

**LEWIS AND CLARK COUNTY
PERSONNEL POLICY MANUAL**

August 1, 2015

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INTRODUCTION TO THE PERSONNEL POLICY MANUAL

Format

This manual is divided into chapters and each chapter is divided into specific policies and guidelines.

Each policy is assigned a number as shown in the following illustration:

01-11-

01 = Chapter Number.

11 = Policy or Procedure Guideline Number within the Chapter.

Page numbers within this manual may change as new policies and guidelines are adopted, revised or deleted. If new additions exceed the page length of the old policy, then the page number will reflect an alphabetical listing so as not to upset the numbering system of the rest of the manual. This will preclude renumbering the entire manual as additions, revisions or deletions are made to the personnel policy manual.

CHAPTER I: GENERAL PERSONNEL POLICIES, POLICY STATEMENTS AND DEFINITIONS

Section 01-01- Purpose

The purpose of this Personnel Policy Manual is to establish a uniform system of personnel administration for Lewis and Clark County that is efficient, fair, equitable, and functional. This manual describes policies, guidelines and conditions of employment for County personnel. At the same time, the Personnel Policy Manual should not be construed as an agreement between Lewis and Clark County and its employees.

Section 01-02- Non-Discrimination and Equal Employment Opportunity Policy

The County observes a policy of non-discrimination: no individual will be discriminated against with regard to compensation, terms, conditions, or other privileges of employment because of race, ancestry, color, mental or physical disability, religion, national origin, sex, age, marital status, creed, ex-offender status, physical condition, political belief, public assistance status or sexual preference except where these criteria are reasonable bona fide occupational qualifications.

The County is committed to Equal Employment Opportunity (EEO) recruitment guidelines as promulgated by federal and state law: all provisions of this manual will be administered in accordance with the provisions contained in the Equal Employment Opportunity Guidelines where the guidelines are applicable and relevant.

Section 01-03- Statement on Equal Employment Action Plan

The Lewis and Clark County Board of County Commissioners or the Board's designee may adopt an action plan to provide all persons equal opportunity for employment without regard to race, color, mental or physical disability, religion, creed, national origin, sex, age, or marital status. In keeping with this commitment, all department directors and their staff have the responsibility to actively facilitate equal employment opportunity for all present employees, applicants and trainees. This responsibility will include assurance that employment decisions are based on furthering the principle of equal employment opportunities by imposing only essential, job-related requirements for employment and by assuring that all personnel actions are administered on the basis of job necessity.

Specific responsibility for developing, implementing, monitoring and reporting a plan is assigned to the County Human Resource Director.

It is the policy of Lewis and Clark County to eliminate any practice or procedure that discriminates illegally or has an adverse impact on an "affected" class. Equal opportunity will be provided for all County employees during their terms of employment. All applicants for County employment will be employed on the basis of their qualifications and abilities.

Lewis and Clark County, where reasonable and practical, will use qualified minority- and woman-owned enterprises and will ensure that subcontractors and vendors comply with this policy. Failure of subcontractors and vendors to comply with this policy statement may jeopardize initial, continued or renewed funds.

The County's commitment is intended to promote equal opportunity in all employment practices and to provide a fair and equitable program for Lewis and Clark County, its employees, trainees and applicants.

Section 01-04- Unlawful Discrimination and Sexual Harassment Policy Statement

Lewis and Clark County is committed to providing a positive atmosphere conducive to employees achieving high levels of performance. It is a policy of Lewis and Clark County to protect the rights of employees to work in an environment free of all forms of unlawful discrimination and harassment, including, but not limited to, sexual harassment.

For the purpose of this policy, unlawful discrimination is defined within the meaning of Title VII of the Civil Rights Act of 1964 and the Montana Human Rights Act. Unlawful discrimination is a failure or refusal to hire any individual or to make a decision with respect to his or her compensation, terms, conditions or privileges of employment because of an individual's race, color, religion, sex, national origin, age, mental or physical disability, sexual partner preference, marital status, receipt of public assistance, political belief and/or ex-offender status. Sex Discrimination includes Sexual Harassment.

The provisions of this policy apply to all Lewis and Clark County work sites, departments, and all employer sponsored activities.

In keeping with this policy Lewis and Clark County, as an employer, will:

1. Provide a working environment free from unlawful discrimination for all County employees and for visitors to the County's work sites;
2. Communicate the County's unlawful discrimination and harassment policy and reporting procedures to employees and supervisors;
3. Recognize the sensitive nature of unlawful discrimination and harassment complaints and will encourage employees to report complaints early and will strive to resolve complaints in a timely and confidential manner; and
4. Prohibit retaliation against any employee, or witness of any employee, for reporting alleged unlawful discrimination and/or harassment.

Lewis and Clark County considers unlawful discrimination and harassment unacceptable behavior and an abuse of authority. Furthermore, unlawful discrimination and harassment is a violation of State and Federal equal employment opportunity and non-discrimination regulations. Employees, applicants or visitors who are subjected to unlawful discrimination and/or harassment should contact the Human Resource Director. Complaints will be investigated through the established unlawful discrimination and harassment claim procedure described in Chapter XII.

Section 01-05- Statement on the Rights of Individuals with Disabilities

Lewis and Clark County is committed to providing all persons equal opportunity for employment without regard to race, color, mental or physical disability, religion, creed, ethnic background, national origin, age, sexual preference, marital status, gender or sex. In addition, the County has certain obligations and responsibilities under the Montana Human Rights Act and the Americans with Disabilities Act (ADA) that require the County to provide access to programs and services.

In keeping with this commitment and statutory obligations, all elected officials, department directors and their staff share a responsibility to actively promote and facilitate equal employment opportunity for all present and future disabled employees, applicants and trainees. This responsibility includes assurance that employment decisions are based solely on valid job-related requirements for employment and assuring that all personnel decisions are based on job necessity. The County also asserts and affirms its commitment to creating a barrier-free environment for the programs and services it offers.

The County Chief Administrative Officer (or designee) will act as the Americans with Disabilities Act Coordinator, with specific responsibility for directing, planning, training and implementation activities for ADA and the Montana Human Rights Act as it pertains to persons with disabilities.

Section 01-06- Statement on Drug and Alcohol Abuse

Lewis and Clark County is committed to maintaining a safe, healthy, and productive work environment that is drug and alcohol free. Substance abuse increases the potential for accidents, absenteeism, substandard performance, and poor employee morale. Impaired judgment of employees may have serious financial consequences for the County through increased risk of accidents, potential accident liabilities, increased Workers' Compensation liabilities, and potential faulty decision-making. Substance abuse undermines the County's mission to provide the community with an excellent quality of life through leadership, communication and delivery of services that are responsive to citizen's needs, cost effective, and oriented to the future.

The Drug-Free Workplace Act (D.F.W.A.) of 1988 requires that agencies receiving grants from any federal agency certify that they will maintain a drug-free workplace. This policy conforms to the D.F.W.A., Equal Employment Opportunity, and Affirmative Action Guidelines. Questions concerning this policy should be directed to the responsible elected official, department director or to the Human Resource Director.

Section 01-07- Collective Bargaining

Employees have the right of self-organization, to form, join or assist any labor organization, to bargain collectively through representatives of their own choosing on questions of wages, hours, fringe benefits, and other conditions of employment, to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, free from interference, restraint, or coercion.

Section 01-08- Conflict of Law

In situations where the provisions of this personnel policy conflict with County regulations, state statutes, federal law, or a collective bargaining agreement, the provisions of said regulations, statute, law, or collective bargaining agreement, will supersede the conflicting provisions in this manual.

Section 01-09- Severability

If any section, subsection, sentence, clause, phrase or word of this policy is for any reason held to be invalid or unconstitutional, the decision will not affect the validity of the remaining portions of this policy.

Section 01-10- Definitions

For the purpose of this manual, the following terms are defined as below:

Active	In an active pay status.
Active Pay Status	The condition of having compensable hours in a given pay period. "In an active pay status" means the hours an employee is paid at the regular rate up to a maximum of forty (40) hours in a workweek. This includes hours an employee is paid for annual leave, sick leave, holidays, military leave, administrative leave and compensatory time.
Affinity	The relation that one's spouse has, by virtue of marriage, to blood relatives of the other.
Authorized	Authority that has been delegated by the Human Resource Director or his/her designee.
Cause/Good Cause	Reasonable job-related grounds for dismissal based on a failure to satisfactorily perform job duties, disruption of the employer's operation, or other legitimate business reason.
Compensatory Time	Hours worked beyond the standard forty (40) hour work week by employees considered to be non-exempt under terms and conditions of the Fair Labor Standards Act. Compensatory Time is accrued at one and one half hour per one hour worked in excess of forty (40) hours (or alternate work schedule for certain public safety employees) in a work week.
Conflict of Interest	An employee engaging in outside employment or activities that conflict with County interests or the employee's ability to satisfactorily perform his/her duties as a County employee.
Consanguinity	Kinship; blood relationship; the connection or relation of persons descended from the same stock or common ancestor.

Consecutive	Employment that regularly lasts from week to week and month to month in a given year.
Department Director	A County employee who has the powers, duties, and responsibilities for managing a defined group of functions and services.
Dismissal	The involuntary termination of employment for reasons other than lack of funds, lack of work, retirement or resignation.
Elected Official	Any one of the following: Board of County Commissioners; Coroner; Clerk of District Court; County Attorney/Public Administrator; Justice of the Peace; Superintendent of Schools; Sheriff; Treasurer/Clerk and Recorder/Auditor/Surveyor/Assessor.
Exempt Compensatory Time	Hours worked beyond the standard forty hour (40) work week by employees exempt from the provisions of the Fair Labor Standards Act. Exempt Compensatory Time is accrued at one hour per one hour worked in excess of forty (40) hours in a work week.
Exempt Employee	An employee in a position designated as executive, administrative or professional, who is not subject to the overtime pay provisions of the Federal Fair Labor Standards Act (FLSA) and its regulations. Exemptions are listed in Section 13 of the FLSA and further defined in 29 CFR 541.
Flex-Time	An adjustment in employee's regularly scheduled working hours that varies from the regular, scheduled working hours.
Grievance	A complaint or dispute initiated by a County employee over the application, meaning, or interpretation of this Personnel Policy Manual.
Human Resource Director	Under general administrative direction of the Chief Administrative Officer, responsible for administration of County personnel policies and pay rules.
Immediate Family	The employee's spouse, any dependent member of the employee's household, or any parent, sibling, child, grandparent, grandchild or corresponding in-law.
Leave	Time off from work and may include either authorized or unauthorized time away.
Non-Exempt Employee	An employee who is not excluded from the overtime and/or minimum wage provisions of the Fair Labor Standards Act.

