

# ***COUNTY OF DUKES COUNTY***

## ***PERSONNEL BYLAWS***

Approved by Resolution 9-25-1996

Revised 7-22-1998

Revised 4-10-2002

Revised 11-12-2015

Revised 6-20-2018

Revised 1-2-2019

Revised 4-3-2019

Revised 3-3-2021

# **DUKES COUNTY PERSONNEL BYLAWS**

## **TABLE OF CONTENT**

### **1. General Provisions**

- 1.1. Authorization
- 1.2. Purpose
- 1.3. Application
- 1.4. Rules of Interpretation
- 1.5. Definitions
- 1.6. Amendment to the Bylaw

### **2. Administration**

- 2.1. Responsibilities of the County Personnel Board

### **3. Personnel Records**

- 3.1. Centralized Record Keeping
- 3.2. Contents of Records
- 3.3. Access to Records
- 3.4. Record of Accrued Benefits
- 3.5. Release of Information

### **4. Recruitment and Appointment**

- 4.1. Coverage
- 4.2. Policy
- 4.3. Recruitment
- 4.4. Appointment
- 4.5. Failure to Report
- 4.6. Transfers

### **5. Orientation and Probation**

- 5.1. Coverage
- 5.2. Policy
- 5.3. Orientation
- 5.4. Probationary Period

### **6. Classification Plan**

- 6.1. Coverage
- 6.2. Policy
- 6.3. Contents of the Classification Plan
- 6.4. Administration of the Classification Plan
- 6.5. Classification of New Positions
- 6.6. Reclassification of Positions and Periodic Reviews
- 6.7. The Classification Plan

### **7. Compensation Plan**

- 7.1. Coverage

- 7.2. Policy
- 7.3. Starting Rates for New Appointments
- 7.4. Performance Evaluations
- 7.5. Promotion
- 7.6. Working out of Grade
- 7.7. Certificate of Employment
- 7.8. Salary Rates Above Maximum

## **8. Overtime / Compensatory Time**

- 8.1. Coverage
- 8.2. Policy
- 8.3. Accrual
- 8.4. Use
- 8.5. Buy Back

## **9. Holidays**

- 9.1. Coverage
- 9.2. Recognized Holidays
- 9.3. Terms of Holiday Pay

## **10. Vacation Leave**

- 10.1. Coverage
- 10.2. Policy
- 10.3. Scheduling
- 10.4. Ineligibility
- 10.5. Additional Days of Vacation
- 10.6. Vacation Buy Back

## **11. Sick Leave**

- 11.1. Coverage
- 11.2. Policy
- 11.3. Use of Sick Leave
- 11.4. Accrual of Sick Leave
- 11.5. Notification
- 11.6. Certification of Illness
- 11.7. Sick Leave Cash Out
- 11.8. Post Separation
- 11.9. Interference and Retaliation
- 11.10. Sick Leave Bank

## **12. Worker's Compensation and Injury Leave**

## **13. Bereavement**

- 13.1 Coverage
- 13.2 Policy

## **14. Military Leave**

- 14.1 Coverage
- 14.2 Policy – Annual Training
- 14.3 Policy – Military Leave

## **15. Jury Leave**

- 15.1 Coverage
- 15.2 Policy

## **16. Personal Leave**

- 16.1 Coverage
- 16.2 Policy
- 16.3 Notice

**17. Leaves of Absence**

- 17.1 Coverage
- 17.2 Policy

**18. Longevity Pay**

- 18.1 Coverage
- 18.2 Policy

**19. Safety**

- 19.1 Coverage
- 19.2 Policy
- 19.3 Procedures
- 19.4 Responsibility of Appointing Authority and Employees
- 19.5 Disciplinary Action

**20. Standards of Conduct**

- 20.1 Coverage
- 20.2 Policy
- 20.3 Suspension
- 20.4 Ethics
- 20.5 Receipt of Gifts
- 20.6 Business Activities and Solicitation
- 20.7 Outside Employment
- 20.8 Privileged Information
- 20.9 Use of Property
- 20.10 Social Media
- 20.11 Political Activity

**21. Disciplinary Policy**

- 21.1 Coverage
- 21.2 Policy
- 21.3 Reasons for Disciplinary Action
- 21.4 Disciplinary Procedures
- 21.5 Forms

**22. Drug/Alcohol and Substance Abuse**

- 24.1 Coverage
- 24.2 Policy

**23. Furloughs**

- 23.1 Coverage
- 23.2 Policy

**24. Grievance Procedure**

- 24.1 Coverage
- 24.2 Policy
- 24.3 Grievance Procedures

**25. Termination of Employment**

- 25.1 Coverage
- 25.2 Policy
- 25.3 Classifications

- 25.4 Evaluation
- 25.5 Rehire/Recall

## **DUKES COUNTY PERSONNEL BYLAWS**

### **1. General Provisions**

- 1.1. Authorization. The Personnel Bylaws for the County of Dukes County (the "Bylaws") are established pursuant to Massachusetts General Laws Chapter 35, Sections 48 through 57A and the County of Dukes County Home Rule Charter (M.G.L. Chapter 34A, Section 18).
- 1.2. Purpose. The purpose of the Bylaws is to establish a system of personnel administration with policies and procedures governing employment within the County of Dukes County. The following principles are the foundation of the Bylaws:
  - a. Employment shall be open to all.
  - b. Recruitment, selection, and advancement of personnel shall be based on ability, knowledge, education, and skill under fair and open competition.
  - c. Fair treatment of all applicants and employees shall be guaranteed in all aspects of the personnel system, which shall be administered without regard to race, color, religion, sex, sexual orientation, gender expression, marital status, national origin, political affiliation, age, disability, or other non-merit factors and with proper regard for privacy and constitutional rights.
  - d. Retention of employees shall be determined on the basis of their performance. A reasonable effort shall be made to assist employees with inadequate performance per the job description to improve their performance. If, following reasonable efforts, inadequate performance does not improve, termination of employment is possible.

#### **1.3. Application**

- a. County Employees. All County departments and positions shall be subject to the provisions of these Bylaws except for employees of the Airport and any elected officials. Employees covered by contractual agreement or collective bargaining agreements are subject to these Bylaws if the subject is not covered by their contract.
  - b. Grant employees and employees funded by other payment sources. Grant employees and employees paid by other payment sources shall be subject to the provisions of these Bylaws. If the employees are working for at least twenty (20) hours per week and are not seasonal employees, they are entitled to the health insurance and life insurance benefits. Other benefits shall be provided subject to recommendation of the Personnel Board and approval of the Dukes County Commission. Classification and compensation of the grant employees and employees funded by other payment sources must be approved by the Personnel Board.
- 1.4. Rules of Interpretation. These Bylaws are to be interpreted in light of and in accordance with all applicable state and federal laws. In the event of inconsistencies with the applicable state or federal law, the governing state or federal law shall apply.
    - a. Words imparting the singular number may extend and be applied to several persons.
    - b. Words imparting the masculine gender shall include the feminine gender.

