Director.
- P. County employees authorized to operate a County vehicle may lose authorization to operate a County vehicle if they receive a speeding and/or moving violation ticket in their personal vehicle.
- Q. The hands-free use of cell phones is permissible while driving County vehicles; however, an employee is prohibited from reading or viewing a text message or manually type on a handheld mobile communication device while driving a vehicle on County business.

Screening

- R. A driver's DMV record will be obtained for all applicants considered for all county employment positions. A pattern of careless driving or reckless driving may disqualify an applicant. A conviction of DWI/DUI in the past five (5) years may disqualify applicants from employment.

Valid License

- S. All County employees must have a valid New Mexico driver's license with proper endorsement(s) for the vehicle(s) to be driven. An employee without a valid license is not permitted to drive a County vehicle or to drive a personal vehicle on County business. Failure to report in writing the lack of a valid driver's license when requested to drive may result in disciplinary action. Driving a County vehicle or driving a personal vehicle on County business without a valid driver's license may result in disciplinary action up to and including termination.

Defensive Driving Training

- T. All Lea County employees who regularly drive a County vehicle may be required to successfully complete initial and recurrent defensive driving training courses. Failure to successfully complete the required courses may result in revocation of the employee's driving privileges.

Vehicle Incidents

- U. If an employee is involved in an incident in a County vehicle or in a rental vehicle on County business, these guidelines must be followed:
 - 1. Stop immediately
 - 2. Ensure your personal safety before exiting the vehicle to gather or exchange information
 - 3. Get help for the injured and render first-aid to the extent trained or qualified
 - 4. Notify police, supervisor and Risk Management immediately
 - 5. Obtain necessary information at the incident scene, including, but not limited to, the following information:
 - a. Names of those involved
 - b. Driver's license numbers of vehicle operators involved in the incident
 - c. Vehicle make, description, and license plate numbers
 - d. Insurance carriers of other drivers
 - e. Names and numbers of any witnesses, if possible
 - 6. Move any County vehicle extensively damaged to the appropriate County parking area. The vehicle will remain stored at this location until repairs can be made.
 - 7. Employees involved in an incident will be required to complete a drug/alcohol test if the incident is caused by the employee, results in a physical injury to the employee or others that results in medical treatment away from the scene, reasonable suspicion, and/or damage to machinery, equipment or vehicles in excess of \$3000.

8. Risk Management may require the employee to complete all documentation, reports and forms deemed appropriate to adequately record and investigate an accident.
9. The Department Director shall investigate and make a written report and findings of incident preventability to Risk Management.
10. Risk Management shall notify the County Manager of the incident.

Traffic Citations

- V. Any County employee who receives a citation for a traffic offense while driving a County vehicle shall report the citation immediately to their supervisor and to Risk Management. It is the responsibility of the employee to pay for any ticket and/or fine issued to the employee while operating a County vehicle.
- W. Risk Management may require the employee to complete all documentation, reports and forms deemed appropriate to adequately record and investigate a citation.
- X. Traffic citations received by a County employee may result in the removal of an assigned County vehicle or driving privileges of a County vehicle.

DUI Conviction

- Y. Employees convicted of DUI shall not drive. If convicted, an employee may be placed on leave until a decision is made on continued employment.
- Z. Any employee who is convicted of driving under the influence or whose driver's license is confiscated shall not be permitted to operate any County vehicle or any personal vehicle on County business until the driver's license is reinstated. If the loss of driving privileges prevents the employee to perform his or her job, the employee may be terminated.
- AA. If an employee's driving privileges are suspended or revoked, or if the employee is required to use an interlock device, the employee shall be prohibited from driving any County vehicle and shall immediately notify their supervisor. Any employee who fails to report a suspension, revocation, or mandatory usage of an interlock device may be subject to disciplinary action, up to and including termination. The County will not approve installation of an interlock device in any County vehicle.
- AB. Conviction is defined as a guilty plea, a no contest plea, or an Alford plea.

Preventable Incidents

AC. The following preventable incidents shall be subject to the following provisions:

1. Incident \$0 - \$3000 in County cost – written reprimand
2. Incident over \$3000 in County cost – minimum sixteen (16) hours up to two hundred forty (240) hours suspension without pay.

3. Previous driving history from the same employee may result in progressive discipline, up to and including termination.

Motor Vehicle Record Review

AD. All County employees may undergo a motor vehicle record review at least once annually. This review may include County volunteers.

Smoke-Free Workplace

2.8 Smoke-Free Workplace Policy

Policy

- A. Smoking or the use of tobacco products, including electronic cigarettes, is prohibited in any County-owned or leased building and/or vehicle.

Designated Smoking Areas

- B. Employees who wish to smoke must use only designated outdoor areas which have appropriate smoking waste disposal receptacles. These areas are to be no less than twenty-five (25) feet from an accessible entrance or air intake of any County building.
- C. Smoking is prohibited within fifty (50) feet of any area where flammable materials are handled or stored, or where other significant fire hazards may exist.

Infectious Disease Control

2.9 Infectious Disease Policy

Policy

- A. The County will take proactive steps to protect the workplace in the event of an infectious disease outbreak. It is the goal of Lea County during any such time period to strive to operate effectively and ensure that all essential services are continuously provided and that employees are safe within the workplace.
- B. Lea County is committed to providing authoritative information about the nature and spread of infectious diseases, including symptoms and signs to watch for, as well as required steps to be taken in the event of an illness or outbreak.

Preventing the Spread of Infection

- C. Lea County will ensure a clean workplace, including the regular cleaning of objects and areas that are frequently used, such as bathrooms, breakrooms, conference rooms, door handles and railings. Additional work rules could be implemented to promote safety through infection control.
- D. All employees will cooperate in taking steps to reduce the transmission of infectious disease in the workplace. The best strategy remains the most obvious-frequent hand washing with soapy water, covering your mouth whenever you sneeze or cough, and discarding used tissues in wastebaskets. The County will ensure alcohol-based hand sanitizers are placed throughout the workplace and in common areas.

Attendance

- E. Unless otherwise notified, our normal attendance and leave policies will remain in place.

Limited Travel

- F. All nonessential travel should be avoided. Employees who travel outside of the county as an essential part of their job should consult with management on appropriate actions.

Work From Home

- G. It may become imperative for the safety of others, that employees work from home to help prevent the spread of any infectious disease. Employees will receive direction from their supervisor as to at-home work assignments and time frame for this work status. Employees will remain available by providing a working phone number and responding to calls within fifteen minutes during normal work hours while working from home.

Staying Home When Ill

- H. During an infectious disease outbreak, it is critical that employees do not report to work while they are ill and/or experiencing symptoms related to the infectious disease.

- I. The Centers for Disease Control and Prevention recommends that people with an infectious illness, such as the flu, remain home until at least 24 hours after they are free of fever (100 degrees F) or signs of a fever without the use of fever-reducing medications. Employees who report to work ill will be sent home in accordance with these health guidelines.
- J. The County's Sick Leave Policy, unless otherwise altered in writing, remains in effect for time missed from work due to illness.

Requests for Medical Information

- K. If you are out sick or show symptoms of being ill, it may become necessary to request information from you and/or your health care provider. In general, Lea County would request medical confirmation that you are unable to attend work, to show whether and how an absence relates to the infection, and to know that it is appropriate for you to return to work. As always, the County expects and appreciates your cooperation if and when medical information is sought.

Social Distancing

- L. In the event of an outbreak, Lea County may implement these social distancing guidelines to minimize the spread of the disease among staff and the public.
 - 1. Avoid meeting people face-to-face. Employees are encouraged to use telephone, email, instant messaging, or other technology to conduct business as much as possible, even when participants are in the same building.
 - 2. If a face-to-face meeting is unavoidable, minimize the meeting time, choose a large meeting room and sit at least six feet away from each other if possible. Avoid person to person contact such as shaking hands.
 - 3. Avoid any unnecessary travel and cancel or postpone nonessential meetings, gatherings, workshops, and training sessions.
 - 4. Do not congregate in work rooms, copier rooms or other areas where people socialize.
 - 5. Bring lunch and eat at your desk or away from others.

Building Security

2.10 Building Security Policy

Policy

- A. The County has a system of controlled access to various areas and of screening of individuals seeking access to various areas in order to enhance the safety of County staff as well as the safety of the public.

ID Cards

- B. The County will issue ID cards to all employees that will allow specific access to county buildings, parking lots, etc. associated to that employee's position.

Guidelines

- C. Security and screening stations will be located on the first floor of the Lea County Courthouse. Individuals seeking access to a secured area will be required to pass through a walkthrough metal detector and/or be subjected to screening via a hand held device. In cases where the presence of a weapon or other item considered a safety risk is suspected, a pat-down search may be required.
- D. All items to be carried into a secured area, including but not limited to purses, briefcases, boxes and items of clothing such as coats, are subject to search.
- E. Screening and search may be waived for employees clearly displaying approved employee identification insignia. Screening and search may also be waived for law enforcement personnel wearing immediately recognizable uniforms. Law enforcement personnel who are not immediately recognized or who are not in uniform may have screening waived by producing a law enforcement identification card.
- F. Failure to submit to screening and/or search will result in denial of access to the secured area. Such failure may also result in expulsion from the relevant County building.
- G. Possession of an unauthorized weapon or an object of an illegal nature will result in denial of access to the secured area. Possession may also result in expulsion from the relevant County building, confiscation of the item, and possible prosecution. The appropriate law enforcement agencies will be contacted in case of such an incident.
- H. County employee access to secured areas will be available only through a screening station, or by means of an access code assigned by the Lea County Sheriff's Department.
- I. The following actions by employees are considered to be violations of security and will be subject to discipline up to and including dismissal from employment:

1. Disclosure of an access code to an unauthorized person. This includes another County employee who has not been assigned an access code.
2. Tampering with, damaging or deliberately thwarting or attempting to thwart a security device.
3. Allowing access via one's code to an unauthorized person.
4. Deliberately avoiding screening or search by subterfuge or evasion; deliberately setting off an alarm system except in the case of emergency.
5. Failing to comply with the lawful directive of a security officer on duty in or around a County building.

Employment

Employment Status

3.1 Employment Status Policy

Full-Time Regular Employee

- A. A full-time regular employee is one who has completed the probationary period and who normally is scheduled to work a minimum of forty (40) hours per week. A full-time regular employee is eligible for all rights and benefits provided by the County.

Part-Time Regular

- B. A part-time regular employee is one who has completed the probationary period and who works twenty (20) or more but less than forty (40) hours per week. A part-time regular employee is eligible for PERA and group insurance benefits, and may participate in the County's grievance process. A part-time regular employee does not accrue paid leave.

Appointed Employees

- C. The appointees of elected officials are as follows:
 - 1. County Manager
 - 2. Undersheriff
 - 3. Executive Secretary to the Sheriff
 - 4. Chief Deputy Assessor
 - 5. Chief Deputy Clerk
 - 6. Chief Deputy Treasurer
 - 7. Bureau of Elections Administrator
 - 8. Chief Appraiser
 - 9. Others designated by job description approved subsequent to these policies and procedures by the County Commission
- D. Department Directors and unclassified administrative staff who report to the County Manager shall be appointed/dismissed by the County Manager subject to approval by the County Commission.
- E. Appointed employees shall receive a wage set by the County budget.
- F. Appointed employees are terminable-at-will and cannot avail themselves of the grievance procedure set forth herein, but are entitled to all other benefits provided by the County unless otherwise accepted.

Probationary Employees

- G. The purpose of the probationary period is to evaluate the employee's ability, potential and performance. A full-time or part-time probationary employee is an employee who is hired to fill a

regular, established position and who has not yet completed the probationary period of employment.

- H. A probationary employee may be terminated with or without cause at any time during the probationary period, and is not entitled the grievance procedure set forth herein, but is entitled to all other county benefits provided herein. Proposed dismissal of a probationary employee must be reviewed with the Human Resources Director.
- I. The probationary period shall be twelve (12) months from date of hire.
- J. To determine whether an employee has satisfactorily completed the probationary period, the employee's Department Director or immediate supervisor will complete a written evaluation.
- K. An employee hired on the condition that the employee obtains a specific certification shall obtain the certification during the probationary period except as otherwise provided for in the job description. Failure to obtain such certification within the period bars the employee from becoming a regular employee and may result in the employee's dismissal, demotion, or reduction in pay.
- L. A probationary employee accrues paid sick and annual leave starting on their hire date. Employees that are promoted, demoted, or transferred may not use paid annual leave until three (3) months of employment in their new position is completed. Annual leave must be approved by the employee's immediate supervisor or department head. Accrued sick leave is available for use from date of hire or from promotion, demotion, or transfer date.
- M. An employee who is temporarily assigned to a vacant position and is subsequently hired to fill that position shall serve the required probationary period. The beginning date of the probationary period is the date the employee began filling the position on a temporary basis.
- N. A regular employee who is promoted, demoted, or transferred to another position shall be subject to a probationary period. That probationary period shall be twelve (12) months beginning on the date the employee began filling the new position.
- O. A former Lea County employee rehired to the same position more than six months after termination or rehired at any time to fill a different position shall serve the required probationary period beginning with the employees most recent hire date.
- P. If a newly hired employee does not satisfactorily complete the probationary period, the employee may be dismissed. Proposed dismissal of a probationary employee must be reviewed with the Human Resources Director.

- Q. If a regular employee, having already completed one probationary period when originally hired, is promoted or transferred and does not satisfactorily complete the probationary period following that change of status, the employee may with the approval of the appropriate department head(s) and the Human Resources Director be returned to the former position or a comparable position if such a position is available or an agreed upon subordinate position within the department if such is available. It will be solely within the discretion of the County Manager if the employee may return to the former position or a comparable or subordinate position. If such a position is not available, the employee will be dismissed.

Internships/Apprenticeships

- R. Lea County may periodically employ interns/apprentices throughout different times of the year. Interns will be required to sign an agreement that details the hours of work, duration of the expected work, proposed rate of pay, and work assignment and duties. Work assignments may be throughout the county including the municipalities. Internships/apprenticeships will be paid based on the duties performed. Interns/apprentices are not eligible for County benefits. Interns/apprentices are responsible for complying with all policies in this manual as well as any policies of their assigned Department. All attendance and performance records for interns/apprentices will be maintained by the individual Departments.