Officer	An elected or appointed County employee with statutorily defined responsibilities.
Overtime	Compensation paid at time and a half to non-exempt employees for hours worked in excess of forty (40) hours in a work week.
Performance Review	Process by which a supervisor appraises employees on the execution of the duties and responsibilities of the employee's position.
Probation	A period from the initial hiring, transfer, demotion, or promotion date during which the work performance and conduct of the employee is reviewed and assessed to determine whether Regular status will be granted.
Professional Employees	Employees employed in a bona fide professional capacity as defined by the Fair Labor Standards Act.
Resignation	Voluntary termination by an employee.
Retirement	Voluntary or physical disability termination of an employee who has qualified for and will receive retirement benefits immediately upon termination.
Status	Employment benefit categories. See Chapter III for definitions.
Supervisor	Any individual authorized to assign and direct other employees, adjust employee grievances, discipline other employees, perform performance appraisals, and exercise authority delegated by the elected official/department director that is not of a merely routine or clerical nature but requires the use of independent judgment.
Termination	Separation from employment due to retirement, resignation, dismissal, temporary nature of the position, or end of term of employment or appointment.
Transfer	Movement by an employee from one department or division to another using a competitive recruitment process.

CHAPTER II: PERSONNEL POLICY ADMINISTRATION

Section 02-01- General Personnel Administration Policy Statement

Personnel policy administration is the responsibility of every elected official and department director. The Board of County Commissioners, through the Human Resource Director, will establish, administer and amend personnel policies, procedures and guidelines as the need arises using the posting process provided for in this chapter.

The Board of County Commissioners will have the responsibility and authority to participate in personnel administration duties to the extent authorized by state statute, County regulations and provisions listed in this personnel policy manual.

The policies of this personnel manual will not conflict with the powers, duties and responsibilities that are reserved, by law, for citizen boards.

Section 02-02- Personnel Policy Amendment Process

Lewis and Clark County's Personnel Policy is subject to the process that governs policy adoption. The process for amending or adopting a personnel policy is summarized below:

- A. The policy will be posted for comments in the Human Resource Department and Board of County Commissioners' office for no less than two (2) weeks prior to adoption. Copies of proposed policies or amendments will be circulated to County departments and offices.
- B. Comments will be directed to the Human Resource Department staff during the comment period.
- C. The Board of County Commissioners may adopt amendments at a regularly scheduled County Commission meeting.
- D. Subsequently, all policies so adopted will be entered into the policy manual available in the Human Resource Department and Board of County Commissioners' office and distributed to each department and every employee.
- E. The provisions of this policy will not be construed as limiting the power and authority of any County officer, elected official, or department director to make departmental rules and regulations governing the performance of employees. Departmental rules and regulations, however, may not conflict with provisions of this manual or with any other adopted County policies.
- F. Suggestions for amendments to this manual are welcome. All suggestions must be submitted in writing to the Human Resource Director.

Section 02-03- Responsibilities of Elected Officials and Department Directors

Department directors will have the responsibility to:

- A. Administer the County personnel policies in their department, including recruitment and selection.
- B. Inform employees of current personnel policies.
- C. Make recommendations for policy change.
- D. Administer discipline and address workplace disputes in accordance with departmental rules (including collective bargaining agreements) and personnel policies set forth in this manual.
- E. Participate in grievance procedures.
- F. Initiate personnel change forms for changes in pay, position title, status, and pay activity codes.
- G. Ensure that Position Description Questionnaires are maintained and updated on an annual basis
- H. Request position announcements from the Human Resource Director.
- I. Make recommendations for appointments of employees to positions in their departments.
- J. Make recommendations for provisions in collective bargaining agreements.
- K. Assist in implementation of provisions in collective bargaining agreements.
- L. Report work-related incidents of unlawful discrimination, sexual harassment, illegal drug use, alcohol use or workplace intimidation to the Human Resource Department.
- M. Report workplace accidents and injuries to the Human Resource Department.
- N. Conduct accident investigations.
- O. Provide the Human Resource Department with copies of policies developed by the department.
- P. Authorize time sheets and leave requests.

Section 02-04- Human Resource Director Responsibilities and Authority

The Human Resource Director has the responsibility and authority to:

- A. Administer the policies and procedures set forth in this manual.
- B. Inform County department directors and elected officials about personnel policies and procedures that affect the operation of their departments.
- C. Notify County department directors and elected officials about changes to current personnel policies.
- D. Maintain open dialogue with County elected officials and department directors.
- E. Ensure the adherence to Equal Employment Opportunity and non-discrimination policies.
- F. Act as Equal Employment Opportunity (EEO) Officer. In this capacity the Human Resource Director will:
 - 1. Counsel employees, process discrimination complaints, and keep the elected officials and department director informed of complaint activity.
 - 2. Investigate work-related incidents of unlawful discrimination, sexual harassment, or workplace intimidation
 - 3. Assist the elected officials and department with identification of problem areas, proposals for solution, and methods of implementing corrective action.
 - 4. Coordinate Equal Employment Opportunity activity and the County's EEO program per policies and guidelines.
 - 5. Design and implement systems that will measure the effectiveness of the department's program and the attainment of current goals and timetables.
 - 6. Keep elected officials and department directors informed about the latest developments in the EEO area.
 - 7. Ensure that County staff is knowledgeable about EEO programs and Equal Employment Opportunity through training sessions as well as the dissemination and posting of pertinent EEO materials.
- G. Approve and maintain job titles, job descriptions and wage matrices.
- H. Administer tests to determine employee exemption from terms and provisions of Fair Labor Standards Act (FLSA).
- I. Lead collective bargaining negotiations.
- J. Participate in grievance procedures.

- K. Provide direction and oversight for recruitment activities.
- L. Notify the appropriate advertising agencies when a job vacancy presents itself.
- M. Review the qualifications of applicants.
- N. Maintain the security and confidentiality of County personnel records.
- O. When possible, conduct exit interviews with County employees who have resigned, retired, terminated, or been dismissed from positions.
- P. Perform all duties designated to the department by the Chief Administrative Officer.
- Q. Administer pay rules, collective bargaining agreements and benefits.

Section 02-05- Employee Records Policy

An employee's personnel file is the official record of employment with the County. Employment records will not include any medical records related to the employee. Employee medical records provided to the County for any purpose will be kept separate from the employee's personnel file.

Access to personnel records is restricted to Human Resource Department staff, the County Chief Administrative Officer, the elected officials who supervises the employee, department director, the employee's immediate supervisor, and the employee. Access to personnel files may also be granted by court order or with written authorization from the employee.

Employees may review their own personnel files by scheduling an appointment with the Human Resource Department staff.

- A. Employees should check the information regularly to ensure accuracy.
- B. Employees must notify the Human Resource Department staff of any changes in personal information by submitting an Employee Information Update sheet to the Human Resource Department.

Copies of personnel file documents are subject to reasonable copying charges adopted by the Human Resource Department.

Section 02-06- Employee Notification

Employees must furnish their supervisor with the telephone number and address where he/she can be contacted.

- A. It is the supervisor's responsibility to notify the Human Resource Director immediately of any changes in the above information.
- B. If the employee fails to provide the supervisor with current contact information, the supervisor is not responsible for rights and benefits that arise from call back circumstances where another employee was contacted to perform work.

Section 02-07- Exit Interview

Whenever possible, the Human Resource Department staff will conduct an exit interview for all retired, resigned, or dismissed County employees.

- A. The Human Resource Department staff will conduct the exit interview, which will be:
 - 1. Confidential in nature.
 - 2. Scheduled, whenever possible, on the employee's last day.

- B. The Human Resource Director may notify the elected official/department director of substantive or significant complaints or suggestions that the former employee presented in the interview.

- C. Within seven (7) calendar days of termination, the Human Resource Director will provide the terminating employee with a copy of the County's grievance procedure or applicable collective bargaining agreement language. The Human Resource Director will notify the appropriate agent in those cases where the terminating employee is represented by a labor union.

CHAPTER III: EMPLOYMENT STATUS

Section 03-01- Employment Status Policy

All employees paid through the County payroll system will be assigned an employment status for the purpose of determining eligibility for pay and benefits of employment with Lewis and Clark County. The status of an employee is a key component of the County's personnel system.

Section 03-02- Employment Status Definitions

The Human Resource Department will assign one of the following to every County employee:

- A. **Regular Full-time Status**-An employee who has satisfactorily completed an appropriate probationary period and who regularly works at least forty (40) hours per week in a position. Pay rates are determined by collective bargaining agreement and/or the County's pay matrix.
- B. **Regular Part-time Status**-An employee who has satisfactorily completed an appropriate probationary period and who regularly works less than forty (40) hours per week in a position. Pay rates are determined by collective bargaining agreement and/or the County's pay matrix.
- C. **Seasonal Full-time Status**-An employee who regularly works at least forty (40) hours per week in a position, who performs duties interrupted by the seasons, and who may be recalled without the loss of rights or benefits accrued during the preceding season. Seasonal status positions are generally re-hired each year for the particular season. Pay rates are determined by collective bargaining agreement and/or the County's pay matrix.
- D. **Seasonal Part-time Status**-An employee who regularly works less than forty (40) hours per week in a position, who performs duties interrupted by the seasons, and who may be recalled without the loss of rights or benefits accrued during the preceding season. Seasonal status positions are generally re-hired each year for the particular season. Pay rates are determined by collective bargaining agreement and/or the County's pay matrix.
- E. **Temporary Full-time Status**-An employee who regularly works at least forty (40) hours per week in a position created and budgeted for a definite period of time not to exceed 12 (twelve) months or 365 (three hundred sixty five) calendar days. Temporary status employees are not eligible for Regular or Seasonal status and may not be appointed to a Regular or Seasonal status position without benefit of a competitive selection process. (See Chapter 4, below.) Temporary status employees may be paid according to a rate established in the adopted budget, collective bargaining agreement and/or the County's pay matrix.

- F. **Temporary Part-time Status**-An employee who regularly works less than forty (40) hours per week in a position created and budgeted for a definite period of time not to exceed 12 (twelve) months or 365 (three hundred sixty-five) calendar days. Temporary status employees are not eligible for Regular or Seasonal status and may not be appointed to a Regular or Seasonal status position without benefit of a competitive selection process. (See Chapter 4, below.) Temporary employees may be paid according to a rate established in the adopted budget, collective bargaining agreement and/or the County's pay matrix.
- G. **Short-Term Status**-An employee who works less than 90 days in a continuous 12-month period. Short-Term status employees are not eligible for promotion to Regular or Seasonal status and may not be appointed to a Regular or Seasonal status position without benefit of a competitive selection process. (See Chapter 4, below.) Short-Term status employees may be paid according to a rate established in the adopted budget, collective bargaining agreement and/or the County's pay matrix. Short-Term status employees are not eligible to earn leave and holiday benefits described in Chapter 8, below.
- H. **Student Intern**-An employee who (a) has been accepted to or is currently enrolled in an accredited school, college, or university and is hired directly by a department in a student intern position; (b) is not eligible for Regular status; (c) is not eligible to become a Regular or Seasonal status employee without a competitive selection process; (d) is covered by the County's workers' compensation insurance; (e) is not eligible to earn the leave and holiday; and (f) may be dismissed without cause. Student Interns may be paid according to a rate established in the adopted budget, collective bargaining agreement and/or the County's pay matrix.
- I. **Probationary Status**-An employee in the initial period of employment, during which time the work performance and conduct of the employee is appraised to determine whether Regular or Seasonal status will be granted. New county employees, except for Sheriff's Deputies and Detention Officers, have a six-month probationary period. The County reserves the right to extend the probationary period not to exceed an additional six (6) months. Sheriff's Deputies have a one-year probationary period that may not be extended.
- Written documentation from the direct supervisor, elected official, or department director stating that the employee has successfully completed his/her probationary period and is recommended to be removed from probationary status must be received by the Human Resource Director prior to the end of the probationary period. This may be accomplished either through the six-month performance appraisal or through a memo.
- J. **Dismissal During Probationary Period**-An employee may be dismissed at any time during probation for any reason or no reason. The employee may be given written communication outlining the cause(s) for probationary dismissal but this is not required.
- K. **Extension of Probationary Period**-The Human Resource Director approves a probationary period extension and strict guidelines will set guidelines for any extension of the probationary period. For any employee other than a sworn Sheriff's Deputy, the County may extend the probationary period for up to six (6) months under the following conditions:

1. The employee has not satisfactorily met the job requirements and the elected official/department director is willing to allow more time to meet those standards.
2. Extensive absence from work during probationary period.