1.5. Definitions. The following definitions shall apply:

- a. "anniversary date" is one year following date of hire and every year thereafter.
- b. "appointing authority" shall mean County Manager, except for those elected or appointed officials who have independent appointing authority.
- c. "benefit time" shall mean all authorized paid leave time. Accrual and use of benefit time shall be tracked through payroll time sheets and reported on employee's pay stub. The smallest amount of benefit time an employee can take is one hour. After the first hour the deductions of benefit time used are made in no less than half hour increments. If employee worked before and after lunch, lunch will be included in hours worked, otherwise it will be deducted as part of benefit time used. It is the employee's responsibility to monitor his/her benefit time and report any discrepancy to the department head and to the Treasurer's Office within the next payroll cycle.
- d. "continuous service" shall mean employment uninterrupted except by authorized leaves.
- e. "County" shall mean the County of Dukes County.
- f. "County Benefits Administrator" shall mean a county employee appointed by the County Manager duly trained in benefits administration.
- f. "day" shall mean the average number of regularly scheduled working hours the employee is required to perform his/her duties for the County in a given twenty-four (24) hour period. For employees with variable or unscheduled working hours, "day" shall mean the average weekly total of hours worked, divided by five.
- g. "department" shall mean any department, board, committee, commission, or other agency of the County subject to these Bylaws.
- h. "department head" shall mean the individual responsible for supervising a department's operations and activities. A department head may be an appointing authority. In the instance of a department serving under the supervision and control of the County Manager, the officer, board, or other body immediately responsible to the County Manager for the administration of the department shall be the department head.
- i. "emergency appointment" shall mean a non-competitive appointment to a position for a period of time not to exceed thirty (30) days to prevent stoppage of public business, or to cover an unforeseen emergency. Emergency employees shall be released at the earliest possible time or at the completion of the project or emergency not to exceed 30 days. Emergency employees will not be eligible for leave and sick day benefits as outlined in these Bylaws. The employee will be paid at the same grade and at a step not to exceed the employee being replaced.
- j. "employee" shall mean an employee of the County occupying a position in the Classification Plan.
- k. "exempt employee" shall mean an employee qualifying for exemption from overtime as defined by the Fair Labor Standards Act.
- l. "fiscal year" shall mean July 1<sup>st</sup> to June 30<sup>th</sup>.
- m. "full pay status" shall mean to include vacation day, sick day, holiday, and personal day.
- n. "full-time employee" shall mean a person who is occupying a position for six months or longer and who regularly works a minimum of 40 hours per week for fifty two (52) weeks a year, minus

authorized leaves provided for in these Bylaws. An employee working more than one part time job whose hours total 40 or more per week shall be considered full time.

- o. "grant employee" shall mean any individual employed by the County under the auspices of a grant.
- p. "immediate family member" shall mean the spouse, domestic partner, parent, step-parent, child, step-child, brother, step-brother, sister, step-sister, grandfather, grandmother, mother-in-law, father-in-law, sister-in-law, brother-in-law, grandchild.
- q. "layoff" shall mean an involuntary suspension from employment not involving delinquency, misconduct, inefficiency, or on the job injury.
- r. "part-time employee" shall mean a person regularly scheduled to work less than 40 hours per week for fifty two (52) weeks a year. Part-time employees who work twenty (20) or more hours per week will receive leaves and benefits on a pro-rated basis, except for health benefits, based on the ratio of the average hours worked per week relative to the total number of full time work week hours, regardless of which days are worked during the week. Part-time employee who works less than 20 hours per week will be eligible for leaves as outlined in these Bylaws based on the ratio of the average hours worked per week relative to the total number of full time work week hours, regardless of which days are worked during the week. Part-time employee who works less than 20 hours per week are not eligible for health benefits.
- s. "promotion" shall mean an employee's advancement from one pay classification grade to a higher classification grade.
- t. "promotion date" is the date of the last promotion and every year thereafter.
- u. "regular part time employee" shall mean an employee whose work week is less than 20 hours on a regular basis.
- v. "resignation" shall mean the separation of any employee by his/her voluntary act.
- w. "temporary/seasonal employee" shall mean any employee needed to meet conditions caused by seasonal workloads, special projects, illness, or absence of a regular employee may be hired on a temporary basis, not to exceed six (6) months. Temporary employees hired to fill in for an absent regular employee shall be released at the earliest possible time but no later than the return of the regular employee. Employees hired for a project or for longer than six months shall be released at the completion of the project. Temporary/season employees are not eligible for any leave or benefit under this Bylaw unless specifically stated in this Bylaw or required by law.
- y. "unauthorized absence" shall mean an absence from scheduled work without pay.
- z. "week" shall mean the regular work week for full-time employees, which is 40 hours of scheduled work within 7 days including a half hour paid meal break each day.

1.6. Amendment of the Bylaws – These Bylaws may be amended at any public hearing of the County Commissioners after public notification by posting in the County Commissioner's meeting agenda at least 14 days in advance.

## **2. Administration**

- 2.1. The County Personnel Board shall be responsible for the administration of these Bylaws. The responsibilities of the County Personnel Board shall be as follows:

- a. Ensure that the County maintains an effective personnel system; monitor the effectiveness and implementation of these Bylaws; and prepare an annual report.
- b. Formulate and review the Classification Plan and the Compensation Plan at least every (5) years and make recommendations for changes to the County Commissioners.
- c. Evaluate and classify positions, review requests for reclassification, and cause a review of all positions in the Classification Plan at appropriate intervals in accordance with proper personnel practices.
- d. Monitor the implementation of the County's Personnel Bylaws and practices.
- e. Provide advice and assistance to department heads, supervisory personnel and employees on all aspects of personnel management.
- f. Supervise and maintain a centralized personnel record keeping system.
- g. Evaluate the effectiveness of forms used in the administration of this Bylaw and update as necessary.
- h. Perform periodic review of the County Personnel Bylaws and make recommendations for changes to the County Commissioners.
- i. Administer the Sick Leave Bank.
- j. Act as the County Appellate Board for grievances.
- k. The County Personnel Board may incur expenses, as it deems necessary, subject to appropriation of funds.

### **3.0 County Personnel Records**

- 3.1. Centralized Record Keeping. The County Personnel Board shall be responsible for establishing and maintaining personnel records as may be required by law, and are necessary for effective personnel management. All employees shall comply with and assist in furnishing records, reports and information as may be requested by the County Personnel Board.
- 3.2. Contents of Records. The County Personnel Board shall maintain an individual personnel file for each employee which may include, but may not be limited to, the following:
  - a. The employment application.
  - b. A copy of all background investigation reports.
  - c. A copy of any physical examination reports and health reports. Medical reports will be filed in a locked cabinet or similar secure container, separate from other personnel records.
  - d. A report of all personnel actions reflecting the original appointment, promotion, demotion, reassignment, transfer, separation, or layoff. Results of tests, history of employment and correspondence directly related to the employee's past employment record, reclassification or change in the employee's rate of pay or position title, commendations, records of disciplinary action, employee's response to disciplinary action, training records, performance evaluation, and other records that may be pertinent to the employee's employment record.
- 3.3. Access to Records. Personnel records shall be considered confidential and access to records shall, unless circumstances dictate otherwise, be limited to the Chairman of the Personnel Board or designee, County Manager and his/her designee. Any employee may upon request to the



County Personnel Board have access to review and copy their personnel file by scheduling an appointment in advance during regular business hours. The employee's review of their employment record shall be in the presence of the Chairman of the Personnel Board or their designee, the County Manager or his/her designee.

- 3.4. Record of Accrued Benefits. Department Heads shall submit employee bi-weekly timesheets with each payroll. Timesheets shall reflect the actual hours worked and any benefit time used and any compensatory time accrued.
- 3.5. Release of Information. Unless written authorization is received from an employee, no information concerning that employee, other than employment verification shall be released, unless dictated by law.