Recruitment and Selection

3.2 Recruitment and Selection Policy

Recruitment and Posting Procedure

- A. A vacant position may be filled either by a transfer from another county department, a demotion, or by the hiring of a new employee.
- B. Vacancies may be filled from among current county employees after the internal posting of a job notice.
- C. An interdepartmental transfer shall be based on qualifications, experience, and overall suitability for the position. An employee under disciplinary action in their current position is not eligible for an interdepartmental transfer without the approval of the Human Resources Director.
- D. Positions not filled by current county employees will be posted for public advertisement.

Exceptions to Posting

- E. The Human Resources Director may choose not to post a position vacancy. These situations may include:
 - 1. A vacancy filled through the re-assignment of a current employee to another position on a temporary basis.
 - 2. A vacancy filled through the reassignment of an employee in accordance with the Americans with Disabilities Act as amended.
 - 3. An employee transferred into an existing vacancy to best serve the needs of the County.
 - 4. A vacancy filled by the recall of a previously laid off or soon-to-be laid off qualified County employee.
 - 5. A vacancy filled through the disciplinary demotion of an employee.
 - 6. A vacancy in a temporary or other unclassified position.

Applicant Responsibility

- F. Below is the process for submitting of applications:
 - 1. Applications must be submitted online through the County's website (www.leacounty.net) or another approved site.
 - 2. Applicants shall be considered only for positions for which they have applied and/or are qualified.
 - 3. For specific positions, as stated on the position posting, evidence of training, licenses, or certifications shall be submitted either with the application or before the closing date on the announcement.

4. Applications, along with supplemental documentation, are the property of the County and will not be returned to the applicant. Applications are public record and may be released to the media or other requesting parties, except for confidential materials as identified in the New Mexico Inspection of Public Records Act, NMSA 1978 § 14-2-1 *et seq.*
5. Immigration Act Compliance. The applicant is responsible for furnishing proof of identification and right to work in accordance with the Immigration Reform and Control Act of 1986 after an offer of employment has been given.
6. Referral to Department Director. The Human Resources Department or designee will refer applicants who have met the qualifications to the department head for consideration.

Selection of Applicants

- G. The selection of applicants for open positions shall be made based on the following:
 1. Skills
 2. Educational background
 3. Experience
 4. Personal Interview
 5. References
 6. Results of pre-employment examinations, when required
- H. The Department Director reporting to the County Manager shall submit to the Human Resources Department a change of status form recommending any new hire. The change of status form requires final approval by the County Manager. An employee shall not be scheduled to work until a change of status form with all required signatures has been submitted and all other new hire paperwork has been processed.
- I. Employment Reference Checks:
 1. Applicants will be asked to sign an authorization for the County to check references. Only those applicants who sign this written authorization will be considered for employment.
 2. References provided by the applicant may be checked.
- J. Applicant credit records will be checked where job-appropriate, typically regarding financial positions. Applicants will be asked to sign an authorization for the County to check credit records.
- K. Physical Examinations or Other Testing:
 1. Post-offer physical examinations and other testing may be required as identified in job descriptions, within the limits of applicable state and federal law.
 2. These post-offer screening tests will be at the County's expense. Any further testing or treatment recommended to an applicant by any of the testing practitioners will be at the applicant's own expense.

3. Any applicant that accepts employment and their employment is terminated with the County during their probationary period will be responsible for reimbursing the County costs permissible by law of all post-offer screening tests based on the schedule determined in the offer letter.

L. Driving Record, Pre-Screening:

1. A driver's DMV record will be obtained for all applicants considered for all county employment positions. A pattern of careless driving or reckless driving defined as two or more violations within the past five years may disqualify an applicant. A conviction of DWI/DUI in the past five (5) years may disqualify an applicant from employment.

Ineligibility for Hire or Rehire

M. An applicant may be considered ineligible for hire or rehire by Lea County if the applicant has:

1. Made any false statement or deliberate omission on the employment application.
2. Not met the requirements of the position as stated in the job announcement; fails to complete or pass required tests; fails to complete or pass post-offer examinations including physical agility testing, or other requirements as determined by the Human Resources Department.
3. Failed to submit a complete application or missed the established closing date of position.
4. Not met the criteria for insurance or bonding as required by County policy or state law.
5. Been certified by an appropriately licensed professional that the applicant cannot perform the essential function of the position.
6. Been convicted of a felony or a misdemeanor as described NMSA 1978, Section 28-2-1, et seq., as amended or convicted of a felony or infamous crime as defined in NMSA 1978, Section 10-1-3, as amended.
7. Makes a materially false statement, affirmatively or by way of omission.
8. Directly or indirectly obtained information regarding any recruitment examination to which the applicant was not entitled.
9. Participated in the compilation, administration or any part of the selection process in which the applicant is competing.
10. Failed to notify the interview panel that the applicant has familial, personal or romantic relationship with a member of the interview panel.
11. Previously been terminated or resigned prior to being terminated from County employment for a disciplinary reason and determined ineligible for rehire.
12. A record of conviction of a crime involving moral turpitude, the nature of which would affect the applicant's suitability for employment for the position for which the applicant has applied.
13. Failed to appear for a scheduled interview or any other step of the selection process.
14. Directly or indirectly given, paid, offered, solicited or accepted any valuable consideration, or secured or furnished any special or secret information, for the purpose of affecting the rights or prospects of any person with respect to employment in the County.

15. The above list is not exhaustive and does not include all the reasons that would make an applicant ineligible for hire.

N. Ineligibility of Applicants for Deputy Sheriff and Detention Officer:

1. No person under indictment or with pending criminal charges or who is generally known for having a bad character or as a disturber of the peace shall be eligible to serve as a deputy sheriff or detention officer.

Changes in Employment Status

3.3 Changes in Employment Status Policy

Promotion

- A. County employees are encouraged to take advantage of promotional opportunities for which they qualify. Failure to promote is not a grievable action.
- B. The employee shall be placed in the pay grade for the position to which the employee is being promoted at a rate of pay commensurate with education, years of service, and directly related experience when compared to other employees in the same classification.
- C. Employees promoted to a new position shall be subject to a probationary period of twelve (12) months beginning on the date the employee began their new position.

Demotion

- D. An employee may be demoted, either voluntarily or involuntarily by their Department head with concurrence of the County Manager, to a vacant position for which the employee is qualified when:
 - 1. The employee would otherwise be laid off because the employee's position is being abolished due to a lack of funds or lack of work and there are no appropriate vacancies at the same level;
 - 2. The employee does not possess the necessary ability to render satisfactory performance in the position presently held; or
 - 3. The employee voluntarily requests such a demotion.
- E. Demoted employees will receive a reduction in pay. The employee shall be placed in the pay grade for the position to which the employee is being demoted at a rate of pay commensurate with education, years of service and directly related experience when compared to other employees in the new classification.
- F. Only a regular employee demoted due to an inability to render satisfactory performance in the position presently held is entitled to grievance proceedings.
- G. Employees refusing a demotion after the discipline hearing and determination may be disciplined up to and including termination.
- H. Employees demoted to a new position shall be subject to a probationary period of twelve (12) months beginning on the date the employee began their new position.

Transfer

- I. An employee may be transferred by the Department Director with concurrence of Human Resources and the County Manager from one department to another either voluntarily or involuntarily if it is in the best interest of the County.
- J. Transfers may include changes in classification and rate of pay as specified in the Lea County Compensation and Classification Plan, which includes the pay matrix and job description for all positions. The employee may not begin work in the new position until a Change of Status Form with all required signatures has been submitted to payroll through Human Resources.
- K. Employees that do not accept involuntary transfers after due process may be disciplined up to and including termination.
- L. Involuntary transfers that do not involve a demotion or reduction in pay are not grievable.
- M. Employees requesting a transfer to another department must submit a written request to Human Resources. Only requests for currently open positions will be considered. Human Resources will contact both the current Department Head and the department Head of requested department regarding the transfer. The Department Head of requested department may require an interview with employee before transfer is granted. Both department Heads must authorize the employee's request for transfer and timing of transfer.
- N. Employees requesting a transfer must meet the qualifications of the job description of position requested.
- O. Requested transfers may be denied by Human Resources due to staffing levels, timing, budget, qualifications, or other reasons that do not support a transfer.
- P. Employees transferred to a new position shall be subject to a probationary period of twelve (12) months beginning on the date the employee began their new position.

Resignation

- Q. An employee voluntarily resigning shall submit, in writing, a two week notice of resignation. Failure to provide a written two week notice of resignation may be grounds for refusal of future employment with the County.
- R. If an employee chooses to rescind their resignation, Human Resources may refuse to accept the employee's rescinded resignation.
- S. An unauthorized absence from work for a period of three consecutive, regularly scheduled working days shall be considered a voluntary resignation.

Reduction in Force

- T. At the recommendation of the County Manager, should it become necessary for the County to reduce the number of County employees because of the lack of availability or appropriation of funds, the County Commission shall make the determination of the necessity for layoffs.
- U. The reduction will occur in the following manner, and shall be approved by the County Commission. Reductions in force are not grievable.
- V. Probationary employees will be laid off before full or part-time regular employees unless they are filling positions that require specific skills and knowledge.
- W. Lay-off of regular employees shall be determined by department head, with concurrence of the County Manager, based on the employee's suitability for the remaining jobs.
- X. Employees to be laid off may be notified at any time during a pay period and may be allowed to work through the end of that regular pay period or receive pay to the end of that period.
- Y. Accrued annual leave shall be paid on the next regular payday.
- Z. A laid-off employee must reapply to be considered for future employment.
- AA. A laid-off full-time regular employee returning to County employment within six (6) months of lay-off will not serve a probationary period if hired to the same position.
- AB. Employees that had previously been laid-off will be recalled on a seniority basis by department when positions become available.

Dismissal

- AC. Department Directors, with the written concurrence of the County Manager in consultation with Human Resources, shall have the authority to dismiss regular employees subject to the provisions of the Lea County Personnel Ordinance and Human Resources Policies and Procedures.
- AD. Appointed employees serve at the discretion of the official under whom they are employed and may be dismissed with or without cause.
- AE. All dismissals, except unclassified positions within elected official's departments, must be approved in writing by the County Manager before any action is taken.

Conditions of Employment

3.4 Conditions of Employment Policy

Residency

- A. The County Manager, Department Heads and at-will employees shall be residents of Lea County at the time of hire or must establish residence in Lea County within 180 days of hire, and maintain such residency for the duration of employment.
- B. Regular, full-time employees may live outside of Lea County but are expected to adhere to their assigned work schedule.

Nepotism

- C. No elected official or appointed official shall give employment as clerk, deputy, or assistant or other class of departmental employee whose compensation is to paid out of public funds and is six hundred (\$600) dollars or more per year, to any person related by blood or marriage within the third degree to the person giving such employment. NMSA 1978, Section 10-1-10, as amended. Any exceptions to this rule must be approved by the County Commission prior to employment.
- D. Employees, related by blood, marriage, adoption, or domestic partnerships within the third degree, shall not work in the same department when there is a supervisory relationship between them. Any problems arising from such a situation, including but not limited to new hires, transfers, and proposed promotions, should be referred to Human Resources for review.
- E. The term supervisor/subordinate relationship applies at any level in the same line of authority.
- F. Employees who become related within the third degree after employment with the County shall inform the Human Resources Department within two work days of the event making them such. Failure to inform Human Resources may result in discipline up to and including termination.
- G. In the event an employee becomes related within the third degree, attempts will be made to find a suitable vacant position to which one of the employees will be transferred provided the employee is qualified for that position. If no suitable vacancies exist, the employees involved will be permitted to determine which of them will resign. If the employees cannot decide, the County Manager will have discretion to decide which employee will remain employed.

Personal Relationships

- H. Lea County prohibits romantic or sexual relationships between a manager or other supervisory employee and an employee who reports directly or indirectly to that person, because such relationships tend to create compromising conflicts of interest or the appearance of such conflicts. In addition, such a relationship may give rise to the perception by others that there is

favoritism or bias in employment decisions affecting the staff employee. Moreover, given the uneven balance of power within such relationships, consent by the staff member is suspect and may be viewed by others, or at a later date by the staff member, as having been given as the result of coercion or intimidation. The atmosphere created by such appearances of bias, favoritism, intimidation, coercion, or exploitation undermines the spirit of trust and mutual respect that is essential to a healthy work environment. If there is such a relationship, the parties need to be aware that one or both may be moved to a different department or other actions may be taken including termination.

- I. If any employee of Lea County enters into a consensual relationship that is romantic or sexual in nature with an employee who reports directly or indirectly to that employee, or if one of the parties is in a supervisory capacity in the same department in which the other party works, the parties must notify Human Resources. Because of potential issues regarding quid pro quo harassment, Lea County has made reporting mandatory. This requirement does not apply to employees who do not work in the same department or to parties where neither one supervises or otherwise manages responsibilities over the other.
- J. Once the relationship is made known to Lea County, the County will review the situation with Human Resources in light of all the facts (reporting relationship between the parties, effect on co-workers, job titles of the parties, etc.) and will determine whether one or both parties need to be moved to another job or department.

Conflicts

- K. No employee shall engage in any business or transaction or accept private employment or other public employment that is incompatible with the proper discharge of the employee's responsibilities as a Lea County employee.
- L. All employees shall immediately report, in writing, outside employment through their department heads with notification to the Human Resources Director. Outside employment status shall be updated annually in January.
- M. The County Manager may disapprove any outside employment by any employee that is determined to be in conflict with County operations. The County Manager will submit, in writing, any objection to outside employment to Human Resources. The determination by the County Manager cannot be grieved.

Performance Evaluation

- N. The Department Director will discuss performance with a probationary employee during the probationary period, and a written performance evaluation will be done at the end of the probationary period.