If the probationary employee does not meet the standards during the additional time period, the employee will be dismissed if he/she is a new employee or he/she may return to his/her old position or similar position. Return to the employee's original position is subject to the availability of and funding for the position.

- L. **Performance Appraisals During Extended Probation**-If an employee's probationary period is extended beyond the original six (6) months, a performance appraisal will be given to the probationary employee at least once during the extended probationary period.

Section 03-03- Personnel Change Forms

- A. Prior to a change in wage, a change in longevity, a change in position title, a change in status, a promotion, or a termination, the elected official/department director must complete and submit a form requesting the change to the Human Resource Department.
- B. The Human Resource Department staff will review and approve information submitted on personnel change forms. Information will be recorded in the employee's personnel file. In the event that the Human Resource Department staff revises the information on the form, a copy of the amended form will be sent to the initiating department.

CHAPTER IV: RECRUITMENT AND SELECTION

Section 04-01- Competitive Recruitment and Selection Policy

The County will conduct competitive recruitment and selection processes in accordance with accepted personnel practices for all Regular and Seasonal status positions other than promotions, or emergency situations. The County will comply with non-discrimination and Equal Employment Opportunity guidelines when recruiting and selecting job candidates.

Section 04-02- Competitive Recruitment and Selection Process-General

Competitive recruitments will be designed to ensure that selection is made from the best-qualified candidates who have applied for the position. Wherever possible and appropriate, County employees will receive consideration for competitive positions within the County. The County Human Resource Director, Human Resource Department staff and the department staff member designated to oversee recruitment will have joint responsibility for handling the duties and responsibilities associated with competitive recruitments.

Section 04-03- Competitive Recruitment and Selection Process Guidelines

Competitive recruitment guidelines will be followed for all Regular and Seasonal status position unless the Human Resource Director has granted a waiver altering the process. The Human Resource Director must determine that any alteration meets the stated policy objectives of Section 01-02, Section 01-03, Section 01-04, Section 01-05 and Section 03-01. Promotions, transfers and temporary assignments are covered separately in Chapter V, below.

A. Initiating a Competitive Recruitment Process (Internal and External)

The competitive recruitment process begins when an elected official/department director submits a completed Recruitment Authorization Form to the Human Resource Director (or designee) to fill a vacancy. The request should include a letter of resignation from the employee currently in the position or other substantiation that the position is vacant. Either the elected official/department director or employee vacating the position may submit a copy of the resignation letter. The Recruitment Authorization Form must include all the required signatures before the recruitment process can begin.

In the case of a newly created and budgeted position, the recruitment process will begin when the elected official/department director notifies the Human Resource Director that the position is authorized through the budgetary approval process and submits a Recruitment Authorization Form.

The elected official/department director will also designate a hiring authority. The hiring authority may be the elected official/department director or the elected official/department director's designee. The hiring authority is responsible for managing the recruitment and selection process together with Human Resource Department staff.

In all recruitments, the elected official/department director (or designee) will meet with the Human Resource Director (or designee) to review or revise the Position Description Questionnaire (PDQ). Following a review of the PDQ, the Human Resource Director (or designee) will review or revise the job description to establish minimum qualifications, status, and pay for the position.

After the job description has been reviewed and revised, the elected official/department director (or designee) will meet with the Human Resource Director (or designee) to set application deadlines, advertising schedules and proposed date of hire based upon adopted budgets.

B. In-house (Internal) Competitive Recruitment Guidelines:

1. In consultation with the Human Resource Director, the elected official/department director will determine whether it is appropriate to initiate a separate in-house recruitment process. Wherever possible, the department head and the Human Resource Director should attempt to determine whether a sufficient number of well-qualified in-house candidates exist to justify a separate in-house recruitment.

Only employees who have previously been selected through a competitive recruitment process may be considered for competitive internal recruitments. All Regular status employees will be eligible to apply for posted positions open to in-house recruitment except in those situations where a collective bargaining agreement imposes limitations on applicant eligibility. Seasonal status applicants must be in an active pay status during the posting period in order to apply for a position as an in-house applicant. Temporary and Short-term status employees will not be considered for in-house recruitments unless they have been selected through a competitive recruitment process.

2. The hiring authority will work with the Human Resource Director (or designee) to develop a schedule of recruitment activities.
3. The Human Resource Director (or designee) will develop a job-posting announcement based on information from job description. Human Resource Department staff will circulate the job posting to County departments.

The in-house posting period will last for at least five (5) working days unless a ratified collective bargaining agreement requires a posting period of a longer duration.

4. Prior to closing the position for applications, the hiring authority will develop application screening criteria and submit criteria to the Human Resource Director (or designee) for approval. The criteria will be based on job-related criteria derived from the job description. Criteria will include the following:
 - a. Minimum qualifications.
 - b. Essential education, knowledge, skills, and abilities required for the position.

The screening criteria must be included in the Application Scoring Criteria Form and will be provided to the Human Resource Director (or designee) for review and approval prior to release of application materials.

5. Prior to closing the position for applications, the hiring authority will develop interview questions and sample answers. The hiring authority must submit interview questions and sample answers to the Human Resource Director (or designee) for review and approval prior to scheduling interviews. The hiring authority should develop questions and sample answers prior to the close of the application period whenever possible.
6. The hiring authority will propose an interview committee and will submit the proposed committee to the Human Resource Director (or designee) for approval. Interview committees will be composed of representatives from both genders and will include representatives from the different levels of the County organizational hierarchy. At least one member of the panel will come from outside the department. In order to avoid scheduling conflicts, the hiring authority should propose the interview committee early in the recruitment process.
7. At the close of the application period, the Human Resource Director (or designee) will collect and organize applications for evaluation (screening). The list forwarded to the department will contain the following:
 - a. A list (the Applicant Evaluation Form) of all applicants whose applications were received by the deadline posted for the vacant position.
 - b. Identification of the applicants with those who claim eligible veteran or disability preference noted. Preference points or consideration will be assessed as part of the candidate evaluation process.

If the application screening criteria and questions are approved and the application period has closed, the Human Resource director (or designee) will release the application to the hiring authority for screening.

8. The hiring authority and at least one other person will screen the applications, using the job-related criteria that were discussed and agreed upon in consultation with the Human Resource Director (or designee). Upon request by the hiring authority, the Human Resource Department staff may perform the applicant screening. Application screeners will enter application scores on the Applicant Evaluation Form supplied by the Human Resource Director (or designee).
9. With the completion of the application screening process, the hiring authority will transfer the applications, Applicant Evaluation Forms, and other materials used to screen the applicants to the Human Resource Director (or designee) for review. At the same time, the hiring authority will provide the Human Resource Director (or designee) with a list of candidates recommended for structured interviews. In consultation with the Human Resource Director (or designee), the hiring authority may elect to interview some, all, or none of the in-house applicants.

10. The Human Resource Director (or designee) will review the results of the screening prior to arranging interviews. The Human Resource Director may reject an applicant if:
 - a. The applicant does not possess the minimum qualifications or equivalent for the advertised position.
 - b. The applicant is not among the best-qualified applicants in the applicant pool based on application screening criteria.
 - c. The applicant submitted application materials after the closing date.
11. After the review is completed, the Human Resource Director (or designee) will return application materials to the hiring authority for candidate interviews.
12. The hiring authority will contact applicants and set up interviews unless other arrangements are made.
13. The interview committee will conduct structured interviews of best-qualified candidates based on the results of the application screening process. In addition, the department may administer approved validated written examinations for prospective applicants if the position so requires. Test materials will be submitted to the Human Resource Director for review and inclusion with other recruitment materials. The Human Resource Department staff must approve all testing materials, including interview questions, prior to use.
14. At the conclusion of the interview process, the hiring authority will provide the Human Resource Department staff with a written hiring recommendation and a rationale for the recommendation. At the same time, the hiring authority will forward all paperwork associated with recruitment, including but not limited to applications, scoring sheets and interview notes, to the Human Resource Director (or designee).
15. The Human Resource Director (or designee) will review the interview materials and then authorize the recommendation.

The Human Resource Director (or designee) may disqualify applicants for any of the following reasons:

- a. The Human Resource Director (or designee) determines that the applicant has provided false information on the application.
- b. The applicant has established an unsatisfactory performance record that demonstrates unsuitability for the position.

16. If requested by the hiring authority, the Human Resource Department staff will conduct reference checks on best-qualified candidate(s). With approval by the Human Resource Director (or designee), the hiring authority may conduct reference checks. Human Resource Department staff must approve forms and questions used for reference checks. Documentation collected during reference checks will be forwarded to the Human Resource Director (or designee) for review.
17. The Human Resource Director (or designee) and the hiring authority will discuss the results of reference checks before deciding to move forward with a job offer. If the reference check raises concerns about a candidate, the hiring authority may recommend the next best-qualified candidate for further consideration. Alternatively, the hiring authority may choose to consider the next tier of applicants in the applicant pool or re-open the position for recruitment.
18. The Human Resource Director (or designee) and the hiring authority will discuss and agree upon the pay rate for the new hire before the verbal offer is made. Starting pay offer will follow County pay rules. The hiring authority will complete the Hiring Justification Form and submit it to the Human Resource Director (or designee).
19. With the acceptance of the department's recommendation by the Human Resource Director (or designee), the hiring authority will contact the successful candidate to verbally offer the position and negotiate pay and start date. Alternatively, the hiring authority may request the negotiating services of the Human Resource Director (or designee). No offer may be tendered prior to the Human Resource Department staff authorization. The hiring authority will complete a New Hire Information Form and submit it to the Human Resource Director (or designee).
20. With the acceptance of the verbal offer, the Human Resource Director (or designee), or the hiring authority under advisement of the Human Resource Director (or designee), will draft and send a letter to the applicant selected for the position outlining the job title, wage, date of hire, and other pertinent information. The successful applicant will be directed to sign and return the letter to the Human Resource Department. The original will be inserted in the personnel file and a copy will be inserted in the recruitment file. The hiring authority will complete a New Hire Information Sheet and forward it to the Human Resource Director (or designee).
21. A department may require a post-offer physical, psychological test or background investigation, subject to relevant state and federal laws. Prior consultation with the Human Resource Director and County Attorney is required.