#### **4. Recruitment and Appointment**

- 4.1. Coverage. All employees.
- 4.2. Policy. The County shall make every effort to attract and employ qualified persons. Every person regardless of age, race, creed, color, nationality, religion, sex, or disability, gender expression or sexual orientation applying for employment in the County will receive equal treatment. The recruitment, selection and promotion of candidates and employees shall be based solely on job related criteria as established in the position descriptions and in accordance with proper personnel policies.
- 4.3 Recruitment. All department heads shall be responsible for the recruitment and selection of personnel. The qualifications, classification and salary range for positions shall be established in accordance with the classification and Compensation Plans.
  - a. Notice of Vacancies. Department heads shall, upon determining the need to fill a vacancy in an existing position or an authorized new position, prepare a job vacancy notice. The job vacancy notice shall include: the job title, major duties of the position, qualifications, hours of work, location, salary range, a closing date for applications, and application instructions.
  - b. Posting and Advertisement of Job Vacancy Notices. Notices of vacant positions, not including emergency appointments, shall be posted for fourteen (14) days on the County bulletin board. Job vacancy notice shall be placed in a local newspaper at least fourteen (14) days prior to the close of applications. Advertising should be adequate to ensure that a sufficient number of qualified applicants apply for available vacancies.
  - c. Applications. All candidates applying for employment in the County shall complete an official employment application form and return the forms to the appointing authority prior to the end of the working day of the closing date specified for the position announcement. Each applicant shall sign the form, and the truth of all statements shall be certified by the applicant's signature. All candidates who complete the employment application form accurately and honestly shall be entitled to a fair and equitable review of their qualifications.
  - d. References. A candidate's former employers, supervisors, and other references shall be contacted as part of the selection process. References and other background checks shall be documented and made part of the applicant's file. All reference checks and investigations shall be completed prior to the offer of employment.
  - e. Examinations. The appointing authority may require an examination as one part of the selection process. Examinations may be written, oral, practical, physical or any combination thereof and shall be relevant to the requirements of the position. Upon approval of the Personnel Board a pre-employment post job offer ("conditional offer of employment")

physical examination will be required of all new personnel by a practicing physician, approved by the County Manager. The Pre-employment/Post-Offer Medical/Job History Form and the Pre-employment Physical Examination Report is to be made on a form provided by the County. Examination is to be at the expense of the County. Criminal Offender Record Information (CORI) check will be also required.(See CORI policy in the Appendix).

- f. Application Records. The application, documentation of reference checks, and related documents submitted shall be maintained by the Department Head and after filling of a vacancy, materials shall be turned over to the County Personnel Board. The County Personnel Board shall maintain application records for a period required by law. Appointing authorities, department heads and the County Manager shall, to the extent of the law, maintain the confidentiality of any application.
- 4.4. Appointment. All appointments shall be made in writing by the appointing authority and shall be subject to the limitations of its appropriation. The written notice of appointment shall include the salary, the starting date, and appropriate additional information. Copies of the notice of appointment shall be provided to the County Personnel Board (see section 3-1).
- 4.5. Transfers. An employee transferring from any other public service shall not enter with seniority. An employee transferring from any other public service shall not be transferred to the new position in the County of Dukes County with sick days from the previous service.
- 4.6. Failure to Report. An applicant, who accepts an appointment and fails to report to work within three days after the date set by the appointing authority, shall be deemed to have declined the appointment and the offer of employment shall be withdrawn unless other arrangements have been made with the appointing authority.

## **5. Orientation and Probation**

5.1. Coverage. All employees.

5.2. Policy. Appointing authorities shall inform new employees of their rights, responsibilities, duties, and obligations.

### **5.3. Orientation.**

- a. Appointing authorities or their designee shall:
  - i. Notify the new employee of a date, time and designated location for starting work.
  - ii. Provide the employee with a copy of these Bylaws including the Summary of Conflict of Interest Law and sexual harassment policy. Each employee shall provide the appointing authority with a signed acknowledgement of receipt.
  - iii. Provide on-site training and orientation regarding specific rules, regulations, policies and procedures of the employee's assigned department including the safety policies and procedures.
- b. The County Benefits Administrator shall thoroughly explain all the benefits and options the employee is entitled to and shall assist the employee with the completion of appropriate forms.

5.4. Probationary Period. All newly appointed and promoted employees shall be required to successfully complete a probationary period to begin immediately upon employee's starting date or promotion date and to continue for a three (3) month period, which may be extended by the number of days the employee was absent from work. The probationary period shall be utilized to help new and promoted employees achieve effective performance standards. The

probationary period shall be used by the appointing authority to observe and evaluate the employee's conduct and work habits. The employee may be terminated by an appointing authority if it is revealed that the employee intentionally falsified information relating to application for employment, was unable or unwilling to perform the required duties, or displayed conduct, habits, or dependability which did not merit continuing the employee in the position. The employee and the County Personnel Board shall be notified in writing of the reasons for the termination and the effective date of the action.

Upon expiration of the probationary period, the appointing authority shall notify the County Personnel Board in writing that:

- a. The employee's performance meets satisfactory standards and the individual will be retained in the position; or
- b. The employee's performance, due to extenuating circumstances, requires additional observation and that the probationary period will be extended an additional three (3) months; or
- c. The employee's performance or conduct was unsatisfactory, stating the specific reasons, and that removal may occur or the person promoted may be returned to his/her prior position. The decision of the appointing authority is final and not subject to grievance procedures.

## **6. Classification Plan**

6.1. Coverage. All employees.

6.2. Policy. The policy of the County is to establish and provide a uniform system for classifying all positions and to establish proper relationships between positions based on the level of responsibilities assumed and the minimum qualifications required to perform the job so that the same schedule of compensation may be applied to each class ensuring equal pay for equal work.

6.3. Contents of the Classification Plan. The Classification Plan shall consist of the following:

- a. Position Descriptions. Position descriptions for positions which are similar in duties, degree of difficulty and level of responsibility so that each position in the class can:
  - i. be given the same job title;
  - ii. require essentially the same training and experience;
  - iii. be filled by substantially the same methods of selection; and
  - iv. be of same relative value and therefore deserving of the same range of compensation.

Each position shall have a written description. The description shall contain the essential functions of the position and consist of a statement describing the nature of the work, examples of typical duties, the required minimum knowledge, skills, training, abilities, experience and necessary special qualifications.

Position descriptions are intended to be representative of the positions in a class and provide illustrations of the type of work performed, and do not necessarily include all duties performed. Position descriptions are not intended to be restrictive. Qualification statements in each position description establish desirable minimum requirements that should be met by a person before appointment, transfer, or promotion to a position in the class.

- b. **Position Titles.** The title of each class of position shall be the official title of every position allocated to the class, and shall be used for administrative purposes such as payroll, budget, financial and personnel forms and records. No person shall be appointed or promoted to any position in the County under a title not included in the Classification Plan. No employment or promotion hereunder shall become effective until such time as the appropriation or other moneys out of which the compensation is to be paid shall be adequate.
- c. **Change in Position Description or Title.** The department head or the appointing authority shall submit a new position description and any change in position title to the County Personnel Board for evaluation and classification.
- d. **No employee of the County shall hold two or more County positions, the performance or scheduling of which may be in conflict. Combined hours cannot exceed 40 hours per week without County Manager's and Personnel Board's approval. One job cannot interfere with the level of performance in the other position.**

6.4. **Administration of the Classification Plan.** The County Personnel Board shall have responsibility for the administration of the Classification Plan and shall be authorized to:

- a. Complete studies of new positions and make allocations to existing classes, establish a new class of positions, or delete a class of positions;
- b. Provide for studies of existing positions when there has been a substantial change in the duties and responsibilities which justify consideration of possible reclassification;
- c. Conduct periodic studies to insure the Classification Plan remains uniform and current; and
- d. Develop procedures to determine the proper classification of each position and classify positions.