- O. The probationary employee's performance must be Satisfactory or above at the end of the probationary period before the employee can become a regular employee entitled to all of the rights and benefits of that status.
- P. If a probationary employee does not have a satisfactory or above evaluation after the probationary period then the employee will be dismissed from employment.
- Q. Regular employee evaluations will be conducted semi-annually.
- R. Employees may also be evaluated upon the following conditions:
 - 1. A change of status
 - 2. Recommendation of any type of salary increase, including merit increases if available
 - 3. Demotion or suspension
 - 4. Any other time that a Department Director wishes to make the performance of an employee a matter of record
- S. A performance evaluation shall be completed on a form provided by the Human Resources Department. The evaluation should include an overall appraisal of the employee's performance. A narrative summary of the employee's performance is encouraged.
- T. The employee may submit a written rebuttal to any performance evaluation that will be attached to and become a part of the performance evaluation. The rebuttal shall be submitted within ten (10) days of the evaluation. Performance evaluations are not grievable.
- U. In the event a regular employee receives an overall evaluation of Needs Improvement or Unsatisfactory, the employee shall be provided with written information in the evaluation covering specific areas of deficient performance and steps for improvement.

Prohibited Political Activities

- V. All employees are prohibited from the following:
 - 1. Using official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office, or for any other political purpose.
 - 2. Directly or indirectly coercing, attempting to coerce, commanding or advising a county officer or employee to pay, lend, or contribute anything of value to a party, committee, organization, agency or person for a political purpose.
 - 3. Threatening to deny or denying promotion to any employee who does not vote for certain candidates, requiring employees to contribute part of their pay to a political fund, influencing subordinate employees to buy tickets to political fund-raising events and similar events, or advising employees to take part in political activity and matters of a similar nature.
 - 4. Engaging in political activity, wearing or displaying campaign material, or campaigning on County property, in a County vehicle or using County resources for the same.

5. Attending partisan political functions in a County vehicle or County uniform, unless the attendee is there in their official capacity.

Electronic Equipment and Communications

3.5 Electronic Equipment and Communications Property Policy

Policy

- A. County-owned electronic communications equipment – including, but not limited to, computers, telephones, voice mail, e-mail, tablets and Internet access systems – are County property as are their contents.
- B. It is the employee's responsibility to keep the County provided electronic equipment free from damage and/or destruction. Should an employee's electronic equipment become damaged or destroyed and require repairs or replacement due to the employee's negligence, the employee shall be held responsible consistent with the preventable incident policy.
- C. The use of all County owned electronic equipment is intended for County business purposes.
- D. The County reserves the right to intercept, monitor, review and download any communications or files created or maintained on these systems.
- E. Use of electronic equipment and communications is held to the same standard as any other business communication, including compliance with anti-discrimination and anti-harassment policies.
- F. The County will make efforts to increase overall network security and prevent unauthorized data access by updating its password policy from time to time.
- G. The County will maintain email correspondence for all County Employees for up to four (4) years.
- H. If an employee uses a personal electronic device for County business, there is a limited expectation of privacy.
- I. Supplemental rules or policies may be promulgated covering electronic equipment and communications equipment.

Dress and Appearance

3.6 County Dress, Appearance, and Grooming Policy

Policy

- A. Lea County strives to maintain a workplace environment that functions well and is free from unnecessary distractions and annoyances. As part of that effort, the County requires employees to maintain a neat and clean appearance that is appropriate for the workplace setting and for the work being performed. Employees should always be clean and neatly dressed in clothing suitable for their work assignments. In general, the dress code for the County is business casual.
- B. All employees are expected to present a professional, businesslike image to clients, visitors, customers, and the general public. Acceptable personal appearance, like proper maintenance of work areas, is an ongoing requirement of Lea County.
- C. Department Heads shall be responsible for the administration of the guidelines for this policy. Department Heads should communicate any department-specific workplace attire, which may include uniforms, and grooming guidelines to employees. Any questions about the department's guidelines for attire should be discussed with the employee's supervisor or department head.
- D. Any employee who does not meet the attire or grooming standards will be subject to corrective action and may be asked to leave the premises to change clothing. Hourly employees will not be compensated for any work time missed because of failure to comply with designated workplace attire and grooming standards.
- E. Certain employees may be required to meet special dress, grooming and hygiene standards, such as wearing uniforms or protective clothing, depending on the nature of their job. Uniforms and protective clothing may be required for certain positions and will be provided to employees.
- F. Lea County recognizes the importance of individually held religious beliefs to persons within its workforce. Lea County will reasonably accommodate an employee's religious beliefs in terms of workplace attire unless the accommodation creates an undue hardship or safety issue. Those employees requesting accommodation based on religious beliefs should contact the Human Resources department.
- G. Lea County may make a reasonable accommodation to this policy for a person with a qualified disability. Those employees requesting accommodation based on a disability should contact the Human Resources department.
- H. Violations of this policy can range from inappropriate clothing items to offensive perfumes and body odor. If an employee's poor hygiene or use of too much perfume/cologne is an issue, the supervisor should discuss the problem with the employee in private and should point out the

specific areas to be corrected. If the behavior persists, supervisors should follow the normal corrective action process.

County Property

3.7 County Property Policy

Use of Property

- A. Employees shall not misuse County property, records, or other materials in their care, control, or custody; nor shall any County property, records, or other material be removed from the premises of the County offices unless permission has been given by the employee's supervisor or department head.
- B. Employees shall not have an expectation of privacy related to County property. The County can access and/or inspect the use of property at any time.

Return of Property

- C. At the time that an employee resigns or is involuntarily dismissed, the employee shall return all County property to the appropriate Department Director, including but not limited to:
 - 1. Keys
 - 2. Vehicles
 - 3. Supplies
 - 4. Equipment
 - 5. Uniforms
- D. All cell phones, tablets, laptops and any other portable electronic equipment assigned to the exiting employee will be turned into IT for cleaning, inspection and re-issue back to the assigned department.

Failure to Return

- E. Employees that fail to return allocated County property may be required to reimburse the County the current value of the missing property. This amount can be deducted from the employee's final paycheck.

Personal Business

3.8 Personal Business While at Work Policy

Policy

- A. Personal business shall not be conducted during work hours except during an employee's approved break time or lunch time.
- B. The Department Head may approve an employee conducting personal business in the case of a medical or family emergency.
- C. Abuse of this policy may result in progressive discipline, up to and including termination.

Personnel Files

3.9 Employee Personnel Files Policy

Policy

- A. The County keeps certain records about each employee's employment in a personnel file. The documents contained within that file are the property of the County and must be maintained for government and County record keeping purposes. Some employment records are kept in separate files, such as records about:
 - 1. Medical conditions and leave
 - 2. Investigations
 - 3. Worker's Compensation injuries and illnesses
 - 4. Benefit information
 - 5. I-9 requirements
- B. All files connected with an employee are considered confidential, and access is limited to those who have a job-related need to know and who have been authorized to see the file and as permitted by law.

Employee Access

- C. Current employees may ask the Human Resources department to inspect their personnel file. This inspection is to be supervised by the Human Resources department. No documents may be removed from the file.

Former Employees

- D. Former employees may not have access to, or copies of, the former employee's personnel file unless required by law.

Legal and Third-Party Requests

- E. Employees must forward any legal or third-party request for personnel files to the Legal department. The County reserves the right to request a subpoena and employee authorization before releasing any personnel documents to third parties.

Record Retention

- F. The employee's personnel file is maintained in County archives in accordance with the County's Records Retention Schedule.

Discipline and Grievance Procedures

Employee Discipline

4.1 County Employee Discipline Policy

Policy

- A. Disciplinary actions for regular full- and part-time employees are based on a showing of just cause.
- B. Disciplinary actions will be consistent with governing laws and regulations and will be taken without regard to race, age, religion, color, national origin, ancestry, sex, physical or mental disability or medical condition.
- C. No employee will be disciplined for refusing to perform an unlawful act.

Disciplinary Action

- D. Any Department Director may take disciplinary action against an employee under the Department Director's inherent authority, consistent with departmental policies and Human Resources Policies and Procedures.
- E. Originals of any documented disciplinary action must be furnished within five (5) working days to Human Resources for placement in the employee's personnel file with the signature of the recipient acknowledging receipt of the action.

Consultation & Concurrence

- F. Dismissal, involuntary demotion, and suspension without pay require consultation with and concurrence of the County Manager before the employee is notified of the proposed action.

Counseling Session

- G. The purpose of counseling is to provide guidance and direction to personnel in an attempt to make corrections to behaviors or actions that, if repeated or unchanged, could lead to disciplinary action. A counseling session will not therefore be viewed as a disciplinary action. A supervisor taking disciplinary action in the future, however, will consider any previous counseling session for the same or similar type of behavior or action. A written notation of a counseling session should be made by the supervisor and initialed or signed at the time by the supervisor and the employee. That notation should be kept in the employee's personnel file maintained in the Human Resources Department.

Performance

- H. The County recognizes that performance issues can often be resolved before they become disciplinary issues. Supervisors are encouraged to discuss performance issues with their employees as they occur and to develop a performance improvement plan for those issues. These issues may include but are not limited to attendance and tardiness, appearance, safety, and other forms of employee conduct and performance.

- I. The supervisor should take the following steps to make the employee aware of the performance problem and to initiate corrective action.
 1. Document the performance issue and expectations in the Performance Improvement Form addressed to the employee
 2. Meet with the employee to review the performance improvement plan. Explain the concerns clearly to ensure that the employee understands the performance problem and the expectations.
 3. Listen to the employee's explanation of the situation and determine whether there are mitigating circumstances.
 4. Develop a Performance Improvement Plan that outlines how the employee will improve their behavior/performance and how the supervisor will observe and determine that the change has taken place. Establish a time frame in which the changes should take place and monitor progress
 5. If an employee does not progress in a satisfactory manner or meet the established time frame, the supervisor shall contact Human Resources to consult regarding the next steps
 6. This process is not required before disciplinary action is initiated. There are employee issues that should immediately be addressed with disciplinary action
 7. The Department Director or appropriate supervisor may choose to use the Performance Improvement Plan in addition to or in lieu of the progressive disciplinary action as set forth below

Progressive Discipline

- J. The continued employment of any individual by the County depends on acceptable conduct and satisfactory work performance. Failure to meet standards of conduct and work performance is sufficient grounds for progressive disciplinary action up to and including termination.
- K. Each case of inadequate performance or act of misconduct shall be evaluated individually. The step of corrective action used depends on the severity of the infraction and the employee's previous work record.
- L. Progressive discipline involves the following actions listed below. Because of the serious nature of some infractions, the first disciplinary action may be dismissal.
 1. Verbal Reprimand:
 - a. A verbal reprimand informing the employee that their actions, behavior or conduct needs to change is used for minor infractions. The supervisor will verbally notify the employee that an official warning is being given for violation of work rules, policies or procedures.

- b. Supervisors will keep written notations of verbal reprimands, and a statement that verbal counseling took place will be placed in the employee's personnel file maintained in the Human Resources Department.
 - c. A verbal reprimand is not grievable.
- 2. Written Reprimand:
 - a. An employee shall receive a written reprimand when the deficiency or infraction is of a greater degree than that for which a verbal reprimand may be used or if a verbal reminder was not effective.
 - b. A written reprimand will be discussed with the employee by a supervisor and approved by the Department Director. The reprimand will briefly describe the offense, behavior or performance issue and the corrective action. The employee will be asked to sign the reprimand to acknowledge its receipt. The employee may respond by submitting a written rebuttal which shall be placed in the employees personnel file. If the employee refuses to sign the reprimand, the Department Director and supervisor shall note the employee's refusal to sign. A copy of the reprimand will be placed in the employee's personnel file maintained in the Human Resources Department.
 - c. The placement of a written reprimand in an employee's file is not grievable.
- 3. Suspension:
 - a. The Department Director may recommend to the County Manager to suspend a regular employee without pay from the employee's position at any time for a disciplinary purpose. Suspension without pay shall not exceed thirty (30) calendar days. The recommendation or determination for the suspension without pay shall be documented in a Notice to Suspend, Demote or Terminate and presented to the employee. The employee shall sign to acknowledge receipt of the notice. If the employee refuses to sign the notice, the Department Director shall note the employee's refusal to sign on the notice. If the employee is not available to receive in person, the notice shall be mailed to the employee's last address of record noted in the Human Resources Department. A copy of the notice shall be placed in the employee's personnel file maintained in the Human Resources Department. A pre-determination hearing shall be held in advance of a suspension without pay if a hearing is requested. FLSA exempt employees may be suspended for a week plus additional full working days for serious infractions of workplace conduct rules or for infractions of safety rules of major significance.
 - b. Suspension of a regular employee is subject to the formal grievance procedures.
- 4. Involuntary Demotion:
 - a. An employee may be demoted to a lesser position for which the employee is otherwise qualified for an offense of a more serious nature or for repetition of a minor offense. When demoted, the employee will receive a decrease in

compensation commensurate with the new position. Each demotion will be recorded and filed in the employee's personnel file maintained in the Human Resources Department.

- b. The demotion of a regular employee is subject to formal grievance procedures.
5. Dismissal:
- a. Dismissal is appropriate when the employee has engaged in behavior that is of a serious nature which is unacceptable for County employees, even though the employee has not been previously disciplined. Dismissal may also be the final consequence when progressive discipline has failed to change unacceptable behavior or performance.
 - b. The dismissal of a regular employee is subject to the formal grievance procedure.