22. The hiring authority will contact all applicants who were interviewed after the selection process is complete. The Human Resource Director (or designee) will notify all other applicants in writing after the selection decision has been made.

Any candidate may contact the Human Resource Department staff with questions or concerns about the selection decision at the conclusion of the process.

23. The elected official/department director, with consent of the Human Resource Department staff, may decide to open the position up to outside applicants and consider the in-house applicants together with the external applicant pool.

C. Out-of-House (External) Competitive Recruitment Guidelines:

1. If the hiring authority decides, in consultation with the Human Resource Director, to expand the applicant pool beyond internal candidates, or elects to advertise for both internal and external candidates simultaneously, the Human Resource Director (or designee) will publicize the position vacancy by sending or posting position vacancy notices to the following:

Standard Postings

- a. County web site.
- b. Local Montana Workforce Office/website.
- c. Advocacy organizations for historically under-represented groups.
- d. Any other organization that seeks to place itself on the Human Resource Director's mailing list with prior approval of the Human Resource Director.

Optional Postings (upon request)

- a. Newspapers.
- b. Other appropriate publications, including non-local newspapers and professional journals.

Human Resource Department staff will circulate the job posting announcement to County departments for posting.

Out-of-house competitive positions will remain open for at least two (2) weeks.

2. The hiring authority will work with the Human Resource Director (or designee) to develop a schedule of recruitment activities.
3. Prior to closing the position for applications, the hiring authority will develop application screening criteria and submit criteria to Human Resource Director (or designee) for approval. The criteria will be based on job-related duties derived from the job description and will include the following:

- a. Minimum qualifications.
- b. Essential education, knowledge, skills, and abilities required for the position.

The screening criteria must be included on the Application Scoring Criteria Form and will be provided to the Human Resource Director (or designee) prior to release of application materials.

4. Prior to closing the position for applications, the hiring authority will develop interview questions and sample answers. The hiring authority must submit interview questions and sample answers to the Human Resource Director (or designee) for review and approval prior to scheduling interviews. The hiring authority should develop questions and sample answers prior to the close of the application period whenever possible.
5. The hiring authority will propose an interview committee and will submit the proposed committee to the Human Resource Director (or designee) for approval. The interview committee will be composed of representatives from both genders and will include representatives from different levels of the organizational hierarchy. At least one member of the committee will be from outside the department. In order to avoid scheduling conflicts, the hiring authority should propose the interview committee early in the recruitment process.
6. At the close of the application period, the Human Resource Director (or designee) will collect and organize applications for evaluation (screening). The list forwarded to the department will contain the following:
 - a. A list (the Application Scoring Form) of all applicants whose applications were received by the deadline posted for the vacant position.
 - b. Identification of the applicants with those who claim eligible veteran or disability preference noted. Preference points or consideration will be assessed as part of the candidate evaluation process.

If the application screening criteria and questions are approved and the application period has closed, the Human Resource Director (or designee) will release the application to the hiring authority for screening.

7. The hiring authority and at least one other person will screen the applications, using the job-related criteria that were discussed and agreed upon in consultation with the Human Resource Director (or designee). Upon request by the hiring authority, the Human Resource Department staff may perform the application screening. Application screeners will enter application scores on the Applicant Scoring Form supplied by the Human Resource Director (or designee).

8. With the completion of the application screening process, the hiring authority will transfer the applications, Application Scoring Forms and other materials used to screen the applicants to the Human Resource Director (or designee) for review. At the same time, the hiring authority will provide the Human Resource Director (or designee) with a list of candidates recommended for structured interviews. In consultation with the Human Resource Director (or designee), the hiring authority may elect to interview some, all, or none of the applicants.
9. The Human Resource Director (or designee) will review the results of the screening prior to arranging interviews. The Human Resource Director may reject an applicant if:
 - a. The applicant does not possess the minimum qualifications or equivalent for the advertised position.
 - b. The applicant is not among the best-qualified applicants in the applicant pool based on application screening criteria.
 - c. The applicant submitted application materials after the closing date.
10. After the review is completed, the Human Resource Director (or designee) will return application materials to the hiring authority for candidate interviews.
11. The hiring authority will contact applicants and set up interviews unless other arrangements are made.
12. The interview committee will conduct structured interviews of best-qualified candidates based on the results of the application screening process. In addition, the department may administer approved validated written examinations for prospective applicants if the position so requires. Test materials will be submitted to the Human Resource Director for review and inclusion with other recruitment materials. Human Resource Department staff must approve all testing materials, including interview questions, prior to use.
13. At the conclusion of the interview process, the hiring authority will provide the Human Resource Director (or designee) with a written hiring recommendation and rationale for the recommendation. At the same time, the hiring authority will forward all paperwork associated with recruitment, including but not limited to applications, scoring sheets and interview notes, to the Human Resource Director (or designee).
14. The Human Resource Director (or designee) will review the recruitment materials and then authorize the recommendation.

The Human Resource Director (or designee) may disqualify applicants for any of the following reasons:

- a. The Human Resource Director (or designee) determines that the applicant has provided false information on the application.

- b. The applicant has established an unsatisfactory performance record that demonstrates unsuitability for the position.
15. Human Resource Department staff will conduct reference checks on best-qualified candidate(s). With approval by the Human Resource Director (or designee), the hiring authority may conduct reference checks. Human Resource Department staff must approve forms and questions used for reference checks. Documentation collected during reference checks will be forwarded to the Human Resource Director (or designee) for review.
 16. The Human Resource Director (or designee) and the hiring authority will discuss the results of reference checks before deciding to move forward with a job offer. If the reference check raises concerns about a candidate, the hiring authority may recommend the next best-qualified candidate for further consideration. Alternatively, the hiring authority may choose to consider the next tier of applicants in the applicant pool or re-open the position for recruitment.
 17. The Human Resource Director (or designee) and the hiring authority will discuss and agree upon the pay rate for the new hire before the verbal offer is made. Starting pay offer will follow County pay rules. The hiring authority will complete the Hiring Justification Form and submit it to the Human Resource Director (or designee).
 18. With the acceptance of the department's recommendation by the Human Resource Director (or designee), the hiring authority will contact the successful candidate to verbally offer the position and negotiate a start date. Alternatively, the hiring authority may request the negotiating services of the Human Resource Director (or designee). No offer may be tendered prior to the Human Resource Department staff authorization. The hiring authority will complete a New Hire Information Form and submit it to the Human Resource Director (or designee).
 19. With the acceptance of the verbal offer, the Human Resource Director (or designee), or the hiring authority under advisement of the Human Resource Director (or designee), will draft and send a letter to the applicant selected for the position outlining the job title, wage, date of hire, and other pertinent information. The successful applicant will be directed to sign and return the letter to the Human Resource Department. The original will be inserted in the personnel file and a copy will be inserted in the recruitment file. The hiring authority will complete a New Hire Information Sheet and submit it to the Human Resource Director (or designee).
 20. A department may require a post-offer physical, psychological test or background investigation, subject to relevant state and federal laws. Prior consultation with the Human Resource Director and County Attorney is required.
 21. Any County employee who has been dismissed for cause will not be re-employed without the written authorization of the Human Resource Director.

22. Unless other arrangements are made, the Human Resource Director (or designee) will contact all applicants who were interviewed after the offer is accepted. The Human Resource Director (or designee) also will notify all other applicants in writing after the selection decision has been made.
Any candidate may contact the Human Resource Department staff with questions or concerns about the selection decision at the conclusion of the process.
23. If no satisfactory candidate is found to fill the position, the hiring authority, in consultation with the Human Resource Director (or designee), may elect to reopen the position.

Section 04-04- Emergency Recruitment Situation

Only the Board of County Commissioners may declare an emergency recruitment situation through a resolution of the Board. In the event that an emergency situation is declared, the Commission will specify a recruitment procedure. As far as is practical, the specified procedure will adhere to competitive recruitment guidelines.

Section 04-05- Employee Orientation

- A. During the first day on the job or as soon as is practical thereafter, the elected official/department director or the Human Resource Director (or designee) will brief each new employee on:
 1. Required forms (I-9, health plan enrollment, MPERA, general contact information);
 2. County and department policies and procedures that affect the job, including safety policies;
 3. Department structure, goals, and objectives;
 4. Equipment and tasks required for position, including safety equipment;
 5. Benefits and compensation offered by the County;
 6. Payroll deductions; and
 7. Location of legal notices regarding wage and hour regulations, unemployment insurance, workers' compensation coverage, FMLA and EEOC protections.
- B. The elected official/department director or the Human Resource Director (or designee) will provide the new employee with necessary payroll and benefit enrollment forms.
- C. New Regular and Seasonal status employees will be given a copy of the personnel policy manual. New employees who enroll in the County health plan will receive a copy of the summary plan document or health plan document.

CHAPTER V: INTERNAL HIRES, PROMOTIONS, TRANSFERS, TEMPORARY ASSIGNMENTS, JOB AUDITS, AND REORGANIZATIONS.

Section 05-01- Promotions, Transfers, Temporary Assignments, Job Audits, and Reorganizations.

The County provides specific procedures for promotion, transfer, temporary assignment, job audits, and reorganization that allow for fair and equitable consideration of employee qualifications and rates of pay.

Section 05-02- Processes Defined

The promotion, transfer, temporary assignment, job audit and reorganization processes are described as follows:

Internal Hire: A competitive hiring process that only considers hires from within the department or division, or a competitive external hiring process that selects a candidate who is already a County employee.

Promotion: County departments may develop a promotion process that provides for progressive advancement through a succession of positions. Promotion for employees is an internal move inside a department or division. Any promotional process must be reviewed and approved by the Human Resource Director prior to implementation. Employees of a department with an approved promotion progression may be promoted to positions in this progression if they meet prescribed standards for the position and if the position has been approved in the budget. An employee may only be promoted if prior to the promotion he or she has been selected through a competitive recruitment process conducted according to the guidelines described in Chapter IV, Recruitment and Selection.

Transfer: Any County employees may apply for positions in other departments or divisions that are subject to open recruitments. A transfer to a new department or division occurs if and when an employee from one department or division is selected for a position in another department or division through a competitive recruitment process. Employees selected for transfer from one department or division to another will be recruited through a competitive recruitment process according to guidelines described in Chapter IV above. Transfers always result in an internal hire.

Temporary Assignment: The County allows for temporary assignment when key supervisory positions are vacant due to extended leave or resignation.

Job Audit County elected officials/department directors may request job audits when an employee's duties and responsibilities undergo significant changes that appear to alter the nature of the job.

Reorganization: Departments may need to undertake a functional analysis of the department or program as the result of changing priorities or funding. The result of the functional analysis may indicate the need to shift duties and responsibilities between positions or the creation of new positions, prompting a reorganization of the department or program.