6.5. **Classification of New Positions.** Appointing authorities proposing the creation of new positions shall provide the Personnel Board with a description of the duties, skills, knowledge, abilities, and other work performance requirements of a proposed position in sufficient detail to enable the Personnel Board to appropriately classify the position.

6.6. **Reclassification of Positions and Periodic Reviews.** Positions may not be reclassified without the department head or appointing authority submitting a new position description and any change in position title to the County Personnel Board for evaluation. The Board shall at five-year intervals review all positions subject to the Classification Plan in accordance with proper personnel practices.

6.7. **The Classification Plan.** The Classification Plan is appended to these Bylaws and shall be considered a part of these Bylaws.

## **7. Compensation Plan**

7.1. **Coverage.** All employees.

7.2. **Policy.** The Personnel Board shall annually recommend a Compensation Plan. The Compensation Plan shall be related to the Classification Plan and shall consider relative responsibilities between various classes; wage rates for comparative type of work; economic conditions in the labor market; fiscal policies of the County; and ratifies labor agreements. Employees shall be paid in accordance with rates in the Compensation Plan.

7.3. **Starting Rates for New Appointments.** Persons appointed to positions shall be paid at the minimum rate; provided, however, the appointing authority may recommend compensation at a

higher rate within the Compensation Plan on the basis of exceptional qualifications or a lack of qualified applicants available at the minimum rate. Such a request shall be made to the Personnel Board in writing by the appointing authority at the time of employment or at the expiration of the probationary period. The Personnel Board shall approve or disapprove the request.

- 7.4. Performance Evaluations. All employees, regardless of their position on the Classification Plan, shall have, after completion of a self-evaluation form, an annual written goal-oriented performance evaluation, which shall be prepared by the department head or appointing authority on such form as is approved by the County Personnel Board. The Performance Evaluation shall be submitted to the County Manager on the first day of the month that precedes the employee's anniversary date or promotion date if applicable. The Performance Evaluation shall include the recommendations for a step increase or the denial of a said step increase by the Department Head or appointing authority if applicable. The employee's new rate, if granted, will become effective at the beginning of the next pay period immediately following the calendar anniversary date.

Periodic reviews of performance should take place with all employees and their immediate supervisors. These should include goals set by both employees and their supervisor as well as identifying training or education necessary to achieve certain goals.

- 7.5. Promotion. An employee who receives a promotion shall be compensated at the rate of pay that is closest to but greater than the employee's current rate of pay subject to approval of the County Personnel Board, which provides at least \$0.50 per hour increase (which represents an annual increase of at least \$1040 for a 40 hours per week position).
- 7.6. Working Out of Grade. Employees working out of grade or temporarily assigned to a higher grade, due to an extended absence of another employee, exclusive of vacation leave, after actively working (two consecutive pay periods) in said higher grade, shall be entitled to receive the salary of the higher grade at Step One or at the step higher and closest to the employee's current wage, whichever is higher. An employee shall have the right, without fear of discrimination, to refuse permanent assignment to a higher job grade.
- 7.7. Certificate of Employment. Department Heads shall notify the County Personnel Board within 7 days of all persons employed, the classification and the rate of compensation.
- 7.8. Salary Rates Above Maximum. Any salary rate which is above maximum rate for a job, as established by the County Compensation Plan, shall be deemed to be a personal rate, and apply only to the incumbent. When such incumbent leaves the employ of the County or is transferred to another job, the personal rate shall disappear and no other employee assigned to, or hired for, such job shall advance beyond the maximum of the job.

## **8. Overtime/Compensatory Time**

- 8.1. Coverage. All employees.
- 8.2. Policy. The County shall pay overtime in conformance with the Fair Labor Standards Act (FLSA). The appointing authority shall be responsible for the control and authorization of overtime. Overtime shall be authorized only in emergencies at the discretion of the appointing authority or his/her designee in advance, and shall be kept at a minimum and within the appropriated funds. Employees are required to show all hours worked on employee's payroll time sheet.
- 8.3. Accrual.

- a. Exempt employees are deemed to have a continuous responsibility to the public and are not entitled to overtime compensation consistent with the Fair Labor Standards Act.
- b. All non-exempt employees shall be paid for overtime hours at an hourly rate of time and one half for all hours over forty (40) paid hours in one calendar week.
- c. If extraordinary circumstances warrant it, the department head may, with the permission of the County Manager, utilize compensatory time in lieu of overtime pay (use Request for Overtime/Compensatory Time form). The department head and non-exempt employee must mutually agree to utilize compensatory time in lieu of overtime pay. Employees are required to show all hours worked as compensatory time on employee's payroll time sheet. The compensatory time off will accrue at the rate of time and one half for all hours over forty (40) paid hours in one calendar week. Hours worked up to 40 hours per week will accrue at a straight time.
- d. The non-exempt employee and the department head can agree on a flexible schedule in the same week in which he/she was required to work outside of his/her regular work hours which would allow the employee to take paid time off in lieu of accruing compensatory time and preventing overtime pay.
- e. Compensatory time is capped at 40 hours at any time. Any additional time worked as overtime must be paid overtime.

#### 8.4 Use.

- . With the approval of the department head , a non-exempt employee, may upon a written request (use Request for Time Off form), be allowed to use his/her accrued compensatory time off. Employees are encouraged to use the accrued compensatory time within 45 days from the time it was accrued unless an extended period is approved by the department head. If the employee did not use the compensatory time within 45 days from when it was accrued the employee shall be paid at the next pay period unless the department head approved an extended period. Use of compensatory time may be denied if it will result in unduly disrupting the organization.

#### 8.6. Buy back.

- a. Upon termination, an employee or the beneficiary of the deceased employee shall be paid an amount equal to 100% of the balance of compensatory time accrued and not used.

### 9. Holidays

- 9.1. Coverage. full-time and part-time employees. Seasonal and temporary employees are not eligible for holiday pay.

- 9.2. Recognized Holidays. The following holidays shall be recognized by the County on the day on which they are legally observed by the Commonwealth of Massachusetts, and on these days, employees, without loss of pay, shall be excused from all duty except in cases where the appointing authority determines that the employee is required to maintain essential county services. Holidays which fall on a Saturday will be observed on the preceding Friday and those falling on a Sunday will be observed on the following Monday.