Just Cause

- M. Classified employees shall not be subject to corrective/disciplinary action without just cause. Just cause is described as any conduct, action, or inaction arising from, connected with, or impacting on the employee's work, whether on or off duty, that is inconsistent with the employee's obligations to the employer; or conduct reflecting a disregard of the employer's interests, policies or procedures. Just cause includes but is not limited to inefficiency, unacceptable performance, incompetence, misconduct, negligence, insubordination, or conviction of a felony or misdemeanor under the provisions of the Criminal Offender Employment Act (Section 282-1, et. Seq., NMSA 1978). Just cause may include actions or omissions that bring discredit on the County.
- N. The grounds for Disciplinary Action include, but are not limited to, the following:
- 1. Classified employees or term employees, if the probationary period has been served, may only be suspended, demoted, or dismissed for just cause which is any behavior relating to the employee's work that is inconsistent with the employee's obligation to the County. Just cause includes, but is not limited to, the following:
 - a. Negligent or Inefficient Performance
 - 1. Unsatisfactory or negligent performance of duties
 - 2. Insubordination
 - 3. Continued violation of safety practices
 - 4. Failure to cooperate with fellow employees
 - 5. Failure to adhere to the established work schedule
 - 6. Failure to obtain prior authorization to work overtime
 - 7. Failure to meet or maintain job qualifications, as set forth in the job description, including failure to maintain a valid driver's license
 - 8. Sleeping on duty
 - b. Tardiness/Absenteeism
 - 1. Abuse of sick leave
 - 2. Unauthorized absence from work, including tardiness
 - c. Careless, Negligent or Improper Use of County Property, Equipment or Funds

1. Falsifying official documents or records
 2. Theft or vandalism of County property or funds
 3. Unauthorized use or possession of County property or equipment
 4. Operating a County vehicle or equipment in a negligent, reckless or tortuous manner
 5. Unauthorized disclosure of confidential information from County records, reports, or other data belonging to the County
 6. Unauthorized or fraudulent manipulation of time records or other County records
 7. Operation of County vehicle or equipment while under the influence of a controlled substance or intoxicant
 8. Inappropriate use of IT resources
- d. Improper Conduct
1. On the job conduct toward the public or other employees that causes discredit to the County
 2. Personal conduct which impairs the employee's ability to perform his or her duties or causes discredit to the County
 3. Conduct which impairs and/or disrupts the ability of coworkers to perform their duties or a department to function properly
 4. Conflict of interest which results in personal gain to the employee or detriment to the County
 5. Threatening or harassing an employee, an elected official or anyone doing business with Lea County
 6. Consumption, possession, or distribution of alcohol or controlled substance on the job, or reporting to work under the influence of alcohol or controlled substance
 7. Refusal to participate in a drug/alcohol screening
 8. Accepting a bribe or consideration given with the intent to influence the performance of duty
 9. Use of official position or authority for personal profit or advantage
 10. Bribery or coercion of, or attempting to bribe or coerce an employee or elected official or third party doing business with the County
 11. Influencing, or attempting to influence a hearing officer, other than through established grievance procedures
 12. Failure to cooperate in an investigation
 13. Distribution of literature, vending, soliciting, or collecting contributions while on the job, on County premises, or in a County vehicle, or assisting with the same, without prior authorization of the County Manager
 14. Unauthorized possession of a weapon on the job site
 15. Fighting or other disruptive behavior in the workplace
 16. Gambling during work hours
 17. Loss of certification necessary to an employee's duty position

- e. Violation of any Federal or State Law Including All Civil Rights Statutes
- f. Conviction of a Misdemeanor or Felony
 - 1. Deputy Sheriffs formally indicted or charged for crimes may have their commissions revoked and be dismissed by authority of the Sheriff or re-assigned to a County position not affiliated with the Sheriff's Office or Detention Facility if such a position is available, depending on the seriousness of the alleged offense.
- g. Violation of this Lea County Human Resources Policies and Procedures, department-specific procedures, or a professional code of ethics followed by those in the same profession as the employee.

Conditions or Actions Not Grievable

- O. The following matters are not grievable:
 - 2. Disputes concerning an established County policy
 - 3. Matters where a method of review is mandated by law
 - 4. Matters where the County is without authority to act or does not have the ability to provide a remedy
 - 5. Probationary employees dismissed prior to the expiration of their probationary period
 - 6. Appointed employees dismissed at any point during their employment with the County
 - 7. Performance evaluations, oral reprimands, written reprimands, promotions, transfers, temporary assignments, removal from temporary assignments, and lay-offs.

Formal Discipline Procedure

4.2 Formal Discipline Procedure Policy

Policy

- A. The County shall provide a formal disciplinary procedure for all employees. This formal discipline procedure applies only to the suspension, involuntary demotion, and dismissal of regular employees.

Written Notification

- B. Written notification of intent to suspend, demote or dismiss shall provide the reasons for the proposed action, notice of the employee's right to a pre-disciplinary hearing before the Department Director, and the scheduled time and place of the pre-disciplinary hearing. All notifications of proposed discipline are reviewed and approved by Human Resources.
- C. For the purposes of the disciplinary process, the County will make an effort to hand-deliver any documentation related to the disciplinary process. This documentation may include disciplinary action forms, memoranda, documents, and correspondence. In cases where hand delivery is not practical, the documents will be mailed priority, certified and will be considered served on the first date of attempted delivery by the U.S. Postal Service.
- D. To initiate the suspension, demotion, or dismissal of a classified employee who has completed the probationary period, the employee's supervisor will deliver a Notice of Proposed Disciplinary Action to the employee that describes the basis for the proposed action. A copy of the notice of Proposed Disciplinary action shall be reviewed by the County Manager prior to presenting to the employee. The Notice of Proposed Disciplinary Action will describe the conduct, actions, or omissions that form the basis for the proposed disciplinary action, and give a general explanation of what evidence the County has. The reasons for discipline and the evidence allowed to be presented are not limited to the issues described herein if other violations of policy are discovered and disclosed to the employee prior to the post-disciplinary hearing.

Administrative Leave

- E. The employee's Department Director, with approval of the County Manager, may place an employee on administrative leave pending the outcome of an investigation into alleged misconduct.

Pre-Disciplinary Hearings

- F. Employee's Request for Pre-disciplinary Hearing:
 - 1. Within three (3) business days, (business days are defined as Monday through Friday), of the receipt of the Notice of Proposed Disciplinary Action, the employee is required to notify the Department Director and the Human Resources Director, in writing, whether the employee will participate in the pre-disciplinary hearing.

2. If the employee does not request a pre-disciplinary hearing, the employee is deemed to have waived the employee's right to contest the matter and the Department Head shall issue a Notice of Final Determination to the employee.
 3. The Notice of Final Determination will specify:
 - a. The grounds of the discipline;
 - b. The disciplinary action to be imposed;
 - c. The date the disciplinary action will be effective.
- G. The pre-disciplinary hearing procedure:
1. The hearing shall be informal and will normally be conducted with the Department Director as the hearing officer. The technical rules of evidence and court procedure shall not apply.
 2. The employee shall represent themselves, but may have a representative attend the hearing, as an observer. The observer may not participate in or obstruct the hearing process. In the event the observer is disruptive to the proceedings, the hearing officer may remove them from the hearing.
 3. Lea County will record the pre-disciplinary hearing. Recordings will be kept in Human Resources.
- H. The pre-disciplinary hearing decision:
1. Following the pre-disciplinary hearing, within five (5) business days the Department Director shall discuss the proposed Notice of Final Determination with the Human Resources Director. The proposed Notice of Final Determination shall include the time, date, and location of the hearing, persons present, and the final determination. The Determination can either be mailed or emailed to the employee. A mailed determination will be post-marked within ten (10) business days of the pre-disciplinary hearing.
 2. The Determination shall specify whether the proposed disciplinary action has been upheld, modified or overturned. It shall also describe the conduct that as of the date of the pre-disciplinary hearing forms the basis for the disciplinary action and shall specify when the disciplinary action will be effective.

Post-Disciplinary Hearings

- I. The employee's responsibility for Notice of Appeal:
1. Within five (5) business days of receipt of the Notice of Final Determination, the employee must give written notice to the Human Resources Director of the employee's intent to pursue a post-disciplinary hearing.
- J. Post-disciplinary Hearing:
1. At the hearing before a neutral hearing officer, the grievant will have an opportunity to present witnesses and other evidence and cross-examine the County's witnesses.

2. The grievant and the County may be represented by legal counsel. All attorneys representing a party shall file an Entry of Appearance with the Human Resources Director prior to the day of the hearing.

K. Appointment of Hearing Officer:

1. Within five (5) business days, or as soon as possible, of receipt of the notice of appeal, the Human Resources Director will provide the grievant a list of three (3) proposed hearing officers.
2. Within three (3) business days of receipt of the list of proposed hearing officers, the grievant will notify the County Manager or designee of the acceptance of one officer from the proposed list.
3. If the grievant does not accept an officer from the proposed list within the time limit, the Human Resources Director shall designate one from the list.

L. Hearing Officer Qualifications:

1. The hearing officer shall be a personnel professional, be familiar with public or private personnel systems, or have pertinent experience in the fields of management, education or law.
2. The hearing officer represents neither the County nor the grievant, but serves as an unbiased party.
3. The hearing officer is not required to be resident of Lea County.

Post-Disciplinary Hearing Procedures

M. Scheduling of Hearing:

1. The hearing officer will determine the date and time of the post-disciplinary hearing.
2. The hearing officer will attempt to schedule the hearing within fifteen (15) business days of the receipt appointment but may schedule the hearing for a later date if necessary for the availability of the parties, counsel, witnesses, or for other good cause.
3. A request for continuances of hearings should be made in writing, with copies to all parties, no less than five days prior to the scheduled hearing. The request shall include proposed alternate dates.
4. The following persons are required to be present at all post-disciplinary hearings unless otherwise excused by the hearing officer or by agreement of the parties: the employee, the employee's representative (if any), the department's designated representative, and the County Attorney.
5. The hearing officer may at the request of a party exclude witnesses from the hearing prior to their testimony.
6. The County will record the hearing digitally.

N. Conduct of Hearings:

1. The County carries the burden of proof by a preponderance of the evidence.
2. Order of Presentation:

- a. Opening statements
- b. County witnesses and evidence
- c. Employee's witnesses and evidence
- d. At the conclusion of each witness' testimony, the other party may cross examine the witness. The hearing officer may also ask questions of witnesses.
- e. County's rebuttal evidence
- f. Closing statements

O. Rules of Evidence and Procedure:

1. The technical rules of evidence shall not apply; the hearing officer may require reasonable substantiation of statements or records tendered.
2. The rules of civil procedure shall not apply; however, the hearing shall be conducted so that both complaints and defenses are amply and fairly presented. To this end, the hearing officer may hear arguments, permit discovery, entertain and dispose of motions, as the circumstances justify and render a decision in accordance with the law and the evidence presented and admitted.

P. Communication of Findings and Decision:

1. The hearing officer's findings of fact, conclusions of law, and recommendations for discipline will be issued within fifteen (15) business days of the hearing to the employee and Human Resources Director. The hearing officer may request at the end of the hearing that the parties provide proposed findings of fact and conclusions of law.
2. The hearing officer may recommend upholding, modifying, or reversing the discipline set forth in the Determination, and may recommend any disciplinary action authorized under this ordinance including reinstating a dismissed employee and awarding back pay and benefits.
3. The record of the proceedings will be retained by the Human Resources Department or the certified court reporter for a period of not less than one (1) year from the hearing date, along with all of the physical evidence admitted by the hearing officer. The party requesting a transcription shall make arrangements to pay for the transcription.
4. The County Manager will consider the report, findings, conclusion and recommendations of the hearing officer and may uphold, modify or reverse the recommendation of the hearing officer.
5. The County Manager shall issue a written final decision, which will include a statement of the factual and legal basis for the decision, within five (5) business days of the date the hearing officer's report is issued. The decision shall be filed in the employee's personnel file, and a copy of the written decision shall be sent to the employee by certified mail.

Grievance Procedure

4.3 Grievance Procedure Policy

Policy

- A. The County provides a formal grievance procedure for grieving work conditions, discrimination, and other work relate problems.

Procedure

- B. With respect to those conditions of employment about which an employee wishes to grieve, the employee shall initially discuss the problem with their immediate supervisor and Department Director in an attempt to work out a solution.
- C. If the employee is not satisfied with the proposed solution, the employee may address the problem to the Human Resources Director whose decision, after consultation with the County Manager, shall be final.
- D. Written complaints regarding alleged discrimination based on race, color, religion, sex, age, national origin, physical or mental disability, medical condition or any other legally protected class should be brought to the attention of the Human Resources Director within 14 days of the grievable act for prompt investigation and resolution.
- E. Human Resources will follow the Complaint Procedure as outlined in 2.4 Anti-harassment Policy.

Compensation & Benefits

Work Schedules

5.1 Work Schedule Policy

Hours of Work

- A. Employees will work their scheduled hours pursuant to work schedules established by their Department Directors, subject to review by the County Manager.
- B. The Lea County work week is defined as 12:01am Sunday through midnight Saturday. County departments may have another defined work week. Each department must notify Human Resources of their scheduled work week.
- C. Employees will be paid for travel time from home to any work site within Lea County or from the work site to home only when they are called out for duty above and beyond their scheduled hours of work or when their duty begins and ends at home rather than at another designated work site.

Alternative Work Schedules

- D. The option to establish alternative work schedules will be administered by Department Directors where feasible and within the following guidelines:
 - 1. Department Directors must establish core periods of work during which maximum staffing is required. Once core periods have been established, employees have the option to request alternative schedules built around the core period. Employees may be asked to work before and/or after the set core period should the work load determine the additional time.
 - 2. Alternative schedules must add up to forty (40) hours per week for regular full-time employees, or to the hours per work period defined in Section 207(k) of the Fair Labors Standards Act, where applicable. An alternative work schedule is a regular, weekly schedule that is based on other than the normal working hours for the position or department.
 - 3. Employees and Department Directors are expected to establish a regular agreed upon work schedule that can be maintained for a period of weeks or months. Working a different schedule every day at the employee's own discretion is not permitted.
 - 4. In those departments where alternative scheduling is feasible, participation is voluntary. There are circumstances – such as shift work and the required presence of employees who are the sole providers of their given service – where alternative scheduling is not feasible.
 - 5. Employees with documented performance problems or with documented patterns of absenteeism and tardiness will not be eligible for alternative scheduling unless they can show that the absenteeism or tardiness would be eliminated by an alternative schedule.

6. The option to work an alternative schedule is a privilege, not a right, and can be withdrawn at any time because of business necessity, diminished performance or abuse of the privilege.
7. The chief responsibility of county employees is to provide service to the public. Therefore, alternative scheduling will not be used as a means of avoiding contact with the public or avoiding supervision.

Breaks

- E. Breaks and lunch periods shall be set by the Department Directors. Breaks may be limited or delayed if continuous work is required because of an emergency, unusual conditions, or abuse of breaks.

Pay Periods

- F. Employees shall be paid every two weeks or as required by law. Pay days shall be determined by the County Commission.

Overtime Pay

- G. Overtime pay shall be paid to FLSA non-exempt employees only when overtime work is authorized by the Department Directors. Employees working overtime without proper authorization will be paid their overtime worked but will be subject to disciplinary action up to and including termination.
- H. The rate shall be one and one-half (1.5) times regular pay for each hour of overtime actually worked. Time served on Jury Duty shall be considered hours worked. Holiday, vacation, sick and other leave hours shall not be considered work hours in calculating overtime.
- I. Exempt employees shall not receive overtime pay.