Trial Period: When an employee is transferred or promoted, the transferred or promoted employee may serve a six (6) month trial employment period. Employees will not lose accrued benefits and may return to their old position or equivalent thereof if they do not successfully adjust to the new position during the trial period. Return to the employee's original position is subject to the availability of and funding for the position.

The County's pay matrix and pay rule will govern compensation for promotions, transfers, temporarily assignments or situations where an employee is assigned to a new pay grade as the result of a job audit or reorganization.

Section 05-03- Promotion Process

Promotion to a vacant position will be made from among the most qualified applicants from within the department with the vacancy. Elected officials/department directors will work with the Human Resource Director to develop departmental promotion policies and career ladders in advance of any vacancy. **Only those departments with approved promotion policies or ladders may use promotion as a method for advancing personnel to new positions.** Promotion will be made based on review of the qualifications of the applicant and are subject to budget authority granted the department with the vacancy. Budget authority typically requires the creation or addition of the position as part of the adoption of the annual budget. Review of qualifications should include candidates' education, experience, knowledge, skills, abilities and past performance in other positions with the County. Recommendations for promotion will be reviewed and approved by the Human Resource Director prior to implementation.

A promotion may occur when an employee in a given department completes specified training, education or experience necessary to meet the requirements for a new position in the same department that is in a higher pay grade, the position is vacant AND the department has budgetary authority to fill the position. Positions in a promotion succession ladder will always have pay grade assignments that place them at different, progressively higher, pay grade levels in the adopted pay matrix.

An employee may only be promoted to a new position after he or she has been selected for a County position through a competitive recruitment process as described in Personnel Policy Manual. No employee may be promoted during the probationary period of employment.

In the event that the Employer has a promotional opportunity and two or more represented employees are best qualified for consideration, seniority (length of service in the particular department) will be the deciding factor in promotion selection process. This requirement may be waived by agreement between the elected official/department director and Human Resource Director.

At the time of the promotion, the promoted employee may be required to serve a six-month trial period, as described in Sections 05-02-, above.

The new rate of pay for an employee who is promoted to a new position will be the step in the new pay grade that is nearest to but at least 5% above the wage paid the employee prior to the promotion.

Section 05-04- Transfer Process

Employees wishing to be considered for transfer from a position in one department or division to another must do so in accordance with recruitment procedures described in Chapter IV, Recruitment and Selection. Transfers occur when an employee from one department or division applies for an open position in another department or division and is selected through a competitive recruitment process. Employees who use this process to voluntarily transfer from one department to another will be assigned to the pay grade of the new position. Transfers always result in an internal hire.

- A. The rate of pay for an employee who has applied for and been selected to fill a position vacancy will be determined by application of the pay rules, pay matrix and appropriate collective bargaining agreement.

- B. In general, an employee who transfers to a position in a new department or division will be assigned to the entry step in the new pay grade.
 - 1. If the transfer is to a position in a higher pay grade, pay will be determined as the greater of the following:
 - a. The entry level step for the new position, or
 - b. The step in grade nearest in value to but not less than the step occupied by the employee prior to the transfer.
 - 2. If the employee begins above the entry level of the pay grade, there is no probationary step increase.
 - 3. If the new position is in a **higher** pay grade but the entry level for the new position is below the employee's pay rate prior to the transfer, the employee will be assigned to the step in the new pay grade that is nearest to but not less than the employee's wage in the previous position. There is no probationary step increase.
 - 4. If the new position is in a **lower** pay grade, the employee will be assigned to the same step in the new pay grade that the employee occupied in his/her position prior to transfer. There is no probationary step increase.
 - 5. If the new position is in the **same** pay grade, the employee will be assigned to the same step in the new pay grade that the employee occupied in his/her position prior to transfer. There is no probationary step increase.

- C. Transferring employee will serve a six-month trial period, as described in Sections 05-03-B., above.

- D. If the employee does not successfully complete the trial period, the employee will return to their previous position or the equivalent thereof, depending on the adopted department budget. If there is no vacancy at the appropriate level in the department, the employee will receive first consideration for any open position in any department where there is a vacancy with a pay grade at or below the level of the previous position, provided that the employee is substantially equal to other internal candidates in the applicant pool. If no position is available, the employee shall have reinstatement privileges for a period of six (6) months for any opening in the position held before transfer.
- E. Employees who transfer between departments are not entitled to a lump sum payment for accrued vacation and/or sick leave credits at the time of transfer.
- F. The department receiving the transferred employee will assume the liability for the accrued vacation and sick leave credits earned and transferred with the employee.

Section 05-05- Temporary Assignments

Temporary assignments are made for a finite period and are made only to supervisory or administrative positions. The purpose is to maintain continuity in positions that are critical to the department's mission during an extended absence of a supervisor or administrator. In general, scheduled annual vacation leave by a supervisor is not sufficient reason for temporary assignment. Temporary assignments will be made within the following guidelines:

1. In general, temporary assignment will be limited to 30 calendar days but will never exceed 365 days in duration.
2. If a temporary assignment exceeds 30 calendar days, the employee will be immediately eligible for retroactive pay for the first 30 days of the appointment. Pay will be no less than the entry level pay rate for the position assumed on a temporary basis. Pay increase will be effective on the first day of the temporary assignment.
3. Temporary assignments are not subject to a probationary period or increase at the end of a probationary period.
4. Except as provided for in subsection 2. above, no pay adjustment will be made for a temporary assignment.
5. When a pay adjustment is warranted, the employee will be assigned to the step in the pay grade of the assigned position that is nearest to but not less than the employee's wage in the previous position or the entry level step, whichever is less.
6. The Chief Administrative Officer must approve all temporary assignments.

Section 05-06- Job Audit Requests

Elected officials/Department directors may request job audits between January 1 and March 1 of even-numbered calendar years and no position will be audited more often than once every 24 months. No position with an incumbent still in his/her probationary period will be considered for a job audit. Elected official/department directors may request job audits when changes in an employee's duties and responsibilities significantly alter the nature of the job. The Human Resource Department staff is responsible for final development and approval of all County job descriptions and job titles. Any changes to the position description, position title or pay grade assignment recommended as the result of a job audit and approved by the Chief Administrative Officer will be implemented at the beginning of the new fiscal year.

A. Job Audit Procedure: The job audit procedure will consist of the following steps:

1. Supervisor's Request

- a. The employee's supervisor and elected official/department director will make a written request for a job audit to the Human Resource Department. The request will include the position title and the operational and functional reasons for request. Audit requests should only be submitted due to significant changes in responsibilities and duties or nature of the work required for a particular position. Job audits cannot reflect an individual employee's performance or increases in the volume of work for a particular position. The Human Resource Department will reject requests that do not comply with the standards for a job audit.
- b. No job audit request may be made for positions where the incumbent has been employed for less than six (6) months.

2. Position Description Questionnaire

- a. Human Resource Department staff will provide the supervisor with a Position Description Questionnaire (PDQ) within five (5) working days of the job audit request.
- b. The elected official/department director, supervisor and the employee will complete the PDQ and then forward it to the Human Resource Department staff for review prior to the deadline for job audit requests.

3. Job Analysis

Upon receipt of the Position Description Questionnaire, Human Resource Department staff will conduct a desk audit/telephone interview or on-site job analysis of the position subject to the audit.

4. Revise and Approve Job Description

- a. Job descriptions will be revised based on information obtained from the PDQ and job analysis processes.

- b. Revisions to job descriptions may include adding to or subtracting from an employee's duties.
- c. The Human Resource Department staff must approve all changes in job descriptions and job titles.

5. Pay Grade Assignment

- a. The Human Resource Department staff will recommend a pay grade assignment based on a comparison of wages and duties of similar positions within the County and/or similar agencies within the labor market.
 - b. If the new pay grade assignment is **above** the pay grade formerly assigned to the position, the employee will be assigned to the step in the new pay grade that is nearest to but not less than the employee's wage in the previous position.
 - c. If the new pay grade assignment is **below** the pay grade formerly assigned to the position, the employee will be assigned to the step in the new pay grade that is nearest to but not less than the employee's wage in the previous position. In the event that the employee's former wage exceeds the last step in new pay grade, the employee's wage will remain at the former rate until the last step in the new pay grade exceeds that wage.
 - d. There are no probationary increases as the result of job audits.
6. The Human Resource Director will make a written recommendation to the CAO for any changes in job title and/or pay grade assignment. Recommendations will be made by May 15 in calendar years with even numbers. Adopted recommendations will become effective with the first pay period in July of even numbered years.

Section 05-07- Reorganization Proposals

Departments may need to undertake a functional analysis of the department or program as the result of changing priorities or funding. The result of the functional analysis may indicate the need to shift duties and responsibilities between positions or the creation of new positions, prompting a reorganization of the department or program.

The elected official/department director will work with the Human Resource Department staff to develop a transition plan to implement the reorganization. The transition plan may include competitive open recruitments, promotional ladders, transfers or reduction in force. Pay grade assignment will be governed by the terms and conditions of the plan as adopted by the Board of County Commissioners.

Proposals will be submitted to the Chief Administrative Officer for review and final approval.

CHAPTER VI: DEMOTIONS, REDUCTIONS IN FORCE AND VOLUNTARY RESIGNATIONS

Section 06-01- Demotions, Reductions in Force and Voluntary Resignation Statement

The County has established procedures to respond to demotions, reductions in force and voluntary resignations.

Section 06-02- Demotion Process

Demotions occur in the following situations:

1. When the employee is involuntarily assigned to a position in a lower pay grade, or
 2. In a promotion situation where the employee is unable to perform the requirements of the new position satisfactorily.
- A. The demoted employee may be required to serve a new trial period at the time of the demotion.
 - B. The trial period will not affect the accrued benefits.
 - C. Within seven (7) calendar days of the demotion, the Human Resource Director will notify the demoted employee of the County's grievance procedure which provides the opportunity for employee to appeal the demotion. The County will supply the demoted employee with a copy of the procedures. The Human Resource Director or Human Resource Department staff designee will notify the appropriate agent in those cases where an employee represented by a labor union is demoted.

Section 06-03- Reductions in Force

A. Reduction in Force Statement

Layoffs or reductions in force generally involve multiple, involuntary employee terminations for reasons other than misconduct or poor performance. Terminations resulting from layoffs can be permanent or temporary and may involve the reassignment of laid-off employees' duties and responsibilities to remaining employees.

Reductions in force may result from:

1. Unfavorable revenue conditions;
2. Duplication and redundancy of services;
3. Relocation of organization units or operations; or
4. Reorganization.

B. Reduction in Force Procedure

1. Employees may be laid off, without prejudice, at any time due to lack of funds or curtailment of work. No Regular full-time employee may be laid off when there are Seasonal, Probationary, Temporary, or part-time employees employed in the same position, title and work unit affected by the reduction in work force.
2. Discussions for a reduction in force begin with a consultation between the elected official/department director, the Chief Administrative Officer and the Human Resource Director. Considerations for reductions in force will include the following:
 - a. The mandated functions the department is required to fulfill;
 - b. Knowledge, skills and abilities of individual employees;
 - c. Length of service of the affected employees.