New Year's Day  
 Martin Luther King Day  
 Presidents' Day  
 Patriots' Day  
 Memorial Day

Juneteenth Independence Day  
Independence Day  
Labor Day  
Columbus Day  
Veterans' Day  
Thanksgiving Day  
Day after Thanksgiving (Employee Appreciation Day)  
Half day last work day before Christmas  
Christmas Day

9.3. Terms of Holiday Pay. Holiday pay shall be granted as follows:

- a. Full-time employees – Full holiday pay.
- b. Part-time employees – Pro-rated based on the ratio of the average hours worked per week relative to the total number of full-time work hours, regardless of which days are worked during the week.
- c. Holiday pay shall be granted to an employee provided that the employee was in full pay status on such preceding and following days in accordance with other provisions of these regulations, or was appropriately excused.
- d. An employee paid on an hourly basis shall receive one day's pay at the regular rate of the employee based on the number of hours regularly scheduled on the day on which the designated holiday occurs; and
- e. A non-exempt employee required to work on a holiday that is not a regularly scheduled work day shall be compensated at one and one half times his/her normal hourly rate plus holiday pay.
- f. If an employee's regularly scheduled day off falls on a holiday, the employee shall be given an additional day off on a day set at the discretion of the appointing authority within thirty (30) working days of said holiday.
- g. Exempt employees who are of necessity required to work on holidays shall be given an additional day off within sixty (60) days. If such additional day off cannot be granted by reason of a personnel shortage, the employee shall be entitled to an additional day's pay.

## 10. Vacation Leave

10.1. Coverage. All full-time and part-time employees.

10.2. Accrual. Vacation starts accruing on employee's first day of work and will be credited at the end of each payroll period. Rate of accrual is depending on number of years of service counted from the first day of work (hire date).

Rate of accrual:

- a. An employee with less than 5 years of service accrues vacation at a rate of 0.03846 vacation hours per hour worked, which is an equivalent of 80 hours (10 days) of vacation with pay after completion of one year of service if working 40 hours per week.
- b. An employee with 5 years of service but less than 10 years of service accrues vacation at a rate of 0.05769 vacation hours per hour worked, which in an equivalent of 120 hours (15 days) of vacation with pay per year if working 40 hours per week.

- c. An employee with 10 years of service but less than 20 years of service accrues vacation at a rate of 0.0769 vacation hours per hour worked, which is an equivalent of 160 hours (20 days) of vacation with pay per year if working 40 hours per week.
  - d. An employee with 20 years of service or more accrues vacation at a rate of 0.09615 vacation hours per hour worked, which is an equivalent of 200 hours (25 days) of vacation with pay per year if working 40 hours per week.
  - e. At the 5, 10 and 20 anniversary date employee will receive an extra 40 hours (5 days) of vacation. Part-time employees will receive this benefit prorated based on average number of hours worked per week.
- 10.3. Scheduling. New employees are allowed to begin using their vacation time 90 days after their first day of work. Employee vacation requests are to be submitted to his/her department head at least two weeks before on the Request for Time Off form with no two employees taking vacation at the same time without the department head's permission. A department head may post a vacation sign-up sheet sufficiently in advance so that vacation schedules can be accommodated consistent with the needs of the County.
- 10.4. Ineligibility. An employee on unpaid leave or absent without pay shall not be eligible to accumulate vacation, sick or other leave until returning to continuous employment.
- 10.5. An employee may never have more than one year's worth of unused accrued vacation time plus one week on their anniversary date (the actual number of vacation hours that individual employee can have is dependent on an average number of hours worked per week); any additional unused vacation time is forfeited unless under exceptional circumstances additional carry-over is approved by the County Manager. Employees hired before July 1, 2018 are grandfathered and this requirement will not be in effect for them until July 1, 2019.
- 10.6. Vacation Buy Back. Upon termination, an employee or the beneficiary of the deceased employee shall be paid an amount equal to 100% of the vacation balance.

## **11. Sick Leave**

- 11.1. Coverage. All employees.
- 11.2. Policy. Sick leave shall not be considered a privilege which an employee may use at his/her discretion, but may be allowed only in case of actual sickness or disability or for sickness prevention measures. In no event shall earned days for illness or accident be construed as additional vacation allowance. The smallest amount of sick leave an employee can take is one hour, after the first hour the smallest increment of sick leave that can be used is half hour. The County has no obligation to grant sick leave to an employee that has used all of his or her sick leave accrual.
- 11.3. Use of Sick Leave. Paid sick leave shall be granted to an employee after completion of 90 days of services and only when the employee is incapacitated from the performance of duties by personal sickness, injury or quarantine by public health authorities. Injury, illness, or disability, self-imposed or resulting from the use of alcohol or drugs may not be considered a proper claim for leave under this section, except in the case of an alcoholic employee or one under the care of a physician or participating in a recognized treatment or rehabilitation program. Sick time may be used if employee is ill or has a medical appointment, or if he/she must care for an ill immediate family member. They also may use sick time to receive assistance related to domestic violence.



New employees are allowed to begin using their sick time 90 days after they are hired.

NOTE: Sick leave cannot be used as an excuse to be late for work without advance notice of a proper use. Except in an emergency, employee must notify their employer of their intent to use sick leave by submitting a Request for Time Off form to the department head for approval before using sick leave. Use of sick leave must be reported on the employee's payroll time sheet.

**11.4. Accrual of Sick Leave.**

a. Accrual of sick leave for all employees shall be at the rate of 0.0577 hours for each hour worked, which is an equivalent of 120 hours (or 15 days) per year for full-time employees who are scheduled to work 40 hours per week.

b.. Sick leave shall be credited on the last day of each pay period (every two weeks). No sick leave credits will be accrued while absent on leave without pay. Sick leave credits will accrue while absent on leave with pay.

**11.5. Notification.** Notification shall be made to the employee's supervisor, if possible. Notice of absence on account of sick leave shall be given whenever possible on the first day of such absence, prior to starting time but no later than one hour after starting time or otherwise at the earliest possible date. If such notice is not given, it will be granted as leave without pay.

**11.6. Certification of Illness.** The Appointing Authority may require a physician's certificate of illness if an employee is absent for more than 24 consecutive scheduled work hours or after a series of repeated absences during the year. If certification is not provided, it will be considered as leave without pay. A sick leave affidavit shall be filed by the employee with the appointing authority upon the employee's return from sick leave. The employer may request certification from a health care provider for any use of sick leave within an employee's last two weeks of work.

**11.7. Sick Leave Cash Out.** Upon retirement, or employee's involuntary but non-disciplinary separation from county services (such as lay off, job elimination, incapacitation), or death, the County shall pay to the employee or their estate, as the case may be, an amount of money equal to 20% of the employee's accumulated sick leave as of the effective date of retirement, date of death or employee's involuntary separation up to a maximum of 192 hours. The rate of pay for the sick leave cash out shall be based on the number of hours in the week for which the employee is employed by the County at the time of retirement, employee's involuntary separation or death. This section does not apply to seasonal and temporary employees and permanent employees working less than 20 hours per week.

**11.8. Post Separation.** Employees recalled to service or rehired within a period of six (6) months after being laid off will be credited with the balance of accrued sick leave as of his/her separation date upon re-payment of the Sick Leave Cash Out they received when they were laid off.

**11.9. Interference and Retaliation.**

a. Employers are prohibited from interfering with an employee's right to earned sick leave or retaliating against an employee who requests earned sick leave.

b. Employers are also prohibited from retaliating against an employee based on the employee's support of another employee's exercise of such rights.

**11.10. Sick Leave Bank.**

a. Employees may choose by written notification to contribute two of their

personal sick leave days initially, and then one per year thereafter, into a sick leave bank to be administered by a Sick Leave Bank Committee consisting of three members and one alternate. One shall be the County Manager and the other two shall be employees, one being a Department Head. The two employee members shall be elected by the employees. The alternate member shall also be an employee, elected in the same manner. In the event of a committee vacancy, the Personnel Board employee representative will serve as an acting member of the Committee.