Compensatory Time

- J. Due to the difficulties of record keeping, the use of compensatory time is strongly discouraged. However, if used, such use is subject to the following criteria:
 1. A non-exempt employee may, at the discretion of the Department Director and with the employee's agreement, accrue compensatory time in lieu of overtime payment at the rate of one and one-half (1.5) hours of time for each hour of overtime worked over the actual work hours as specified above. Overtime hours worked and compensatory time hours accrue and taken off shall be recorded for each non-exempt employee and submitted to the Department Director each pay period on approved forms. Compensatory time accrued must be used within two pay periods of accrual.
 2. Law enforcement and detention officers will not receive overtime pay or accrue compensatory time until they have worked the number of regular hours allowed under

the exemption contained in Section 207(k) of the Fair Labor Standards Act (29 C.F.R. Part 553).

Final Pay Check

- K. An employee who resigns shall receive a final pay check on the first regularly scheduled payday following the employee's effective date of resignation.
- L. An employee who is dismissed shall receive a final pay check on the first regular payday following their dismissal or as required by law.
- M. In case of death, final salary and compensation for unused annual leave shall be paid to the employee's named beneficiary, or if unnamed, to the employee's estate, on the next regularly scheduled payday.
- N. An employee leaving county employment shall receive compensation for accrued vacation leave up to a maximum of two hundred forty (240) hours or as stated in an employee contract.
- O. A Probationary employee leaving the county will be required to reimburse the county for pre-employment expenses according to applicable laws.

Time Clocks

5.2 Time Clock Policy

Policy

- A. Lea County uses an electronic time tracking system to capture and record all employee time records. The electronic time tracking system allows the County to accurately record, track, and report employee information in real time. This allows employees to accurately monitor and keep track of their time and enables the County to efficiently process employee time worked and leave taken for payroll purposes.

Official Time

- B. The electronic time keeping system is the official timekeeping software for all non-exempt employees. In order to ensure consistency of treatment for hourly paid employees, the date recorded in the system shall be considered as the official record of the workday for the County. Any disputes over actual hours worked or attendance will be resolved by referring the timekeeping records.

Time Reports

- C. The Fair Labor Standards Act (FLSA) requires that employers keep detailed records on time and payments for all employees. The electronic timekeeping system is used to record all hours worked for non-exempt personnel.

Employee ID Number

- D. Every County employee is assigned an employee ID number upon hire. Employees are responsible for knowing their ID number and protecting it from unauthorized use. The ID number can be used to clock in at the time clock location and to view time worked.

Clock Locations

- E. Time clocks are located throughout the County at every county facility.

Daily Requirements

- F. It is a requirement that all non-exempt employees must “clock in” and “clock out” at the start of their shift, during lunch breaks, and at the end of their shift.
- G. Exempt employees are required to clock in for each day worked.
- H. Non-exempt employees are expected to clock in and out at their regularly scheduled times.

Viewing Hours Worked

- I. Employees can view their hours worked from any clock in the County.

Falsification, Tampering, and Unauthorized Viewing

- J. The following infractions are prohibited and will be considered severe. Due to the severity of these infractions, employees may be subject to immediate discipline up to and including termination.
1. Any attempt to tamper with timekeeping hardware or software
 2. Clocking in or out for another employee
 3. Interference with another employee's use of the time clock system
 4. Unauthorized viewing of another employee's time in the time clock system

Clock Problems

- K. If an employee is unable to clock in or out because of a time clock malfunction, accidental oversight, or other reason, it is the employee's responsibility to immediately inform their supervisor of the problem.

Lunches

- L. All non-exempt employees are entitled and expected to take a lunch period each day of at least thirty (30) minutes.
- M. The lunch period is considered unpaid time and employees must clock in and out.
- N. Due to the nature of some county positions, exceptions to the lunch period may be made with the approval of the employee's supervisor.

Breaks

- O. The Fair Labor Standards Act (FLSA) does not require breaks or meal periods be given to workers. Non-exempt employees are allowed paid breaks during their shift as defined by their work schedule and their supervisor.

Unreported Hours

- P. The FLSA does not permit an employer to benefit from the work of an employee without compensating them for such work. Therefore, all hours worked must be reported using the timekeeping system. Any time spent working while not clocked in is strictly prohibited. Employees that under report of rail to report hours worked are subject to discipline up to and including termination.

Disputes

- Q. In the event an employee has a dispute over time that was clocked in or out, they should bring it to the attention of their supervisor immediately. The electronic timekeeping system provides a log to assist in validating times. Any dispute that cannot be resolved using the logs should immediately be reported to the Human Resources Department.

Holidays

- R. Employees who are eligible for paid holidays will have those days automatically entered into the timekeeping system by the Payroll Department.

Overtime

- S. Unauthorized overtime is prohibited. Any time worked by an employee that exceeds the employees budgeted position hours must be approved by the employee's supervisor prior to the time being worked.

Gratuities

5.3 Acceptance of Gifts Policy

Policy

- A. All employees are prohibited from accepting gifts valued over \$20.00 or other considerations given with the intent of modifying the employee's performance of duties or encouraging the employees to make purchases from the vendor involved.
- B. Employees must maintain the highest moral standards and any attempt to influence an employee's performance by a vendor or other person must be reported to the Department Director.

Per Diem and Mileage

5.4 Travel, Per Diem, Mileage, and Reimbursement Policy

Policy

- A. Lea County will reimburse employees for all travel, including local travel, in-state, and out of state, and for obtaining advance payments and reimbursements of expenses incurred in the conduct of County business.
- B. All payments of per diem and mileage allowance to County employees will be made pursuant to State of New Mexico statutes and policies established by the Lea County Commission.
- C. In no event shall any per diem allowances be made for travel by a County employee in connection with the employee's regular job duties within the boundaries of Lea County without the express written consent of the County Manager.
- D. The Director of Finance, under the direction of the County Manager or his designee, shall have the responsibility and authority to ensure that all provisions of the Per-Diem and Mileage Act, regulations of the New Mexico Department of Finance and Administration, and this policy are followed. Contact the Finance Department for the current rates and procedures regarding this policy.

Procurement Procedures

5.5 Procurement Policy

Policy

- A. This Procurement Policy and its procedures apply to elected officials, all departments, agencies, personnel, individuals, or other users authorized to make purchases from public funds budgeted and administered by, or otherwise under the supervision of the Lea County Board of Commissioners.
- B. The procurement function shall be conducted in a manner above reproach, with complete impartiality and without preferential treatments.
- C. The responsibility for administration of the provisions of this Policy shall be under the County Manager.
- D. The Finance Department is designated by the County Manager to fulfill the responsibility and functions of this Policy.
- E. Contact the Finance Department for a copy of the full Policy and its terms, definitions, and procedures.

Public Employees Retirement Association of New Mexico (PERA)

5.6 Public Employees Retirement Association of New Mexico Policy

Policy

- A. Public Employees Retirement Association of New Mexico (PERA) is designed to provide County employees with a retirement income. All County employees, except those who are exempt by statute, are required to join the Public Employees Retirement Association of New Mexico (PERA).
- B. The County currently contributes both the employer portion and a percentage of the employee's portion each pay period to the fund. Contact Human Resources for the current percentages.
- C. Copies of the latest PERA rules and provisions may be obtained in the Human Resources office. The County will adhere to all State regulations for participation.

Insurance

5.7 County Paid Insurance Policy

Policy

- A. The County may offer group insurance for health, life, dental, and vision plans. Insurance plans may be changed at the discretion of the County Commission. Specific benefits of the current policy may be obtained from the Human Resources Department.
- B. County offered insurance coverage begins after four weeks from eligible employee's date of hire. Coverage is effective either the first day of the month or the 16th day of the month dependent on which date comes first after the four-week eligibility period.
- C. The County may pay a portion of the group health-insurance premiums. It is the employee's responsibility to complete and return to the Human Resources Department all necessary forms to initiate insurance coverage within 31 calendar days of date of hire.
- D. The terms of the policies will determine periods of enrollment/disenrollment, and coverage of family members and other persons.
- E. The County will not pay its portion of medical, dental, vision, and/or optional coverages after an employee has applied for, been approved, and exhausted their FMLA coverage. The employee is required to pay the full premium until they return to work. Failure to pay the full premium by the employee may result in cancellation of coverages.

Workers' Compensation

5.8 Employee's Workers' Compensation Coverage Policy

Policy

- A. Employee's injured on the job or suffering from occupational diseases, as defined in the New Mexico Worker's Compensation Statute, shall receive Workers' Compensation benefits as prescribed by law.
- B. The New Mexico County Insurance Authority, of which Lea County is a member, determines whether or not an employee receives workers' compensation benefits on a case-by-case basis.

Injury Leave Pay

- C. An employee injured on the job may use accrued annual or sick leave for each regularly scheduled work day after the injury occurs for all such days not paid by Workers' Compensation. If the employee is on Workers' Compensation time for more than four (4) weeks, and is entitled to compensation for the first seven (7) days and has used accrued annual or sick leave for the first seven (7) days of injury, the Workers' Compensation payments received for all such days shall be paid directly to the County by the Workers' Compensation carrier. In that event, annual or sick leave used by the employee, in lieu of Workers' Compensation, shall be re-credited to the employee upon the County's receipt of the reimbursement by Workers' Compensation after the expiration of the statutory period.

Reporting

- D. All work-related injuries must be reported to the employee's Department Director as soon as possible. A Notice of Accident form must be filed with Human Resources as required by law. The notice shall be signed by the employee and the employee's direct supervisor or Department Director. In addition, the state required workers' compensation forms and/or internal County forms must be filed on the first working day following the day the Department Director receives the employee's Notice of Accident form. All accidents shall be reported, however minor.

Return to Work

- E. An employee shall return to his former position or be reassigned to a comparable position if a physician certifies that the employee can return to work within six (6) months of injury. Other regulations pertaining to return to work may be implemented by the Human Resources Director.

Modified Work

- F. An employee returning from Workers' Compensation disability may return if an appropriate position and/or duties are available and a physician certifies that the employee can return to a modified work schedule.

- G. Light and/or modified duty is defined by a medical professional either as performing the same job as the employee held before the injury or as performing the duties of another position for which the employee is qualified for a specific amount of time during the work day.
- H. The times and conditions of light duty will be limited to 90 days, and with the treating physician's recommendation.

Re-employment

- I. If the County is hiring, a regular full-time employee who has received benefits pursuant to the Workers' Compensation Act and who was unable to return to work during the six (6) month period for which the County shall hold the employee's position open, may apply for his or her pre-injury job. The former employee may also apply for a modified job similar to the pre-injury job, provided that the employee is qualified for that job. The County shall rehire the regular full-time employee provided that the employee's treating health care provider certifies that the employee is fit to carry out the job without significant risk of injury.

Domestic Partner Benefits

5.9 Domestic Partner Benefits Policy

Policy

- A. All County employees who have domestic partners as defined herein, shall be provided group insurance coverage benefits in the same manner provided to legal spouses.
- B. Immediate family for Sick Leave is defined in the County's Sick Leave with Pay Policy. Policies on Bereavement Leave and Nepotism contain specific definitions of immediate family. All other Federal, State and local mandated policies will follow the definitions for each statute.

Definition

- C. The County defines domestic partners as two (2) individuals who are in a mutually exclusive, committed relationship for the last twelve (12) months, who share a primary residence, who are jointly responsible for the common welfare of each other, who share financial obligations and have executed an affidavit of domestic partnership with the Human Resources Department and granted domestic partnership status. There must be an exclusive commitment similar to that of marriage, in which the partners agree to be financially responsible for each other's welfare and share financial obligations.

Criteria

- D. To be recognized as domestic partners by the County, both individuals must meet all of the following criteria, sign an Affidavit of Domestic Partnership form, and submit necessary documentation to the Human Resources Department.
 - 1. Both domestic partners must be unmarried
 - 2. Domestic partners must have been in a mutually exclusive relationship for the last twelve (12) months, intending to do so indefinitely, and must share the same primary residence.
 - 3. Domestic partners must meet the age requirements for marriage in New Mexico and be mentally competent to consent to contract.
 - 4. Domestic partners must not be related by blood to the degree prohibited in legal marriage in the State of New Mexico
 - 5. Domestic partners must be jointly responsible for the common welfare of each other and share financial obligation. An Affidavit of Domestic Partnership Form signed to that effect and proof of three (3) of the following must be submitted to the Human Resources Department:
 - a. Joint mortgage or lease
 - b. Joint ownership of a motor vehicle
 - c. Joint bank account
 - d. Joint credit account
 - e. Domestic partner named as beneficiary of the other's retirement benefits

- f. Domestic partner named as beneficiary of the other's life insurance
 - g. Domestic partner named as primary beneficiary in the other's will
 - h. Domestic partner assigned durable property or health care power of attorney
- 6. Providing false information shall result in disciplinary action, dismissal, and reimbursement of costs involved in providing benefit coverage.

Termination of Domestic Partnership

- E. Individuals granted domestic partnership status must report any change in status that terminates the relationship to the Human Resources Department within thirty-one (31) calendar days, by completing a Termination of Domestic Partnership Form. Upon completion of a Termination of Domestic Partnership Form, the employee would not be eligible to re-enroll a domestic partner until the plan's next open enrollment.

Eligible Dependents

- F. The child of a domestic partnership qualifies as an eligible dependent under the group insurance plans:
 - 1. If either of the domestic partners is the biological parent of the child;
 - 2. If either or both partners are adoptive parents of the child, or
 - 3. If the child has been placed in the domestic partner's household as part of an adoptive placement.

Services and Benefits

- G. Domestic partners and their dependents, as defined within this section, shall be granted all and the same services and benefits as those provided to married spouses and their dependent(s), except where expressly prohibited by law.

Taxable Income

- H. The value of insurance benefits provided to the domestic partner is considered taxable income to the employee by the Internal Revenue Service and is subject to Social Security and Federal and State income tax withholding.

COBRA

5.10 Continuation of Health Insurance Coverage (COBRA) Policy

Policy

- A. The Consolidated Omnibus Budget Reconciliation Act (COBRA) gives workers and their families who lose their health benefits the right to choose to continue group health benefits provided by the County for limited periods of time under certain circumstances such as voluntary or involuntary job loss, reduction in the hours worked, transition between jobs, death, divorce, and other life events.
- B. An employee who separates from County employment for any reason other than for gross misconduct may elect a continuation of coverage in the County's group health/dental/vision plans, along with eligible family members. The employee will be responsible for the payment of the full premium plus an administrative fee for continued coverage.
- C. Contact Human Resources for explanation of coverage and costs for continuation coverage.