Discussions will result in a written recommendation from the affected department. The CAO will authorize the recommendation.

3. The elected official/department director will provide the Human Resource Department with a list of employees that the department proposes to lay off. The list will include information used to arrive at the reduction in force recommendation.
4. Following consultation with the Human Resource Department staff, the elected official/department director will draft letters providing a brief statement about the staff reduction and providing dates of the reduction in force. The Human Resource Department staff must approve letters.
5. The elected official/department director will provide the affected employees with the approved letters at least ten (10) working days prior to the effective date of layoff. Copies of the letters will be forwarded to the Human Resource Department for inclusion in the employees' personnel files.
6. The department will forward to the Human Resource Department a list of all employees laid off due to the reduction in force.
7. The Human Resource Department staff will ensure that employees affected by the reduction in force will receive notice of benefits and reinstatement rights within five (5) working days of receipt of notice from the department.

C. Rights and Benefits for Affected Employees:

1. The County will allow an affected employee to continue to participate in the County health plan for a period of eighteen (18) months, in accordance with "Consolidated Omnibus Budget Reconciliation Act of 1985" (COBRA) provisions. Laid off employees are responsible for their own health plan contributions.

2. The employee may withdraw contributions to the State retirement system by filing the appropriate PERS form with the Human Resource Department staff.
3. Employees subject to a reduction in force action will have the following rights:
 - a. Reinstatement to the same position when open within the same department based upon "last out/first returned" basis for a period of twelve (12) months from the effective date of the reduction in force. If the employee is reinstated, he/she will be assigned to the same step in the pay grade that he/she was assigned to at the time of the reduction in force.
 - b. Employment preference in hiring for available positions in the County, provided that:
 - 1) The employee is qualified for the positions; and
 - 2) The employee completes all requirements for application, including but not limited to completion of a County application and any other required supplementary materials.
 - c. If the employee is offered an available position different from the position occupied prior to the reduction in force he/she will be assigned to the entry step in the new pay grade.
 - d. Reinstatement preference will last for twelve (12) months from the effective date of the reduction in force unless the employee accepts another County position.
 - e. All reduction in force benefits end with the acceptance of a County position.
4. Accrued Leave for Laid Off Employees
 - a. Employees subject to a reduction in force action may retain all accrued sick leave credits and may retain, cash out or use accrued vacation leave credits to extend the employee's effective date of lay-off.
 - b. Employees who have been laid off may choose to "bank" their credits until they accept Regular status employment with the County.
 - c. The employee will be cashed out when the employee exhausts the employee's rights outlined in section C. 3.
 - d. Accrual credits are not transferred if an employee accepts Seasonal, Temporary or Short-term status employment with the County.

Section 06-04- Voluntary Resignation and Retirement

- A. Employees leaving County employment, due to resignation or retirement, who desire to leave the service in good standing will submit a written resignation to their elected official/department director two weeks before leaving.
 - 1. Written resignations will be dated, signed, and contain the effective date of resignation.
 - 2. Employees terminated through resignation or retirement will be paid any compensation owed to them on the next regular payday or within the next fifteen (15) days, whichever occurs first.
- B. All County employees leaving County employment will turn in all County property in their possession, including keys, on or before their last day of work.
- C. Within seven (7) calendar days of termination, the Human Resource Director will provide the terminating employee with a copy of the County's grievance procedure. The Human Resource Director will notify the appropriate agent in those cases where the terminating employee is represented by a labor union.

CHAPTER VII: EMPLOYEE BENEFITS-GENERAL

Section 07-01- Employee Benefits Statement

Lewis and Clark County strives to provide employee benefits that enhance productivity, insure health and safety, promote personal and professional growth and create a family supportive work environment. It is the intent of Lewis and Clark County to provide the same benefit levels for unrepresented County employees as those enjoyed by represented employees. In general, benefits are directly tied to the employee's employment and active pay status in a given pay period.

Section 07-02- Health, Dental, Vision and Life Insurance Plans

The Health Benefit Plan (hereafter referred to as the Plan) consists of a health plan, prescription drug benefit, a dental plan, a vision benefit and life insurance. Participation in the Plan is open to enrollment by Regular full-time and Regular part-time employees working more than twenty (20) hours per week, and variable hour employees, together with their dependents, according to the terms and conditions outlined in the plan documents and summary plan description. Seasonal and Temporary employees who are scheduled to work more than six (6) months a year or who work for a continuous period of more than 6 months a year must be provided with the opportunity to enroll in the health benefit plan. Seasonal and Temporary employees must work twenty (20) hours or more per week in order to be eligible for health benefit plan coverage.

- A. The Human Resource Department has copies of the plans and policies on file. Employees enrolled in the health plan will be furnished a copy of the Summary Plan Description or Plan Document and all subsequent amendments as they are adopted. It is the employee's responsibility to seek assistance in interpreting the Summary Plan Description or Plan Document.
- B. The County will contribute to the cost of the Plan coverage for employees who are enrolled in the Plan. County contributions begin on the first day of the month following the starting date of employment, subject to provisions and conditions stipulated in the Plan. County contributions to the plan will be based on the number of hours worked by the employee and will be prorated. The Board of County Commissioners will set the County plan contribution for employees as part of the annual budgeting process.
- C. The Board of County Commissioners will determine and set the cost of dependent coverage as part of the annual budget process.

Section 07-03- Employee Assistance Program

Lewis and Clark County provides a confidential system for employees to resolve personal, financial and legal problems via an employee assistance program. Employee assistance programs are designed to facilitate early intervention in the treatment of an employee's problems before those problems begin affecting job performance. The County's program provides short-term counseling for employees and family members to receive professional counseling and assistance identifying and evaluating a wide range of problems. Services provided by the employee assistance program are voluntary, confidential and free of charge.

A. Eligibility

Active Regular, Temporary and Seasonal status employees and their family members are eligible for the employee assistance program services.

B. General Information

1. The employee assistance program provides short-term assessment and counseling at no charge to employees or family members. All services are voluntary and will be strictly confidential.
2. The employee assistance program counselor may make a referral to outside agencies or resources. Services provided by an outside agency or resource are not part of the program and the employee may be charged for these services.
3. Additional information regarding the employee assistance program may be obtained from the Human Resource Department.

Section 07-04- Workers' Compensation Insurance

Workers' Compensation Insurance is provided for all County employees to cover injuries arising out of and in the course of their employment.

A. **Claims Generally**

The County adheres to the State of Montana Workers' Compensation and Occupational Disease Laws outlined in Titles 7 and 39 of the Montana Code Annotated and other applicable State codes and statutes.

B. **First Report of Occupational Injury or Disease**

This form, which is the initial report made on a possible workers' compensation (or occupational disease) claim, must be completed and submitted to the County Human Resource Department immediately, and always within 24 hours of the work-related injury-causing incident.

1. Employees are responsible for reporting all work-related injuries to their immediate supervisor within twenty-four (24) hours of the injury.
2. Elected officials/department directors will maintain a file containing the rules and procedures to be followed by employees claiming Workers' Compensation benefits.
3. Elected officials/Department directors (or designee) will be responsible for immediately reporting employee injuries on the job that result in medical treatment or loss of work time to the Human Resource Department. Reports must be made within forty-eight (48) hours of the injury or within twenty-four (24) hours of notification of an injury.

Departments will report accidents and injuries using forms designated for accident reporting by the Human Resource Director.

4. The elected official/department director or employee will notify the Human Resource Department within three (3) working days to coordinate the wage loss benefit.

C. Coordination of Benefits and Claims.

The Workers' Compensation benefit consists of two parts: wage loss benefits and medical benefits. The wage loss benefit begins after the injured employee has been unable to work for thirty-two (32) scheduled work hours. The medical benefits cover allowable medical costs associated with the work injury. After the first thirty two (32) scheduled work hours, employees may not use accrued sick or vacation leave while also receiving wage loss benefits through Workers' Compensation.

1. County employees who miss work due to on-the-job injury can be compensated by the following:
 - a. Receiving partial reimbursement for lost earnings from the County's Workers' Compensation Claims Administrator (not to exceed the state average weekly rate). An employee qualifies for workers' compensation wage-loss benefits if he/she misses more than 32 hours or four (4) days of scheduled work.
 - b. Using their holiday, vacation leave, and compensatory time credits so that they can receive their full wage or salary.

An employee must choose whether to receive workers' compensation wage loss benefits or to use sick accruals while away from the job due to a workplace injury: if an employee chooses to receive wage loss benefits, sick leave accruals may not be used to supplement wage loss benefits after the initial 32 hour qualifying period.

2. The County does **NOT** reimburse employees for the difference between the wage loss benefit and their actual wages except as provided by state law.
3. Each department will work with the Human Resource Department to coordinate the benefits for employees subject to an on-the-job injury, (i.e. holiday/vacation leave vs. workers' compensation wage-loss benefits).
4. Employees will not accrue vacation or sick leave credits while receiving Workers' Compensation wage loss benefits. Employees using sick, vacation or compensatory time while they are injured will accrue vacation and sick leave credits.
5. Each employee claiming Workers' Compensation will be reviewed on a case-by-case basis by the department, the Workers' Compensation carrier, and the Human Resource Director.

D. Early Return to Work.

1. Every effort will be made to return the employee to the position they held when they sustained the injury. The employee will be responsible for remaining in close contact with their supervisor and will be expected to furnish the supervisor with current medical provider's reports on his/her physical condition.
2. Whenever possible, light duty will be made available to the employee, upon authorization of and release by the medical provider.
3. If the employee's medical provider does not release the employee to return to his/her former position within a reasonable period of time, the County may terminate the employee.
4. An injured worker who is terminated from employment and who is capable of returning to work within two (2) years from the date of injury and has received a medical release to return to work, will be given a preference over other applicants for a comparable position that becomes vacant when the vacant position is consistent with the worker's physical condition and vocational abilities.

Section 07-05- Pay Periods and Pay Day

The County has bi-weekly pay periods based on a Sunday through Saturday workweek. Any change in status, including all pay requests, should be filed with the Human Resource Department as soon as possible, but **no later than noon on Monday following the close of each pay period**. Employees will be paid every other Friday. Pay is subject to withholdings required by state and federal laws, wage contributions to pension and health benefit plans authorized by the employee and court-ordered withholdings such as child support, wage garnishments, et cetera.

Employees are responsible for completing and submitting their own personal time sheets. Time sheets will accurately record hours worked, use of leave and use of compensatory time in a given pay period. Employees will submit time sheets to elected official/department directors. Elected official/Department directors (or designee) will sign time sheets after completing a review for inconsistencies and errors. The Human Resource Director (or designee) may make modifications to time sheets as submitted. The Human Resource Director (or designee) will notify the affected employee and elected official/department director any time a time sheet is modified.