- b. This Committee shall be empowered to make rules and regulations consistent with the intent of the Bylaw. See appendix.
- c. The Committee shall designate a yearly enrollment period during which time all eligible employees not yet enrolled will be asked to indicate, in writing, their desire to be included in the Sick Leave Bank.
- d. An employee who has exhausted all of his/her accumulated sick leave, personnel leave and vacation can make written application to the Committee for use of bank days in case of serious long term illness. However, employees who had not joined the Sick Leave Bank (as above) shall not be eligible to draw from the Bank.
- e. A majority vote of the Committee shall be necessary for the granting of Sick Leave Bank days, and in making its decision the Committee shall review the facts surrounding the request. A maximum of 240 sick leave hours can be awarded by the Committee without further review.
- f. If the decision of the Sick Leave Bank Committee is not favorable, it may be appealed to the Personnel Board for review, and the decision of the Personnel Board shall be final and binding and not subject to further review.
- g. If the Sick Leave Bank is exhausted, it shall be renewed by the contribution of one additional day of sick leave by each current member of the Sick Leave Bank. Such additional days will be deducted from the employee's annual sick leave. The Sick Leave Bank Committee shall determine the time when it becomes necessary to replenish the Bank.

## **12. Worker's Compensation and Injury Leave.**

An employee on leave due to a certified and reported injury that occurred while at work shall be compensated at full pay while awaiting qualification for Workers' Compensation, without the loss of sick days. Upon receipt of Workers' Compensation, an employee will be paid an amount equal to the difference between an employee's normal base pay and the amount received for Workers' Compensation. Such difference will be deducted from the employee's accrued sick leave based on the dollar value of such sick leave at the time of injury.

## **13. Bereavement Leave**

13.1. Coverage. Full-time employees.

13.2. Policy. Bereavement leave of up to four (4) days shall upon request be granted for a death in the employee's immediate family. Compensation shall be limited only to the time lost from the employee's normal straight time schedule.

## **14. Military Leave**

14.1. Coverage. All employees.

- 14.2. Policy. Annual Training: Employees called for temporary period of training in the military forces of the Nation or the Commonwealth (commonly referred to as “summer camp” or similar training) shall be paid for a period of up to seventeen (17) days an amount equal to the difference between the employee’s normal straight time compensation and the amount received for such services upon presentation of evidence of the amount paid for military training. Employees shall remain entitled to vacation time, annual raises, step increases, promotions and job security. At the expiration of military leave, the employee shall be restored to the previous position with the same status, pay, length of service credit, and seniority.
- 14.3 Policy. Military leave: If the employee is called for duty (activated) for a period of time over the seventeen (17) days, then on the eighteenth (18) day, the employee will be paid an amount equal to the difference between an employee’s normal straight time compensation and the amount received for military duty. County can drop the employee’s medical/health coverage for that extended period of time upon mutual agreement as the employee and their family may be covered under Tri-Care health insurance. (This section does not apply to voluntary enlisting at which point the employee needs to resign).

## **15. Jury Leave**

- 15.1. Coverage. All employees.
- 15.2. Policy. Employees called for jury duty shall be paid for the amount equal to the difference between compensation paid for the normal working period and the amount paid by the court excluding allowance for travel.

## **16. Personal Leave**

- 16.1. Coverage. All employees.
- 16.2. Policy. Each employee shall be allowed up to 24 hours of leave with full pay during each year for the purpose of transacting or attending to personal, legal, business or family matters which require absence during regular working hours. Leave shall be available for reasons of hardship or other pressing need and not merely for personal convenience.

Permanent Part-time employees who work more than 20 but less than 40 hours per week shall be granted personal leave on pro-rated basis based on the ratio of the average hours worked per week relative to the total number of full-time work week hours, regardless of which days are worked during the week.

On each July 1<sup>st</sup>, eligible employees on the payroll as of that date will be credited annually with 24 hours paid personal leave which may be taken during the following twelve months at a time or times requested by the employee and approved by the appointing authority. Employees hired or promoted into the County service after July 1<sup>st</sup> of each year will be credited with personal leave in accordance with the following schedule:

Date of Hire	Personal Leave Time
July 1 – September 30	24 hours paid leave
October 1 – December 31	16 hours paid leave
January 1 – March 31	8 hours paid leave
April 1 – June 30	0 hours paid leave

Personal leave may be used in conjunction with vacation leave. These hours shall not be accumulated, accrued or carried into the next twelve month period. Any paid personal leave not taken by June 30 will be forfeited by the employee.

- 16.3. Notice. In any case where the expected leave is foreseeable, the employee shall provide not less than 30 day notice before the leave is to begin. In cases where 30 day notice is impossible, the employee shall provide such notice as soon as practicable. The provisions of this article are meant to include and satisfy the requirements of the Massachusetts Small Necessities Leave Act.

## **17. Leaves of Absence**

- 17.1. Coverage. All employees.
- 17.2. Policy. For the purpose of this section "Leaves of Absence" shall mean any authorized leave of absence not described elsewhere in these Bylaws. After exhausting vacation leave, personal days and/or compensatory time the appointing authorities, with the approval of the County Manager, may but need not grant leaves of absence without compensation. Employees shall, after thirty days of unpaid, non-medical leave, be responsible for full payment of all insurance premiums. Leaves of absence of over three months' duration may be considered a break in service, in which case upon return to work the employee shall have the status of a new employee, unless an extension of leave beyond the three-month period has been authorized in advance by the County Manager.

## **18. Longevity Pay**

- 18.1. Coverage. All permanent employees.
- 18.2. Policy. To further a career in public service, a longevity pay shall be paid to employees in the year following the final step year. No employee shall receive both a step increase and longevity pay in the same fiscal year. The longevity pay shall be paid as follows:
- a. After completion of a minimum of ten (10) full years of continuous service to the County, employees shall be paid an additional 1% of their base annual salary per year.
  - b. After fifteen (15) full years of continuous service to the County, employees shall be paid an additional 2% of their base annual salary per year.
  - c. After twenty (20) full years of continuous service to the County, employees shall be paid an additional 3% of their base annual salary per year.
  - d. Longevity pay shall be paid to an employee in the first pay period after his/her anniversary date.

## **19. Safety**

- 19.1. Coverage. All employees.
- 19.2. Policy. The County shall make an effort to provide and maintain safe working conditions in compliance with all state and federal regulations.

- 19.3. Procedures. As appropriate and subject to available funding, employees shall be provided with necessary safety equipment and clothing. Employees shall be required to wear and use safety equipment at all times while undertaking the work for which the equipment is furnished. There shall be no exceptions.
- 19.4. Responsibilities of Appointing Authority, Department Heads and Employees.
- a. Appointing authority, department heads and supervisors shall: assume full responsibility for safe working areas; recommend correction of deficiencies noted in work procedures, facilities, safety clothing or equipment, or attitudes; insure the availability and utilization of appropriate protective clothing and equipment; observe working conditions and field procedures to prevent possible safety hazards; and investigate and report all accidents promptly.
  - b. Each employee shall: observe all safety rules, operating procedures and wear all supplied safety clothing or equipment; report unsafe areas, conditions, or other safety problems; and report all accidents promptly to the appropriate supervisor.
- 19.5. Disciplinary Action. Employees violating safety rules, practices and policies may be subject to disciplinary action.