Classification and Compensation Plan

5.11 Classification and Compensation Plan Policy

Policy

- A. The County shall establish and maintain the Classification and Compensation Plan covering all employees. The Classification Plan defines and organizes all approved job titles, establishes the approved salary range for each job title, and defines procedures for making salary changes.
- B. The Classification and Compensation Plan will be administered by the Human Resources Department within established guidelines. The Human Resources Department will recommend the Plan and Plan updates to the County Manager who will, as appropriate, recommend them to the Board of County Commissioners.

Philosophy

- C. Lea County believes the total rewards system is a management tool to communicate and reinforce its business strategies, mission, vision, values, operational and financial needs with the goal of motivating employees to meet County objectives. The County's compensation philosophy is the foundation of this system and reflects the following principles:
 - 1. Recognize the value of total compensation, which includes salary and non-salary benefits such as healthcare, annual and sick leave, retirement and employee development.
 - 2. Apply pay practices consistently, fairly and in a transparent manner without regard to race, national origin, religion, age, gender disability or sexual orientation.
 - 3. Grant merit increases based on performance subject to availability of resources.
 - 4. Make pay plans as simple as practical to facilitate understanding.
 - 5. Compensate jobs based on peer market data where the County competes for talent.
 - 6. Evaluate, on a consistent basis, the need for a market study of benchmark classifications to maintain market competitiveness and bring pay ranges into alignment.
 - 7. Encourage continuous job-related employee development at all levels.
 - 8. Recognize individual and team achievement, contribution, and excellence in the form of nominal gifts, meals, certificates, and plaques.

Salary Ranges

- D. Lea County will establish a minimum, midpoint, and maximum rate of pay for each pay range based on a competitive employment salary survey to determine the market average for all classified positions. The minimum rate of pay of each range will be based on the prevailing rate or market average.

Hiring Rate

- E. The hiring rate is the dollar amount, within the salary range assigned to the class, at which a new employee is hired. In most cases, it will be equal to the minimum for the appropriate salary range.

- F. The hiring rate may be set at a point above the minimum when the qualifications and experience of the individual hired significantly exceed the minimum requirements of the position in terms of related education, relevant experience, or both.
 - 1. Criteria to be considered when weighing qualifications and experience include but are not limited to the following:
 - a. University level or post graduate level degrees
 - b. Post-secondary education and training
 - c. Vocational school training
 - d. Experience in the same or related field
 - e. Related certifications
 - 2. Any hiring rate above the minimum must be recommended and justified by the appropriate department head and requires concurrence of the County Manager.

Major Salary Actions

- G. Movement Within Range. Movement within a salary range takes place through merit increases. The Board of Commissioners also reserves the right to mandate other in-range movement at its discretion.
- H. Merit Increases. Merit increases will be available to classified employees who have completed their probationary periods. Merit increases are not an entitlement, but are contingent upon availability of funds and the budgeting of such funds each year by the Board of Commissioners. Merit increases are based on an employee's performance evaluation ranking. Merit increases may go above the maximum amount of a salary range.
- I. Promotion. A promotion occurs when an employee moves into a position with increasing job-related responsibility and a higher salary range.
- J. Demotion. A demotion is the reassignment of an employee to a position in a lower salary class. A demotion may be either voluntary or involuntary, as a result of disciplinary action or business necessity.
- K. Lateral Transfer. A lateral transfer involves reassigning an employee to a position within the same pay grade.

Longevity Incentive

5.12 Longevity Incentive Policy

Policy

- A. Lea County values its employees. As an incentive to attract and retain employees, Lea County will provide a Longevity Incentive based on years of service. Please contact Human Resources for details regarding this policy.

Eligibility

- B. All regular, full-time employees are eligible to receive a longevity incentive. Elected officials, and probationary employees with employment of less than a year are not eligible. Any longevity incentive for contract employees will be defined within their contract.

Professional Development

5.13 Professional Development Reimbursement Policy

Policy

- C. The purpose of this policy is to provide employees with professional development opportunities that increase their skills and enhance their contributions to the County. An employee's work performance is vital to the success of our County. Providing professional development to our employees is an investment in their careers and the County's future.

Eligibility

- D. Full-time regular employees are eligible for reimbursement for education costs that are approved by the County.

Eligible Expenses

- E. It is the employee's responsibility to seek out the courses and other training mediums that will enhance his or her career development and are in line with the County's mission. Professional development can be obtained through attendance at seminars, educational courses or webinars, and degree programs that will assist the employee in performing his or her essential job functions and increase the employee's contribution to the County.
- F. Membership fees to professional organizations, subscriptions for scholarly journals, books and computer-based resources are also included.

Procedure

- G. Employees must request written permission from their immediate supervisor for review and approval to attend and to receive reimbursement for a desired training and/or resource. The request must include applicable course of study, purpose, job relevance, cost, dates, times of coursework and the name of the institution or source of training.

Reimbursement

- H. Upon satisfactory completion of the training and/or coursework, the employee must provide documentation to support completion and payment to receive reimbursement. Receipts for subscriptions, membership dues or other similar expenses should be submitted in a timely manner.
- I. For degree programs, the following criteria applies:
 - 1. Grade A = 100% reimbursement
 - 2. Grade B = 100% reimbursement
 - 3. Grade C = 100% reimbursement
 - 4. Any grade less than C is not eligible for reimbursement.
 - 5. A pass/fail course is 100% reimbursable if passed successfully.

Payback Requirements

- J. As a matter of record, employees accepting the terms of this policy will be required to sign a written agreement to remain with the County for one year from the date of the educational reimbursement. If the employee terminates within that year, the County may deduct from the employee's final paycheck a prorated amount to cover the cost of the approved education.

County Directed Education

- K. County management may recognize that professional development may benefit both the County and the employee. With agreement from the employee, the County may pay 100% of the costs associated for any additional/continued education for the employee.

Time Off and Leaves of Absence

Holidays

6.1 Recognized County Holidays Policy

Policy

- A. The County observes several holidays each year. Holidays are designated by the Board of Commissioners each year. Observed Holidays are:
1. New Year's Day (January 1)
 2. Martin Luther King Jr. Day (third Monday in January)
 3. Presidents Day (third Monday in February)
 4. Good Friday (Friday before Easter)
 5. Memorial Day (last Monday in May)
 6. Juneteenth (June 19)
 7. Independence Day (July 4)
 8. Labor Day (first Monday in September)
 9. Indigenous Peoples' Day (second Monday in October)
 10. Veterans Day (November 11)
 11. Thanksgiving Holiday (1/2 day Wednesday before)
 12. Thanksgiving Holiday (fourth Thursday and Friday in November)
 13. Christmas Holiday (December 25 and either day before or after)
 14. New Year's Eve (December 31)

Weekend Holiday

- B. When a holiday falls on a weekend, it is observed on either the preceding Friday or the following Monday.

Eligibility

- C. Regular, full-time employees are entitled to holiday pay.

Waiting Period

- D. For eligible employees, there is no waiting period following an employee's hire date to receive holiday pay.

Scheduling

- E. In order to receive pay for a designated legal holiday, employees shall be in a work or authorized paid leave status on their scheduled work day immediately preceding and following the holiday, or must have worked on the stated holiday. An employee that is absent without leave on their scheduled work day before or after a holiday will not receive pay for that holiday.
- F. When a holiday falls on an employee's day off, the employee's holiday shall be observed on the following work day, workload permitting as determined by the department head.

- G. If a non-exempt employee is required to work on a holiday, the employee will be permitted another day off at a later time. Every effort will be made to allow the employee to take the accrued holiday within 90 days of its being earned. Holidays not taken within six (6) months of being earned shall be forfeited.

Leave of Absence

- H. When a holiday falls during an employee's annual leave, the day shall be counted as a holiday, not as annual leave.
- I. When a holiday falls during an employee's approved sick leave, the day shall be counted as a holiday, not a day of sick leave.

Pay

- J. At times, it might be necessary for eligible employees to work the County observed holiday. If this occurs, the holiday is paid at straight time, and the hours worked during the holiday are used as hours worked toward the calculation of overtime pay.

Leave of Absence

6.2 Leave of Absence Policy

Policy

- A. The County may grant a leave of absence, with or without pay, during regularly scheduled work hours, determined on a case-by-case basis, taking into consideration factors such as business need, reason for leave, length of service, and length of requested time off. Management reserves the right to deny a leave request.
- B. Absence without approved leave is subject to disciplinary action, up to and including termination.

Administrative Leave With Pay

- C. Administrative leave with pay may be granted pending an administrative investigation or disciplinary action. Administrative leave with pay other than leave related to disciplinary action must be approved by the County Manager.

Leave Without Pay

- D. The County Manager may grant regular employees leave without pay for a period not to exceed six (6) months, when the County Manager deems that such leave without pay is in the best interest of the county.
- E. *Reemployment.* If an employee returns to work after being on leave without pay within three (3) months, the employee may be returned to the same position. If the employee is on leave without pay for more than three (3) months, the County will attempt to return the employee to the same or similar position for which the employee is qualified.
- F. *Use of Leave.* Prior to going on leave without pay, an employee requesting leave without pay shall use all available annual and sick paid time off, except for those going on military leave without pay. If the employee is seeking medical leave without pay, the employee shall first use all available paid leave.
- G. *Benefits.* An employee on approved leave without pay does not accrue leave, nor does the employee receive County benefits (except for employees subject to the benefits provisions of the Family and Medical Leave Act of 1993 or as amended). An employee on approved leave wishing to continue receiving insurance benefits may do so. Employees on unpaid leave will be responsible for timely payment of the total insurance premium.

Annual Leave with Pay

6.3 Annual Leave with Pay Policy

Policy

- A. The County provides annual leave to qualifying employees for rest and recreation. Eligible employees accrue annual leave according to the following schedule:
 - 1. First through fifth years: 3.75 hours per pay period
 - 2. Sixth through tenth years: 4.75 hours per pay period
 - 3. Eleventh through Fifteenth years: 5.75 hours per pay period
 - 4. Sixteenth and following years: 6.75 hours per pay period
- B. Annual leave will not be granted in advance of accrual.

Eligibility

- C. Regular, full-time employees are eligible for annual leave with pay. Casual, temporary, or part-time or term employees do not accrue annual leave.
- D. Employees' accrual rates for pay periods with less than full-time hours will be prorated. For example, an employee with 70 hours in an 80-hour week will only receive 87.5% of their accrual rate ($70/80=.875$).

Accrual

- E. An employee may accumulate no more than 240 hours of accrued annual leave. If annual leave is not taken after an employee accrues 240 hours it will be forfeited on a per pay period basis.
- F. An employee does not accrue annual leave for time worked in excess of forty (40) hour per week.

Waiting Period

- G. A probationary employee, with the exception of a regular employee serving a probationary period following promotion or transfer, shall not be able to use accrued annual leave until completion of six (6) months of employment, except in the case of unusual conditions as determined by the department head with approval of the County Manager. If a probationary employee resigns or is dismissed before completing the probationary period, the employee shall be compensated for accrued annual leave time. The probationary employee will be responsible for repayment of all pre-employment costs as outlined in their offer letter according to applicable laws.

Rehire

- H. An employee who has been separated from the County for any length of time accrues annual leave at the same amount as a new hire.

Scheduling

- I. Annual leave should be requested and approved in advance. Reasonable effort will be made to accommodate the employee's request. Approval will be subject to advance notification and the needs of the department.

Holidays

- J. If a County observed holiday falls during an employee's annual leave, the holiday is paid and is not counted as annual leave.

Separation of Employment

- K. Upon termination from County employment, an employee shall be paid for the employee's unused accrued annual leave up to a maximum of 240 hours determined at the employee's current rate of pay. The ratio of rate of pay to leave hours is determined and budgeted each fiscal year. Details of the ratio is available in the Human Resources office.
- L. An employee may take annual leave before the employee's planned separation from County employment. Employee must submit a written notice of intent to leave employment to their immediate supervisor or Department Head before annual leave is approved.

Leave Buyback Benefit

- M. Dependent on adequate annual funding, employees may have the opportunity to purchase accrued leave during the fiscal year. Details of this benefit are available in the Human Resources office.

Sick Leave with Pay

6.4 Sick Leave with Pay Policy

Policy

- A. The County provides sick leave with pay to employees for absences due to personal or family illness or injury, medical and dental appointments that cannot be scheduled during non-working hours, unplanned events, and medical circumstances beyond employee's control.
- B. Eligible employees accrue sick leave with pay according to the following schedule:
 - 1. First through tenth years: 3.75 hours per pay period
 - 2. Eleventh through following years: 4.75 hours per pay period

Eligibility

- C. Regular, full-time employees are eligible for sick leave with pay. Casual, temporary, part-time, or term employees do not accrue sick leave.
- D. Employees' accrual rates for pay periods with less than full-time hours will be prorated. For example, an employee with 70 hours in an 80-hour week will only receive 87.5% of their accrual rate ($70/80=.875$).

Accrual

- E. An employee may accumulate no more than seven hundred twenty (720) hours.
- F. An employee does not accrue sick leave for time worked in excess of forty (40) hours per week.

Waiting Period

- G. Probationary employees accrue sick leave equal to the above schedule. Use of sick leave shall be approved by the employee's supervisor on a day by day basis during the probationary period.

Rehire

- H. An employee who has been separated from the County for any length of time accrues sick leave at the same rate as a new hire.

Sick Leave Authorization

- I. Sick leave shall be authorized by the employee's supervisor when an employee is unable to perform normal job duties due to medical considerations including, but not limited to, illness, injury, pregnancy and childbirth, pre-arranged medical or dental examination, quarantine, therapy, counseling, and treatment.

- J. Sick leave shall also be authorized for the same type of medical considerations involving an employee's spouse, parent, or child, regardless of place of residence, if the employee's personal attention is required. The definitions of spouse, parent and child shall conform to those used in the Family and Medical Leave Act of 1993 or as amended. The County will recognize Domestic Partnerships for sick leave purposes, but not for FMLA coverage (see FMLA policy).