Section 07-06- County's Pay Matrix

The County's pay matrix is based on a comparison of positions within the organization and the collection of wage survey information from comparable institutions. The annual implementation of the pay plan is subject to approval by the Board of County Commissioners.

Section 07-07- Unemployment Insurance

Unemployment insurance coverage is provided for all eligible employees. Unemployment insurance claims are administered through the Montana Department of Labor and Industry.

Section 07-08- Pension and Retirement

A Membership in the Public Employees' Retirement System (PERS), the Sheriff's Retirement System (SRS) or the Teachers' Retirement System (TRS) is mandatory for all County employees who work more than 960 hours in a fiscal year. PERS is optional for the following employees:

1. The Chief Administrative Officer of any city or county;
2. Employees scheduled to work less than 960 hours in one fiscal year (upon completion of 960 hours, membership is required);
3. New employees of a County hospital or rest home; and
4. Elected officials.

B. Employee and Employer Contribution

Contributions to appropriate retirement funds are made by both the County and the employee. State law establishes contribution rates.

C. Retirement

Terms and conditions of vesting and retirement are established by each individual retirement system. The Montana State Public Employees' Retirement Division and state law determine retirement age, length of service and other criteria used to establish eligibility for retirement and the benefit levels that pertain to length of service.

D. Termination Prior to Retirement

Pursuant to the regulations in effect for the particular retirement system, a terminated employee may request a refund of employee contributions to the retirement plan plus any accrued interest unless the employee is moving to another agency covered by the same retirement system.

E. Credit for Past Service

If a new County employee had previously worked for the County or another agency subject to the regulations of the Public Employees' Retirement System, Sheriff's Retirement System or Teachers' Retirement System, credit for past service may be purchased through payment of the amount of contribution plus imputed interest.

Effective July 1, 1994, the County will not contribute to or make payments for any employee who waives retirement system membership during their employment with Lewis and Clark County. If an individual waives retirement system membership while employed with the County and decides to buy back service time at a later date, the employee will be required to contribute both their own portion and the employer's contribution in order to purchase credit for the service time.

State law makes an exception to this policy for elected officials. If an elected official waived coverage and later elects coverage, the County is required to make the employer's contribution.

F. Retirement Health Plan Benefit

In recognition of service to Lewis and Clark County at the time of retirement, the County provides an additional health plan benefit. The County will continue to pay the employer's portion of health plan coverage for the first six (6) months following the effective date of retirement. This benefit is offered, subject to the following conditions:

1. The retiring employee has twenty years or more of continuous service with Lewis and Clark County, and
2. The retiring employee must qualify and retire in accordance with PERS, SRS or TRS rules.

Section 07-09- Honoraria

Any County employee who receives monetary honoraria and reimbursements for lodging, meals and/or travel from an entity other than the County when participating as a speaker, seminar leader, trainer or panel member at a workshop or seminar may keep the monies received and does not need to report the monies collected to the Finance Director if one (1) of the following conditions is met:

1. The employee accounts for the time spent as speaker, seminar leader, trainer or panel member with accrued vacation leave credits; or
2. The employee participates as speaker, seminar leader, trainer or panel member at a workshop or seminar held outside their regular working hours.

In the event that the employee accounts for time as speaker, seminar leader, trainer or panel member as regular work hours, all honoraria must be deposited with the County Finance Director.

Any additional non-monetary expenses provided to County employee conference, seminar or training participants (such as meals, lodging or travel costs) are not reimbursable through the County's Travel and Per Diem Policy.

Section 07-10- Jury Duty/Serve as a Witness

- A. The County will compensate an employee at his/her regular wage when the employee takes time off to comply with a proper summons or subpoena for jury duty or service as a witness. The employee will collect all fees and allowances payable as a result of the service and forward the fees to the Finance Director. The fees will be applied against the amount due the employee from the County for the time off with pay.

Expenses or mileage allowance paid by the court will not be collected.

- B. If an employee elects to charge the time off against accrued vacation credits or compensatory time, no fees and allowances paid need be reported to the Finance Director and will not be deducted from the employee's wage for the period of time charged to vacation credits or compensatory time.

Section 07-11- Employee Recognition Program

Employee Recognition Program Statement

The County encourages departments to establish recognition programs for employees who improve personal interactions with citizens, contribute to program efficiencies or otherwise enhance department operations and functions. Departments may design recognition programs appropriate to the work unit. Departments will submit program design and implementation guidelines to the Human Resource Department staff for review and approval. Departments are encouraged to submit funding requests for recognition programs as part of the annual budget process.

CHAPTER VIII: EMPLOYEE BENEFITS-LEAVE PROVISIONS

Section 08-01- Leave Provision Statement

The County offers leave provisions consistent with those allowed by federal and Montana state law.

Section 08-02- Prior Service With Another Montana Agency

County employees who have been employed with another Montana agency, meaning any legally constituted department, board, or commission of state, city, or county government or any political subdivision thereof as defined in [2-18-601](#) MCA, may use that time towards their vacation accrual rate. However, in accordance with [2-18-601](#), MCA, time as an elected state, county or city official, as a schoolteacher, as an independent contractor or personal services contractor does not count toward the rate earned. For purposes of this paragraph, an employee of a school district or the university system is eligible to have school district or university employment time count toward the rate earned schedule if that employee was eligible for annual leave pursuant to [2-18-601](#), MCA, in the position held with the school district or university system. Employees eligible to use service time from employment with another agency may do so provided that:

1. They obtain a Certification of Prior Employment Hours for Annual Vacation Leave Rate Earned Form from the Human Resource Department staff.
2. The employee sends the form and it is certified by the appropriate Montana agency.
3. When the Human Resource Department staff receives the completed certification form, the employee will receive the additional time towards his or her vacation accrual rate. For the purpose of determining years of employment, an employee must be credited with an entire pay period in which he is in a pay status or on an authorized leave of absence with pay, regardless of the number of hours of service in the pay period.
4. It is the employee's responsibility to furnish all the necessary information to the Human Resource Department staff.

Section 08-03- Vacation Leave Accrual Policy

Regular, Seasonal and Temporary status employees accumulate vacation leave credits from the first day of employment and may use the credits after six months of continuous employment. Seasonal employees who work two or more seasons may carry over vacation credits if County management has continued need of the employee. If a Seasonal employee carries vacation leave over, employment in two or more seasons is considered continuous employment. Short-term workers do not accrue vacation time.

- A. Vacation leave credits will be earned at a yearly rate calculated in accordance with the following schedule where one (1) year equals 2,080 hours of work.

40 hours x 52 weeks = 2,080 hours = 1 year

Completed Years of Employment	Credits Per Year	Full-Time/40 Hrs Worked/Bi-Weekly Pay Period	Part Time Accrual Rate
1 year through 10	120 hours	4.62 hours	.058 x # of hours
11 through 15	144 hours	5.54 hours	.069 x # of hours
16 through 20	168 hours	6.46 hours	.081 x # of hours
21 or more	192 hours	7.38 hours	.092 x # of hours

1. Overtime hours are not counted in the calculation of vacation credits earned.
2. When calculating incomplete pay periods and part-time hours, final figures are rounded off to the nearest hundredth of an hour.
3. For the purpose of determining years of employment, an employee must be credited with an entire pay period in which he/she is in a pay status or on an authorized leave of absence with pay, regardless of the number of hours of service in the pay period. (Refer to Section 08-02- Prior Service With Another Montana Agency.)

B. The following rules will apply to vacation leave:

1. Vacation time taken off will be recorded to the nearest quarter (.25) hour.
2. No vacation leave with pay will be granted in advance of credits earned. Credit earned in one pay period may be used in the next.
3. Vacation leave credits will not accrue in any leave of absence without pay status.
4. Non-exempt employees may not use vacation leave hours to create an overtime pay situation. In the event that requested use of vacation leave creates an overtime pay liability, the Human Resource Department staff will reduce requested vacation leave hours so that the employee's hours in an active pay status do not exceed forty (40) in a given work week.
5. Vacation leave cannot be used without prior approval of the employee's supervisor.

6. Pursuant to provisions described in [2-18-617](#), MCA, vacation leave credits may be accumulated to a total not to exceed two (2) times the maximum hours earned annually as of the end of the first pay period of the next calendar year. Excess vacation time is not forfeited if taken within ninety (90) calendar days from the last day of the calendar year in which the excess was accrued. It is the responsibility of the elected official/department director to provide reasonable opportunity for an employee to use rather than forfeit accumulated vacation leave. If an employee makes a reasonable written request to use excess vacation leave before the excess vacation leave must be forfeited **and** the elected official/department director denies that request, the excess vacation leave is not forfeited and the County will ensure that the employee may use the excess vacation leave before the end of the calendar year in which the leave would have been forfeited.
 7. Elected officials/department directors may authorize the use of vacation leave for employees to care for a newborn child or adopted child.
- C. Holiday/Vacation Leave-Vacation leave taken over a legal holiday will not be charged against the employee's accumulated vacation leave total for the legal holiday.
 - D. Vacation Leave/Sick Leave-Vacation leave time may be substituted for sick leave time with the consent of the employee.
 - E. Employee Termination -An employee who terminates employment for a reason that does not reflect discredit on the employee and who has worked the qualifying period for use of vacation leave is entitled to a lump sum payment at the wage rate current at the time of termination for unused vacation leave, provided the employee has worked the qualifying period of six (6) continuous calendar months.
 - F. Transferred Employees-If an employee is transferred between departments, the employee will not be entitled to a lump sum payment for accrued vacation leave credits. The department receiving the transferred employee will assume the liability for the accrued vacation credits earned and transferred with the employee.

Section 08-04- Sick Leave Accrual Policy

Regular, Seasonal and Temporary status employees will be eligible to accumulate sick leave credits from the first day of employment and use them after ninety (90) days of continuous employment. Seasonal employees who work two or more seasons may carry over sick leave credits if County department management has continued need of the employee. If a Seasonal status employee carries sick leave over, employment in two or more seasons is considered continuous employment.

Sick leave credits will be earned at a yearly rate calculated in accordance with the following schedule where one (1) year equals 2,080 hours of work.

40 hours x 52 weeks = 2,080 hours = 1 year.

Period of Employment	Sick Leave Credit/year
40 hours per week	96
Less than 40 hours per week	.04615 x # of hours worked

1. Overtime hours are not counted in the calculation of sick leave credits earned.
2. When calculating incomplete pay periods and part-time hours, final figures are rounded off to the nearest hundredth of an hour.
3. Sick leave does not accrue on overtime worked and no employee will earn more than the statutory full-time accrual rate of 12 days (96 hours) per year. Employees in a leave-without-pay status do not accrue sick leave.