## **20. Standards of Conduct**

The standards of conduct of county employees are governed by the MGL Conflict of Interest Law. The following is a summary of some parts of these provisions only.

- 20.1. Coverage. All employees.
- 20.2. Policy. County employees shall avoid any action which might create the impression of using public office for private gain, giving preferential treatment to any person, or losing impartiality in conducting County business and in accordance with M.G.L. c. 268A (the State Ethics Act).. Employees are expected to conduct themselves in a manner which in no way discredits the County, public officials or fellow employees. All persons employed by Dukes County hold positions of public trust and must present themselves in a professional and appropriate manner.
- 20.3. Suspension. In the event an investigation is warranted due to the conduct of an employee, the employee may be suspended with or without pay at the discretion of the County Manager upon recommendation by the Appointing Authority. Any suspension greater than 5 days will require a hearing by the County Manager or before a hearing officer appointed by the County Manager.
- 20.4. Ethics. County employees must avoid any action which may result in or create the appearance of using public office for private gain, giving preferential treatment to any person, or losing complete impartiality in conducting County business. Employees are expected to adhere to conduct established by state law.
- 20.5. Receipt of Gifts. Employees are expressly prohibited from soliciting or accepting gifts, gratuity, favors, entertainment, loans, or any other item of monetary value of \$50.00 or more from any person who has or may be seeking to obtain business with or privilege with the County, or from any person within or outside County employment whose interests may be affected by the employee's performance or non-performance of official duties.

The following exceptions are permitted as specified in M.G.L. c. 268A: Acceptance of nominal gifts under \$50 in keeping with special occasions, such as marriage, retirement, or illness;

food and refreshments in the ordinary course of business meetings; or unsolicited advertising or promotional material of nominal intrinsic value (e.g., pens, notepads, calendars).

- 20.6. Business Activities and Solicitation. No employee shall engage in any business other than his/her regular duties during working hours; this regulation specifically includes such activities as solicitation of fellow employees, lending of money for profit or any similar activity.
- 20.7. Outside Employment. The County views a full-time employee's position with the County as his/her primary employment and other employment as secondary and requires permission of the appointing authority.
- 20.8. Privileged Information. Employees may deal with plans and programs of significant public interest. Employees must not use this privileged information for their own financial advantage or to provide friends and acquaintances with financial advantages, or with information which could be used for financial advantage. If an employee finds that he/she has an outside financial interest which could be affected by County plans or activities, he/she must immediately report the situation to his/her supervisor. Each employee is charged with the responsibility of insuring that he/she releases only information that should be made available to the general public. Violation of privileged information or use for private gain is just cause for discharge of the employee.
- 20.9. Use of Property. Employees and appointing authority will not, directly or indirectly, use or allow the use of County property of any kind for other than official activities.
- 20.10. Social Media. These Bylaws are designed to promote and govern the professional and personal use of social media in a responsible manner and to avoid uses that can: (1) breach confidentiality by revealing protected information about the County, its citizens, its vendors and suppliers, or its employees; (2) expose the County to legal liability for employer or employee behavior that may be harassing, offensive, or maliciously false; or (3) interfere with employees' productivity and/or their ability to perform the duties and responsibilities of their positions with the County.
- 20.11 Political Activity. All employees are entitled to exercise their rights as citizens to express their opinions and to cast their votes. Employees, supervisors, department heads and appointing authority may not:
  - a. Engage in political activity during his/her working hours;
  - b. Use official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office;
  - c. Directly or indirectly coerce, attempt to coerce, command, or advise a State or local officer or employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for political purposes.

## **21. Disciplinary Policy**

- 21.1. Coverage. All employees.
- 21.2. Policy. All employees are responsible for satisfying the requirements of job, meeting annual performance goals, obeying rules and lawful orders of supervisors, and adhering to equipment operating guidelines necessary for proper operation of County departments. Disciplinary actions shall be the responsibility of supervisors, Department Heads, and appointing authorities who shall exercise their responsibility with discretion and with concern for the employee.

21.3. Reasons for Disciplinary Action. Disciplinary action may be initiated against an employee for failure to fulfill his or her responsibilities as a County employee. The following provide, by way of example (but are not limitations), sufficient cause for disciplinary action:

- a. Incompetence or inefficiency in performing assigned duties.
- b. Inability to perform one of more critical element of the position.
- c. Refusal to perform a reasonable amount of work or violation of any reasonable official order or failure to carry out any lawful and reasonable directions made by a proper supervisor.
- d. Habitual tardiness or absence from duty.
- e. Falsification of time sheets.
- f. Use of possession of illegal narcotics or alcohol while on duty.
- g. Misuse or unauthorized use of County property.
- h. Violation of the Conflict of Interest Law.
- i. Fraud in securing appointment.
- j. Disclosure of confidential information.
- k. Abuse of sick leave or absence without leave.
- l. Violation of safety rules, practices and policies.
- m. Engaging in sexual harassment or other prohibited discriminatory conduct.
- n. Insubordination, including failing to obey lawful orders, or to comply with rules or procedures.
- o. Any situation or instance of such serious nature that disciplinary action is warranted.

21.4. Disciplinary Procedures. Department Heads and supervisors shall be responsible for enforcing rules and regulations satisfying the requirements of job descriptions, meeting annual performance goals, and adhering to equipment operating guidelines. Disciplinary action shall include only the following: oral reprimand, written reprimand, disciplinary probation, suspensions, demotion and discharge. The severity of an infraction shall dictate the level of disciplinary action imposed.

- a. Oral reprimand. A Department Head observing action of an employee warranting disciplinary action may issue an oral warning to the employee. The oral warning shall be presented with maximum regard for minimizing embarrassment to the employee and shall include a statement concerning the purpose of the warning. An oral reprimand shall be noted on the Employee Reprimand Form (warning notice) and inserted into in the employee's personnel file.
- b. Written reprimand. If an oral warning shall fail to correct an action warranting disciplinary action, the Department Head shall issue a written warning including reasons for the warning and an offer of assistance on the part of the Department Head in correcting the unsatisfactory situation. A copy of the written warning shall be placed in the employee's personnel file and carry a specified period in which the behavior shall be improved. The written warning shall be provided to the employee.
- c. Suspension. At the discretion of a Department Head and with sufficient cause a Department Head may suspend an employee without pay. Suspension may be in lieu of oral reprimand, written reprimand and disciplinary probation and may be effective immediately.

Any suspension greater than 5 days will require a hearing before a hearing officer appointed by the County Manager.

Within forty-eight (48) hours of the effective date of the suspension, the employee shall be provided with a written notice stating the reasons for and the length of the suspension. A copy of such notice shall be provided to the County Manager and the Personnel Board.

- d. Discharge. An employee may be discharged for unsatisfactory job performance or violation of County regulations. The Department Head shall provide the employee with a written notice stating the reason or reasons for the discharge the effective date of the discharge and the date, time and place of a hearing before a hearing officer appointed by the County Manager. A copy of such notice shall be provided to the County Manager and the Personnel Board.

21.5. Forms. See Appendix for forms.

Note: The seriousness of a violation, as well as an employee's past record will influence the level of discipline. There is no need to start with an oral reprimand and progress to higher levels, for example, where the situation warrants more serious disciplinary action.