Sick Leave Abuse

- K. An employee may be disciplined up to and including termination for abusing sick leave. Sick leave abuse is defined as charging sick leave for work absences that do not qualify as such under this section. The following conditions may lead to a review of sick leave use for possible disciplinary action:
1. Excessive leave unless justified by a physician's certification
 2. Patterns of use
 - a. After pay day
 - b. Using the same day of the week repeatedly
 - c. The day before or after holidays, annual leave, weekends or days off
 3. When attempts to contact an employee who has called in sick uncover the fact that the employee is not home, the employee's being seen in an activity that appears inconsistent with the statement of illness
 4. When a review of sick leave use indicates that it is being used at the same rate that it is being accrued
 5. When an employee's supervisor has personal knowledge of any drug or substance abuse dependency.

Medical Certification

- L. A physician's certificate that includes the date of service/treatment, the time away from work, a return date to work, and specific restrictions (if applicable) will be required:
1. When the employee is absent from work for three or more consecutive days (three full shifts), when the employee is absent for four or more days within two consecutive pay periods, or at any time a Department Director deems it appropriate.
 2. When sick leave of three or more days is used due to the serious illness of a household member, parent, spouse, or child.
 3. When a pattern of use of sick leave that may indicate abuse of sick leave is determined to exist.
- M. The County may request that an employee have a medical examination at the County's expense when it appears to the department head that the employee cannot perform the essential functions of the position, when a pattern of sick leave develops, or when an employee advises the department head that he cannot perform his job for medical reasons.

Holidays

- N. If a County observed holiday falls during an employee's annual leave, the holiday is paid and is not counted as sick leave.

Separation of Employment

- O. Upon termination from County employment, an employee shall be paid for the employee's unused accrued sick leave. The ratio of rate of pay to leave hours is determined and budgeted each fiscal year. Details of the ratio is available in the Human Resources office.
- P. An employee may use sick leave before separation from the County. If an employee fails to produce a physician's certificate after three or more consecutive absences during their final pay period, sick leave will not be approved.

Leave Buyback Benefit

- Q. Dependent on adequate annual funding, employees may have the opportunity to purchase accrued leave during the fiscal year. Details of this benefit are available in the Human Resources office.

Leave Donation (Sick Leave Bank)

6.5 Sick Leave Donation Policy

Policy

- A. The County provides employees who earn annual or sick leave the opportunity to donate annual or sick leave to another employee due to a medical emergency. A medical emergency is defined as an illness, injury, symptom or condition so serious that a reasonable person would seek care right away to avoid severe harm. Sick leave may be transferred to the Sick Leave Bank in the event of the receiving employee's own illness or injury.
- B. Donations are prohibited in the case of work-related illnesses or injuries covered by worker's compensation.

Eligibility

- C. An employee requesting leave must be a regular, full-time employee who has exhausted both their annual and sick leave balances, including any accrued compensatory time. Probationary employees are not eligible to receive donations.
- D. Eligible employees must first be unable to work the equivalent of 40 hours (42.75 hours for law enforcement and detention) before approved donated leave becomes effective. Donated leave will not cover the missed 40 hours (42.75 hours).
- E. Donated leave cannot run concurrently with workers' compensation and/or disability benefits offered by the County.
- F. Donated leave will not be used for employees on modified work restrictions.

Application Process

- G. An employee must submit a written request to Human Resources, preferably at least one full pay period prior to the need for the donated time.
- H. A certified document by a health care provider that describes the nature, severity and anticipated duration of the emergency medical condition of the recipient and that includes a statement that the recipient is unable to work all or a portion of the recipient's work hours must be submitted with the request for approval. Open-ended durations will not be eligible for donation.
- I. Once approved, the request will be forwarded to Human Resources for final approval or denial.
- J. Human Resources will then make aware the need for the requested leave to the County. Human Resources will only receive authorized donated leave up to two (2) weeks from the initial request.

- K. An authorization form shall be completed by any employee wishing to donate leave to the leave bank. The original form shall be forwarded to Human Resources for review and processing. The original form shall be maintained by the Payroll Department.

Donating Leave

- L. Any employee may donate a reasonable amount of leave annually and that each donating employee shall maintain their paid time off balance at a minimum of eighty (80) hours.

Donated Leave

- M. The maximum amount of time that can be used by the requesting employee will be capped at 480 hours based on the recipient's hourly rate of pay.

Conversion

- N. Conversion of the value of the donor's donated leave is based on the donor's hourly rate of pay to hours of leave for the recipient based on the recipient's hourly rate of pay.

Unused Donated Leave

- O. Any unused donated leave at the end of a medical emergency or when the leave is no longer needed shall revert to the donating employee(s) on a prorated basis.

Tax Consequences

- P. Any donated sick leave may have tax consequences associated with that leave for both the donor and/or recipient. Please inquire with Payroll for any potential tax consequences.

Personal Leave Credit (PLC)

6.6 Personal Leave Credit (PLC) Policy

Policy

- A. Lea County recognizes that employees have diverse needs for time off from work and, as such, Lea County has established this personal leave credit (PLC) policy. The benefits of PLC are that it promotes a flexible approach to time off by combining vacation, sick and personal leave. Employees are accountable and responsible for managing their own PLC hours to allow for adequate reserves if there is a need to cover vacation, illness or disability, appointments, emergencies, or other situations that require time off from work.

Eligibility

- B. PLC of forty (40) hours is credited upon hire to new employees. Current, full-time employees as of July 1, 2023 will also receive a credit of forty (40) hours that can be used throughout the fiscal year.

Use and Scheduling of PLC

- C. Employees may use their PLC hours throughout the fiscal year.
- D. PLC hours must be scheduled in advance to accommodate for departmental needs. PLC is subject to supervisory approval, department staffing needs and established departmental procedures.
- E. An employee is required to use PLC hours according to his or her regularly scheduled workday. PLC is paid at the employee's straight time rate for timesheet calculation purposes. PLC is not part of any overtime calculation.
- F. Employees may not borrow against their PLC banks. No advance leave will be granted.
- G. PLC will not carry over into a new fiscal year. Employees will not be paid for any unused PLC at the end of the fiscal year or at termination of employment.

Family and Medical Leave Act

6.7 Family and Medical Leave Act (FMLA) Policy

Policy

- A. Lea County complies with the Family and Medical Leave Act (FMLA) and will grant up to twelve (12) weeks of unpaid leave during a 12-month period to eligible employees (or up to twenty-six weeks of military caregiver leave). Under the FMLA, covered employers must provide eligible employees with specific notices pertaining to their FMLA rights and responsibilities and designate leave as FMLA when appropriate.
- B. The purpose of this policy is to provide employees with a general description of their FMLA rights. In the event of any conflict between this policy and the applicable law, employees will be afforded all rights required by law.

Eligibility

- C. To qualify for this leave, an employee must meet all of the following requirements:
 - 1. Have worked at least twelve (12) months for Lea County.
 - 2. Have worked at least 1,250 hours Lea County over the twelve (12) months preceding the date the leave would commence.
 - 3. Currently work at a location where there are at least fifty (50) employees within seventy-five (75) miles.
- D. The 12 months of employment do not have to be consecutive. All periods of absence from work due to or necessitated by service in the uniformed services are counted as hours worked in determining eligibility. In general, only employment within seven years is counted unless the break in service is (1) due to an employee's fulfillment of military obligations, or (2) governed by a collective bargaining agreement or other written agreement.

Reasons for Leave

- E. A 12-week leave may be taken for any one, or for a combination of, the following reasons:
 - 1. The birth of the employee's child or to care for the newborn child
 - 2. The placement of a child with the employee for adoption or foster care or to care for the newly-placed child
 - 3. To care for the employee's spouse, child, or parent (but not in-law) with a serious health condition. Spouse includes same-sex spouse as recognized by the state of New Mexico.
 - 4. The employee's own serious health condition that makes the employee unable to perform one or more of the essential functions of the employee's job.

Serious Health Condition

- F. Serious health condition means an illness, injury, impairment, or physical or mental condition that involves the following:
1. Any period of incapacity or treatment connected with inpatient care (an overnight stay) in a hospital, hospice, or residential medical care facility
 2. A period of incapacity requiring absence of more than three calendar days from work, school, or other regular daily activities that also involves continuing treatment by (or under the supervision of) a health care provider
 3. Any period of incapacity due to pregnancy or for prenatal care
 4. Any period of incapacity (or treatment therefore) due to a chronic serious health condition such as asthma, diabetes, epilepsy, etc.
 5. A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective such as Alzheimer's, stroke, terminal diseases, etc.
 6. Any absences to receive multiple treatments (including any period of recovery therefrom) by, or on referral by, a health care provider for a condition that likely would result in incapacity of more than three consecutive days if left untreated such as chemotherapy, physical therapy, dialysis, etc.
- G. Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two in-person visits to a healthcare provider within 30 days of the first day of incapacity or one visit and a regiment of continuing treatment, or incapacity due to pregnancy or incapacity due to a chronic condition. Under either condition, the first in-person treatment visit must take place within seven days of the first day of incapacity.

Military Leave

- H. Exigency Leave: Eligible employees may take leave for a qualifying exigency arising out of a spouse's, child's, or parent's active duty or call to active duty during the deployment of the family member with the Armed Forces in support of a contingency operation. Qualifying exigencies include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.
- I. Military Caregiver Leave: Eligible employees may take up to 26 weeks of leave to care for a spouse, child, parent, or next of kin of a covered service member during a single 12-month period. A covered service member is one of the following:
1. A 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.

2. 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) and was discharged or released under conditions other than dishonorable at any time during the period of five years preceding the date on which the eligible employee takes FMLA leave to care for covered veteran.

J. A serious injury or illness under this policy means

1. In the case of a member of the Armed Forces (including a member of the National Guard or Reserves), an injury or illness that was incurred by the service member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating.
2. In the case of a veteran who was a member of the Armed Forces (including a member of the National Guard or Reserves) and was discharged or released under conditions other than dishonorable at any time during the period of five years preceding the date on which the eligible employee takes FMLA leave to care for the covered veteran, a qualifying injury or illness that was incurred by the service member in line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that meets one the following conditions:
 - a. A continuation of a serious injury or illness that was incurred or aggravated when the covered veteran was a member of the Armed Forces and that rendered the military member unable to perform the duties of the military member's office, grade, rank, or rating
 - b. A physical or mental condition for which the covered veteran has received a US Department of Veterans Affairs Service-Related Disability Rating (VASRD) of 50% or greater, with such VASRD rating being based, in whole or in part, on the condition precipitating the need for military caregiver leave
 - c. A physical or mental condition that substantially impairs, or would do so absent treatment, the covered veteran's ability to secure or follow a substantially gainful occupation by reason of a disability or disabilities related to military service
 - d. An injury, including a psychological injury, on the basis of which the covered veteran has been enrolled in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.

Amount of Leave

- K. An eligible employee is entitled to up to 12 (or 26, if applicable) work weeks of unpaid leave during a 12-month period for any FMLA-qualifying reason(s). The 12-month period is a rolling 12-month period, measured backward from the date an employee uses any FMLA leave time.

Limitations On Leave Time

- L. Leave to care for a newborn or for a newly-placed child must conclude within 12 months after the birth or placement of the child. When both parents of a newborn or newly-placed child are employed by the County, they are entitled to a combined total of 12 work weeks of FMLA leave within the designated 12-month period for the birth, adoption, or foster care placement of a child with the employees and for the aftercare of the child.
- M. When employees who are parents of the same child and are married to each other take FMLA leave for any of the reason listed in this policy, the employees may be entitled to additional FMLA leave for other FMLA-qualifying reasons. That is, they may be entitled to the difference between the leave taken individually for any of the reasons listed in this policy and 12 (or 26, if applicable) work weeks, but not more than a total 12 (or 26, if applicable) work weeks per person. For example, if each spouse took 6 weeks of a leave to care for a newborn child, each could later use an additional 6 weeks due to their own serious health condition or to care for a child with a serious health condition or, in the event of a service member leave, 20 weeks for needed service member leave.

Intermittent or Reduced Work Schedule

- N. Intermittent leave is leave taken in separate blocks of time. A reduced work schedule leave is a leave schedule that reduces an employee's usual number of hours per work week or hours per work day. Leave may be taken intermittently or on a reduced work schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt operations. Leave for pre-placement activities associated with the placement of a child with an employee for adoption or foster care may be taken on an intermittent basis. If an employee takes leave intermittently or on reduced work schedule basis, the employee should attempt to schedule the leave so as not to unduly disrupt the County's operations.

Requests for Leave

- O. An employee requests FMLA leave by completing the Request for Leave Form and submitting it to the Human Resources department as soon as it is practical.

Required Documentation

- P. Employees are required to submit a medical certification from a health care provider to support a request for FMLA leave for the employee's or family member's serious health condition within 15 calendar days. When leave is taken to care for a family member, the County may require an employee to provide documentation or statement of family relationship (for example, a birth certificate or court document). If an employee requests intermittent or reduced schedule leave, information that the County requires may include certification that this type of leave is medically necessary and verification of the schedule for treatment, if applicable, as well as the expected duration and frequency of the need of such leave. In addition, an employee requesting leave for a qualifying exigency or a service member's serious injury or illness must provide a certification

setting forth sufficient information to support the need for leave, consistent with the requirements set forth in the federal FMLA regulations. Applicable certification forms are available from the Human Resources department.

Recertification

- Q. During an FMLA leave, the County may request that an employee provide recertification of a serious health condition. Unless a longer period is specified, a medical recertification must be completed and returned to the County within 15 days of the County's request. In addition, during FMLA leave, an employee must provide the County with periodic reports regarding the employee's status and intent to return to work. If an employee's anticipated date for returning to work changes and it becomes necessary for the employee to take more or less leave than originally anticipated, the employee must provide the County with reasonable notice (in other words, within two business days) of the employee's changed circumstances and new return to work date. If an employee gives the County notice of intent not to return to work, the employee will be considered to have voluntarily resigned.