## **22. Drug/Alcohol and Substance Abuse**

22.1. Coverage. All employees.

22.2. Policy. Improper and excessive use of alcohol or prescription drugs, and the use of controlled substances are inconsistent with the behavior expected of employees. It subjects all employees and users of our facilities and the public generally to unacceptable safety risks and undermines the County's ability to operate effectively and efficiently.

- a. The unlawful manufacture, distribution, dispensation, possession, sale or use of controlled substances or alcohol in the work place or while engaged in the County's business on or off the County's premises and facilities is strictly prohibited. Such conduct is also prohibited during non-working hours to the extent it impairs an employee's ability to perform on the job or is a violation of law.
- b. Employees who violate this policy for the first time, and where no accident or other injury results, in addition to any disciplinary action, may be offered a so-called "Last Chance Agreement" and permitted to attend a substance/alcohol abuse rehabilitation program and must successfully complete the program as a condition of continued employment.
- c. Where an employee is involved in any type of accident while working, the County may require that the employee be tested to detect the presence of alcohol, drugs, or other controlled substances.
- d. The County reserves the right to require employees to undergo appropriate tests designed to detect the presence of alcohol, drugs or other controlled substances where it has reasonable suspicion to believe that employees may be under the influence of any of these substances or where the use of such substances has affected the employee's performance and/or effectiveness.
- e. Where an employee has violated this policy and later returns to duty (after successfully completing a rehabilitation program), unannounced follow-up tests, of at least six (6) in number in the first twelve (12) months after returning to work, will be conducted, with extension of follow-up testing at the County's discretion for up to sixty (60) months.
- f. Any and all drug and alcohol testing will be conducted in accordance with usual and acceptable testing standards.
- g. A County Policies and Procedures Manual shall specify the implementation of this policy.



- h. It shall be the policy of the County that the possession, use and distribution of alcohol, prescription drugs, and/or illegal substances shall be prohibited in all County premises at all times. The Drug-Free Workplace Act (effective March 18, 1989) requires all employers to make a good faith effort to maintain a drug-free Workplace. Failure of any employee to abide by this policy and failure of the County to enforce this policy may result in the suspension or termination of payments on existing federal contracts and grants and may further debar the County from being eligible for future contracts or grants.
- i. Administration: All employees are hereby advised that the County prohibits the possession, use or distribution of alcohol and, or illegal drugs or abuse of prescription drugs in the workplace. Employees who violate this policy shall be subject to disciplinary action.
- j. The maintenance, possession, dispensing or use of alcoholic beverages or controlled substances (drugs) or abuse of prescription drugs is prohibited wherever an employee is performing work for the County, including in vehicles. Each employee will abide by this policy as a condition of employment.
- k. Each employee will notify the County of any arrest or criminal conviction for an alcohol or drug violation occurring in the workplace no later than five (5) days after the conviction in a Federal or State Court.

## **23. Furloughs**

23.1. Coverage All employees

23.2 Policy. If the circumstances warrant it due to budgetary constraints, the County Manager with the approval of the Commissioners may institute a furlough program where the employee is not required to work and will not receive compensation.

## **24. Grievance Procedure**

24.1. Coverage. All employees.

24.2. Policy. Employees shall have the right to confer with the County Manager on any matter which is covered by personnel policies. The Personnel Board shall have the power to resolve grievances which do not require the expenditure of funds in excess of available appropriations.

24.3. Grievance Procedure. Grievances shall relate to improper application of these Bylaws or disciplinary procedures. Grievances shall be resolved in the following manner:

- a. Employees are encouraged to discuss any matter of dispute with their department head in a mutual effort to resolve any problem or misunderstanding.
- b. If a grievance is not resolved in an informal manner, an aggrieved employee may present a grievance in writing to the County Manager along with all pertinent information relative to the grievance and indicating the relief that is desired, who shall forward the grievance to the Department Head. The Department Head shall within seven (7) days of receipt of a grievance provide an answer in writing to the aggrieved employee and the County Manager. Copies of the grievance and answer shall be provided to the Personnel Board by the County Manager.
- c. If the grievance has not been resolved as provided in (b) above, the aggrieved employee may within seven (7) days after receipt of the written answer from the Department Head or within fifteen (15) days after presentation of the grievance to the County Manager, whichever occurs first, present the grievance in writing to the Personnel Board . The

Personnel Board shall schedule a hearing on the grievance within twenty (20) business days after its receipt. The Department Head and employee shall have the right to attend such hearing. The decision of the Personnel Board shall be final and shall be issued within ten (10) business days after the closing day of the hearing.

## **25. Termination of Employment**

25.1. Coverage. All employees.

25.2. Policy. To maintain a fair and equitable policy as it pertains to termination.

25.3. Classifications.

- a. Termination for Cause. Employees will be eligible only for vacation earned but not granted in the prior year as outlined in section 10.6. of these Bylaws.
- b. Layoffs. Employees will be eligible to receive all vacation pay as outlined in 10.6. and Sick Leave Cash Out as outlined in 11.7. When, for any reason, it becomes necessary to reduce the work force in a department, the laying off of employees within each job title in that department shall be determined first by type of appointment in the following order: emergency, temporary, probationary, part-time, and then full-time. Within the type of appointment, the order of layoff in the department shall be determined by combination of the length of continuous service with the County and job performance. Employees who are laid off shall be given first consideration for subsequent vacancies in the grade from which they were laid off for a period of twelve (12) months. A layoff re-employment list will be maintained in the County Manager's Office.

If an employee is scheduled to be laid off, the employee may be offered a transfer to a position of the same or lower grade if a vacancy exists and the employee is qualified to fill the position involved. An employee to be laid off shall be notified in writing by the County Manager's Office at least fourteen (14) calendar days prior to the effective day of the layoff. In lieu of said fourteen (14) calendar day notice, the County reserves the right to provide employees being laid off with two weeks' pay.

- c. Resignation. Employees are expected to provide the County with a written notice of resignation at least two (2) weeks prior to the last day worked. The two (2) week period shall be exclusive of sick leave or vacation leave. Employees are eligible to receive all vacation pay as outlined in section 10.6. Resignation is the separation of any employee by his/her voluntary act. An employee may resign in good standing from the jurisdiction by submitting in writing the reasons therefor and the effective date to the Department Head at least fourteen (14) calendar days in advance.
- d. No Call, No Show/Resignation with less than 2 week notice. An employee will be considered to have resigned his/her position if the employee fails to report to work or call in for a period of three (3) consecutive workdays. Employees will be eligible for only vacation earned but not granted in the prior year as outlined in 10-4 (2). It is the employee's responsibility to notify the County of absence from work.

25.4. Evaluation is required at separation. Satisfactory evaluation at separation is required for rehire. Unsatisfactory evaluations may be appealed to the Personnel Board.

25.5. Rehire/Recall

- a. Recall. If an employee is recalled within twelve (12) months of his layoff date, he/she will be reinstated with no loss of seniority with regard to benefits and longevity.
- b. Rehire. If an employee is rehired within one year of termination, after completion of a period equal to the length of termination or the probationary period, whichever is longer, the employee will be reinstated with no loss of seniority with regard to benefits and longevity.
- c. Buy Back. After reinstatement of original hire date an employee may elect to "Buy Back" his earned sick days by repaying any benefits paid to him under the Sick Leave Cash Out.
- d. Time Granted. Vacation payment made to such employee for accrued vacation during the year which termination occurred will be considered time granted upon reinstatement.