Return to Work Documentation

- R. Before an employee performs any work on behalf of the County after taking FMLA leave for the employee's own serious health condition, the employee is required to submit a Fit for Duty form completed and signed by the employee's health care provider, with respect to the condition for which the leave was taken that states whether the employee is able to perform the essential functions of the employee's job. Employees in safety sensitive positions may be required to undergo a drug screen at the County's expense upon returning from leave. If an employee is not able to return to work, the employee may be entitled to additional leave as a reasonable accommodation under the ADA, as amended, and other state or local laws.
- S. The commencement of FMLA leave or the return to work from FMLA leave may be delayed or denied if the appropriate documentation is not provided within a timely manner. A failure to provide requested documentation related to the reason for an absence from work may lead to separation of employment.

Substitution of Paid Leave

- T. Employees are required to use all accrued paid sick and annual leave, as well as Personal Leave Credit, prior to taking unpaid leave. The qualifying County paid time off runs concurrently, and is not in addition to unpaid FMLA leave. If an employee is off work due to personal medical reason(s) and has County paid time off and has an elimination period before disability payments such as workers' compensation or short-term disability start, the employee can request use of any qualifying County paid time off.

Maintenance of Health Benefits

- U. During FMLA leave, an employee is entitled to continued group health plan coverage under the same conditions as if the employee had continued to work. To the extent that an employee uses

qualifying County paid time off while on FMLA leave, the employee's portion of health insurance premiums is deducted from the employee's wages. If the employee is not receiving any wages from the County while on FMLA leave, the employee's portion of health insurance premiums is paid according to the procedures established by the County. Employees should contact the Benefits department for more information.

Performing Work While on Leave

- V. Employees may not perform any work on behalf of the County while out on FMLA leave (including checking or responding to emails, checking voice messages, returning phone calls, working on a computer, etc.) unless they submit the required return to work documentation and they receive advance permission from their manager.

Return from Leave

- W. Upon return from FMLA leave, the County will place an employee in the same or an equivalent position the employee occupied when the leave began.
- X. An employee is entitled to return from leave only if the employee would have continued to be employed had FMLA leave not been taken. Thus, an employee is not entitled to return from leave if because of a reduction in force or other reason the employee would not be employed at the time job restoration is sought.

Designation of a Key Employee

- Y. The County reserves the right to deny return from leave to eligible salaried employees who are among the highest paid ten percent of the County's employees if such denial is necessary to prevent substantial and grievous economic injury to the County's operations.

Failure to Return to Work Following FMLA Leave

- Z. If the employee does not return to work immediately after the end of FMLA leave for non-medical reasons, the employee is considered to have voluntarily resigned. The County may recover health insurance premiums that the County paid on behalf of the employee during any unpaid FMLA leave. The County's share of such premiums may not be recovered if the employee fails to return to work because of the employee's or a family member's serious health condition or because of other circumstance beyond the employee's control. In such cases, the County may require the employee to provide medical certification of the employee's or the family member's serious health condition.
- AA. Employees whose illnesses or injuries do not allow them to return to work upon the expiration of FMLA leave may be separated from employment as a voluntary resignation unless additional leave pursuant to another policy is requested and approved in advance. If an employee remains on leave pursuant to another policy after FMLA leave is exhausted, the employee might not be returned to an equivalent position or a position for which the employee qualifies might not be

available. Employees who are unable to return to work must contact the County to discuss whether they may be eligible for additional leave or other reasonable accommodation.

Employer Obligations

AB. The County shall inform an employee requesting leave (i) whether the employee is eligible under the FMLA; (ii) whether any additional information is required from the employee; and (iii) of the employee's rights and responsibilities related to the leave. If the employee is found not to be eligible for leave, the County shall provide to the employee the reason for ineligibility.

AC. The County shall also inform the employee if leave will be designated as FMLA leave and the amount of leave counted against the employee's leave entitlement.

Employee Rights and Responsibilities Under FMLA

AD. A copy of the Notice to Employees of Rights and Responsibilities Under the FMLA published by the Wage and Hour Division of the Department of Labor is posted on employee communication bulletin boards, may be obtained from the HR Department.

Bereavement Leave

6.8 Bereavement Leave Policy

Policy

- A. The County grants an employee time off from work in the event of a death in the immediate family.

Eligibility

- B. Regular, full-time employees are eligible for paid bereavement. Employees generally must attend the funeral or service for the deceased relative to be eligible for bereavement leave. Probationary employees are not eligible.

Waiting Period

- C. For eligible employees, there is no waiting period following an employee's hire date to receive bereavement leave.

Immediate Family

- D. For purposes of this policy, the following individuals of regular, full-time employees are considered immediate family:
 - 1. Parents, Mother-in-Law, Father-in-Law
 - 2. Spouse
 - 3. Domestic Partner
 - 4. Children of the employee or domestic partner
 - 5. Son-in-Law, Daughter-in-Law
 - 6. Siblings
 - 7. Grandparents of the employee
 - 8. Grandchildren

Scheduling

- E. Employees must make their supervisor aware of their situation immediately.

Proof of Death

- F. When returning to work, an employee should be prepared to present proof of death and relationship to be paid for bereavement.

Number of Days

- G. Employees are entitled to bereavement leave with pay not to exceed 40 hours (42.75 for Detention and Sheriff's Office shift employees) over five consecutive regularly scheduled work days per occurrence.

Fellow Employees

- H. Employees are allowed, with Department Head's approval, up to four hours of bereavement leave to attend the funeral of a fellow regular employee, immediate relative of a regular employee, County Official, or retiree of the County, provided such absence from duty will not interfere with normal operations.

Additional Time

- I. Employees who need additional time off may be granted this time with their supervisor's approval. Additional time off is charged against any other available paid time off.

Leave of Absence and Annual Leave

- J. Employees who are on a current approved leave of absence are not eligible for bereavement.
- K. Employees who are on paid annual leave at the time of the event are granted paid bereavement for up to five days, if verifiable documentation is provided.

Military Leave

6.9 Military Leave of Absence Policy

Policy

- A. Lea County is committed to protecting the job rights of employees absent on military leave. In accordance with federal and state law, it is Lea County's policy that no employee or prospective employee will be subjected to any form of discrimination on the basis of that person's membership in or obligation to perform service for any of the uniformed services of the United States. Specifically, no person will be denied employment, reemployment, promotion or other benefit of employment on the basis of such membership. Furthermore, no person will be subjected to retaliation or adverse employment action because such person has exercised his or her rights under applicable law or this policy. If any employee believes they have been subjected to discrimination in violation of this policy, the employee should contact the Human Resources department.

Eligibility

- B. Employees taking part in a variety of military duties are covered under this policy. Such military duties include leaves of absence taken by members of the uniformed services, including active duty, reserve or National Guard, for training, periods of active military service and funeral honors duty, as well as time spent being examined to determine fitness to perform such service. This policy also covers individuals serving in the active components of the armed forces and the National Disaster Medical System (NDMS) as well as reservists for the Federal Emergency Management Agency (FEMA) when they are deployed to disasters and emergencies on behalf of FEMA. Subject to certain exceptions under the law, these benefits are generally limited to five years of leave of absence.

Procedures

- C. Unless military necessity prevents it, or is otherwise impossible or unreasonable, an employee should provide Human Resources with notice of the need for leave as far in advance as is reasonable under the circumstances.
- D. Written notice is preferred but not required under the law or this policy.
- E. HR will review the request for leave of absence, collect any applicable insurance premiums from the employee, generate other applicable documents and process the leave of absence accordingly.
- F. Employees on temporary or extended military leave may, at their option, use any or all accrued paid vacation or personal leave credit during their leave.

- G. When the employee intends to return to work, the employee must make application for reemployment to HR within the application period set forth below. If the employee does not intend to return to work, the employee should notify HR as soon as practicable.

Benefits

- H. An employee on extended military leave may elect to continue, in writing, group health insurance coverage for the employee and covered dependents under the same terms and conditions. The employee must pay, per pay period, the premium normally paid by the employee for continuation of coverage.
- I. Employees will not accrue annual or sick leave or personal leave credit while on military leave of absence status.

Reemployment

- J. An employee will be reinstated to employment in the following manner depending upon the employee's period of military service:
 - 1. Less than 91 days of military service – reinstated to a position that the employee would have attained if employment had not been interrupted by military service; or, if found not qualified for such position after reasonable efforts by Lea County, in the position in which the employee had been employed prior to military service.
 - 2. More than 90 days and less than 5 years of military service – reinstated to a position that the employee would have attained if employment had not been interrupted by military service or a position of like seniority, status, and pay, the duties of which the employee is qualified to perform; or, if proved not qualified after reasonable efforts by Lea County, in the position the employee left, or a position of like seniority, status and pay, the duties of which the employee is qualified to perform.
 - 3. Employee with a service-connected disability – if after reasonable accommodation efforts by the employer, an employee with a service-connected disability is not qualified for employment in the position the employee would have attained or in the position that the employee left, the employee will be employed in another position of similar seniority, status and pay for which the employee is qualified or could become qualified with reasonable efforts by Lea County; or, if no such position exists, in the nearest approximation consistent with the circumstances of the employee's situation.

Application for Reemployment

- K. An employee who has engaged in military service must, in order to be entitled to the reemployment rights set forth above, submit an application for reemployment to HR according to the following schedule:
 - 1. If service is less than 31 days (or for the purpose of taking an examination to determine fitness for service) – the employee must report for reemployment at the beginning of the first full regularly scheduled working period on the first calendar day following completion

- of service and the expiration of eight hours after a time for safe transportation back to the employee's residence.
2. If service is for 31 days or more but less than 181 days – the employee must submit an application for reemployment with HR no later than 14 days following the completion of service.
 3. If service is over 180 days – the employee must submit an application for reemployment with HR no later than 90 days following the completion of service.
 4. If the employee is hospitalized or convalescing from a service-connect injury – the employee must submit an application for reemployment with HR no later than two years following completion of service.

Exceptions to Reemployment

- L. In addition to the employee's failure to apply for reemployment in a timely manner, an employee is not entitled to reinstatement as described above if any of the following conditions exist:
 1. Lea County's circumstances have so changed as to make reemployment impossible or unreasonable.
 2. Reemployment would pose an undue hardship upon Lea County.
 3. The employee's employment prior to the military service was merely for a brief, non-recurrent period and there was no reasonable expectation that the employment would have continued indefinitely or for a significant period.
 4. The employee did not receive an honorable discharge from the military.

General Benefits Upon Reemployment

- M. Employees reemployed following military leave will receive seniority and other benefits determined by seniority that the employee had at the beginning of the military leave, plus any additional seniority and benefits the employee would have attained, with reasonable certainty, had the individual remained continuously employed. An employee's time spent on active military duty will be counted toward eligibility for FMLA leave. Additionally, upon reemployment, a covered employee will not be discharged except for cause for up to one year following reemployment.

Jury Duty

6.10 Jury Duty Policy

Policy

- A. The County recognizes that employees have a responsibility to participate in the jury-duty process. Paid time off for jury duty is granted to an employee who has been notified to serve. Pay for jury duty shall only be for those days that the employee is scheduled for work. Jury pay shall be remitted to the county.
- B. Employees involved in personal lawsuits requiring time off from work are not eligible for jury-duty pay.

Eligibility

- C. Regular full-time employees are eligible for paid time off for jury duty.

Waiting Period

- D. There is no waiting period following an employee's hire date to be eligible for paid time off for jury duty.

Scheduling

- E. Immediately upon receipt of the notice to serve, an employee must provide a copy of the notice to the employee's supervisor. Upon the employee's return, the employee must submit documentation provided by jury services indicating the number of days served to the individual responsible for submitting payroll information.

Return to Work

- F. If excused by the court during a working day, the employee shall return to duty if at least four (4) hours of County duty can be served in that work day. If the employee does not return to work, the balance of the day will be charged to annual leave or leave without pay.

Vacation and Leave of Absence

- G. If jury-duty service occurs during an employee's approved leave of absence, the employee is not eligible for jury-duty pay.
- H. Employees who have paid vacation scheduled that coincides with jury duty are granted jury-duty pay, if verifiable documentation is provided.

Time Off to Vote

6.11 Paid Time Off to Vote

Policy

- A. The County encourages its employees to participate in the political process by voting in federal, state, and local elections.

Pay

- B. An employee who is registered to vote will be granted up to two (2) hours paid leave for voting between the time of opening and the time of closing polls. The employee's supervisor may specify the hours for the leave.
- C. Voting leave will not be granted to any employee whose work day begins more than two (2) hours subsequent to the time of the opening of the polls, or ends more than three (3) hours before the closing of the polls.

Court Appearance Time

6.12 Court Appearance Time

Policy

- A. The County shall pay for court appearance time when an employee is required by county duties or subpoenaed to appear before a court, county hearing officer, public body or County Commission for the purpose of testifying in regard to county matters.
- B. Employees involved in personal lawsuits requiring time off from work are not eligible for Court Appearance Time pay.

Lactation/Breastfeeding

6.13 Lactation and Breastfeeding Policy

Policy

- A. The County will provide reasonable break times as needed for any employee who is breastfeeding her child after the birth of that child. When notified of the need, the County will designate a clean and private room in the facility of the employee requesting space for this purpose.

Employee Responsibility

- B. Any breast milk stored in a county refrigerator must be labeled with the name of the employee and the date of expressing the milk. Employees storing milk in a county refrigerator assume all responsibility for the safety of the milk and the risk of harm for any reason, including improper storage or refrigeration and tampering.

Pay

- C. Any time in addition to established employee breaks will be unpaid. Only supervisor-approved overtime will be granted while a nursing mother is using a breast pump.

Emergency Closings

6.14 Emergency Closings Policy

Policy

- A. The County may be required to close the work facility or stop operations in the event of emergency conditions such as severe weather, fire, flood, earthquake, or computer or network system failures.

Employee Responsibilities

- B. In the event the work facility closes or operations stop, employees must maintain contact with their supervisor or the designated individual as instructed to obtain updates about resuming work. Essential employees need to check with their immediate supervisor regarding their work schedule during emergency closure.

Non-Exempt Pay

- C. When the work facility closes or operations stop, this time off from scheduled work for hourly, non-exempt employees is paid.
- D. Hours paid pursuant to this provision will not be counted as hours worked for the computation of overtime.

Exempt Pay

- E. When the work facility closes or operations stop, salaried, exempt employees are paid by the County for up to a total of five days (the remainder of the work week), in accordance with the Fair Labor Standards Act (FLSA).

Annual or Sick Leave

- F. Any Annual or Sick Leave that had previously been approved before the announced closing will be considered as leave.

Notes