Section 08-05- Use of Sick Leave

A. The following procedures will apply to the use of sick leave:

1. Sick leave time taken will be recorded to the nearest quarter (.25) hour when fractions of hours are used.
2. No sick leave with pay will be granted in advance of credits earned.
3. Sick leave credits will not accrue in an authorized leave of absence without pay status.
4. The elected official/department director may require medical certification to confirm the appropriate use of sick leave, including the need to care for an ill or injured immediate family member. A licensed physician, or another licensed health care provider competent to treat and diagnose the particular illness or condition, must provide medical certification. All required medical certifications or examinations must be job-related and consistent with business necessity.
5. When the reason for leave also qualifies for the use of Maternity Leave, Parental Leave, or Family Medical Leave (FMLA), the elected official/department director and the employee must follow the medical certification procedures and other requirements of the Maternity Leave procedures or Parental Leave procedures, the FMLA procedures, and the FMLA regulations (29 CFR 825).
6. All medical information obtained through certification or medical examinations must be:
 - a. maintained as confidential in secured, separate files from the usual personnel files, and
 - b. maintained according to ADA and GINA confidentiality requirements.

7. Whenever the County Human Resource Director or the elected official/department director has reason to believe that an individual employee might be abusing sick leave, they may request the employee claiming or using sick leave to substantiate or verify their claim with proper medical certification. The elected official/department director may also request medical certification that the employee is released to return to work.
8. The elected official/department director may require a medical release to return to work from employees who take extended sick leave [more than three (3) working days].
9. Non-exempt employees may not use sick leave hours to create an overtime pay situation. In the event that requested use of sick leave creates an overtime pay liability, the Human Resource Department staff will reduce requested sick leave hours so that the employee's hours in an active pay status does not exceed forty (40) hours in a given work week.

B. Sick leave may be granted for:

1. Time off when an employee is unable to perform job duties because of physical or mental illness, injury or disability;
2. Maternity-related disability; including prenatal care, birth, miscarriage, abortion, or other medical care for either employee or child;
3. Parental leave as provided in 2-18-606, MCA;
4. Quarantine resulting from exposure to contagious disease;
5. Consultation, examination or treatment by a licensed health care provider;
6. Short-term attendance to an immediate family member or, at the elected official/department director's discretion, another relative because of physical or mental illness, injury, disability, or examination or treatment until other care can reasonably be obtained. Immediate family members are the employee's spouse and any member of the employee's household, or any parent, child, grandparent, grandchild, or corresponding in-law.
7. Necessary care of a spouse, child, or parent with a serious health condition, as defined in the Family and Medical Leave Act of 1993; and
8. Death or funeral attendance for an immediate family member or, at the elected official/department director's discretion, another person. (See also 08-06-Bereavement Pay, below.)

C. Holiday/Sick Leave-Sick leave taken over a legal holiday will not be charged against the employee's accumulated sick leave for the legal holiday. Exceptions may be made for employees scheduled to work the holiday (i.e. emergency services). Proper medical certification may be required to substantiate the illness.

- D. Sick Leave/Vacation Leave-If all sick leave credits have been used, an employee that is eligible to use vacation leave credits will have the option of using accrued vacation leave credits.
- E. An employee who terminates employment with the County is entitled to a lump-sum payment equal to one-fourth of the pay attributed to the accumulated sick leave. The pay attributed to the accumulated sick leave must be computed on the basis of the employee's wage at the time the employee terminates employment with the County. Abuse of sick leave is cause for dismissal and forfeiture of the lump-sum payments.
- F. Transferred Employees-If an employee is transferred between departments, the employee will not be entitled to a lump sum payment for accrued sick leave credits.

The department receiving the transferred employee will assume the liability for the accrued sick leave credits transferred with the employee.

Section 08-06- Abuse of Sick Leave

- 1. Sick leave abuse occurs when an employee uses sick leave for unauthorized purposes or misrepresents the actual reason for charging an absence to sick leave. Sick leave abuse is cause for dismissal and forfeiture of the lump-sum payment (2-18-618, MCA).
- 2. Abuse also may occur when an employee establishes a pattern of sick leave usage over a period of time. Chronic, persistent, or patterned use of sick leave may be subject to progressive discipline.
- 3. Any charges of sick leave abuse that result in an employee's dismissal and forfeiture of the lump-sum payment are subject to the appropriate grievance procedure.

Section 08-07- Donation and Receipt of Sick Leave Policy

Lewis and Clark County recognizes that the inability to work due to illness or injury not covered by workers' compensation may create a serious strain on the employee's financial situation. Accordingly, Lewis and Clark County allows the sharing of accrued sick leave between qualified employees for a specific event where sick leave may be used appropriately. However, this policy does not guarantee that the County will approve a leave of absence, and nothing in this policy guarantees that an employee will receive donations of sick leave. This policy establishes procedures for donations of sick leave. The department employing the recipient of a sick leave donation will pay all costs of the use of that sick leave.

A. Definitions:

As used in this policy, the following definitions apply:

- 1. "Contribution" means a voluntary and irrevocable contribution of accrued sick leave an employee donates directly to another employee.

2. “Employee” means any person employed by any department except elected officials and persons contracted as independent contractors or hired under personal services contracts. For purposes of sick leave donation, a short-term worker is not an employee.
3. “Extensive illness or accident” means an illness, injury, disability as defined in the disability and maternity leave policy, or quarantine that incapacitates an employee for 10 or more consecutive working days.
4. “In a pay status” means the hours an employee is paid at the regular pay rate up to a maximum of 40 hours in a workweek. This includes hours an employee is paid for annual leave, sick leave, holidays, and compensatory time. For the purposes of sick leave donation, the term does not include hours that exceed 40 hours in a workweek, which are paid as overtime or recorded as compensatory time.
5. “Participating employee” means an employee who has met the conditions specified in this policy.
6. “Working Day” refers to the period of time in a pay status for an employee that is their regularly scheduled hours in a calendar day.

B. General Provisions

1. Elected officials/department directors must approve an employee’s request for donations of sick leave.
2. An employee who has a discreet event that requires use of sick leave in excess of the employee’s accrued sick leave or who is required to provide necessary care as defined in subsection 7. below, which results in the employee’s absence from work for no less than 10 consecutive working days may request donations of sick leave. In addition, the employee must satisfy the eligibility requirements outlined in subsection F. below.
3. An employee who has received approval to request donations of sick leave from the elected official/department director will notify the staff of the Human Resource Department. The Human Resource Department staff will provide the employee with the necessary forms and will conduct the solicitation for donations. The employee may not solicit donations directly.
4. An eligible full-time employee may receive contributions of sick leave up to a maximum of 240 hours sick leave in a 12-month period. Departments will calculate the 12-month period from the first day an employee uses sick leave credits received through contributions. Donated sick leave may be used for any purpose where sick leave would be allowed (see 08-04. C. above).
5. Departments will prorate the available hours a part-time employee may receive based on either:
 - a. The part-time employee’s regular schedule at the time the employee became qualified for a sick leave contribution; or

- b. The average amount of time the employee is in a pay status when management cannot determine or has not assigned a regular schedule. For example, if during the two or more pay periods preceding the qualifying event an employee was in a pay status an average of 20 hours per week, the maximum available sick leave is 120 hours in a 12-month period.
- 6. Except as described below, an employee may not donate a total of more than 80 hours of sick leave in a 12-month period. An employee's contribution cannot reduce the employee's accumulated sick leave balance below 40 hours. Departments will calculate the 12-month period from the first day of the pay period following the pay period in which a department removes the first contribution from the donating employee's account.
- 7. Subject to elected official/department director approval, an employee may use sick leave hours obtained from donations as follows:
 - a. To provide necessary care for a spouse, child, or parent with a serious health condition, as defined in the Family and Medical Leave Policy, 08-12- below;
 - b. For continuing physical or mental illness, injury, disability, or treatment by a licensed health care provider that is directly related to the original reason that caused the employee to become eligible to receive a sick leave contribution;
 - c. In the same pay period in which the Human Resource Department staff adds the credits to the employee's account;
 - d. If an employee is incapacitated and unable to apply for a sick leave contribution, another person may do so for the employee;
 - e. Together with an approved leave of absence without pay, for example, 20 hours of paid sick leave and 20 hours of leave of absence without pay.
- 8. An employee's use of contributed sick leave hours does not prohibit department management from taking appropriate disciplinary action due to an employee's unauthorized absence from work.

C. Prohibited Uses of Contributed Sick Leave

- 1. An employee may not use contributed sick leave hours:
 - a. If the employee is eligible for workers' compensation wage loss benefits;
 - b. During a leave of absence without pay which was approved for reasons other than an extensive illness or accident or providing necessary care as described in Section B. 7. of this policy;

- c. When the employee has personally accrued sick leave or compensatory time available, for example, when an employee has sick leave or compensatory time available that has accrued while the employee was using sick leave from contributed sick leave hours;
 - d. Retroactively to a previous pay period in which the employee was in a leave without pay status and had not yet become eligible to receive contributed sick leave hours.
2. If any of the above or other unforeseen reasons cause an employee to have unused sick leave credits from contributed sick leave hours, the sick leave becomes excess sick leave and may not be used. The Human Resource Department staff will remove excess sick leave credits from the employee's account and return them to donating employees.
3. An employee may not cash out sick leave credits if those credits were obtained through a sick leave donation. On termination of employment, the Human Resource Department staff will remove unused credits from the employee's account and return them to donating employees.

D. Sick Leave Contribution Procedures

1. An employee who chooses to make a contribution of sick leave will submit a completed sick leave voucher to the Human Resource Department.
2. The Human Resource Department will determine that:
 - a. The receiving employee is eligible to use and receive donated sick leave; and
 - b. The contributing employee has met the eligibility requirements to make a sick leave donation, as defined in Section E below, and
 - c. The elected official/department director of the employee requesting the donation has agreed to allow the employee to accept donations, and
 - d. The Human Resource Department has deducted the appropriate hours from the donating employee's sick leave account.
3. If the recipient is in a different department than the donating employee, the Human Resource Department will submit a copy of the sick leave voucher to the recipient employee's department.

E. Eligibility Requirements to Contribute Sick Leave

1. To be eligible to make a sick leave donation, an employee will:
 - a. Have completed the 90-day qualifying period to take sick leave, and
 - b. May not reduce a full-time employee's balance of sick leave below 40 hours.

The Human Resource Department will prorate the minimum balance for a part-time employee based on either:

- 1) The part-time employee's regular schedule at the time the employee makes the initial donation; or
 - 2) The average amount of time the employee is in a pay status when management cannot determine or has not assigned a regular schedule. For example, if during the two or more pay periods preceding the donation a part-time employee was in a pay status an average of twenty (20) hours per week, the employee will keep a minimum balance of twenty (20) hours of sick leave following the donation.
2. One donated credit hour will be subtracted from the donating employee's sick hour accruals for each credit hour added to the recipient employee's sick leave credit accumulation.
 3. Employees may donate up to twenty (20) hours of sick leave to an individual employee, and up to eighty (80) hours total sick leave during a twelve (12) month period.
 4. Once made, employees cannot rescind donated credits, subject to the qualification in subsection 5., below.
 5. Credits not used by the recipient employee will be returned to the donating employee when the recipient employee returns to work, completes his/her recuperation, or terminates employment with the County. Credits will be returned in the reverse order of their donation.
 6. An eligible employee may make a sick leave donation to an eligible employee of any County department.

F. Eligibility Requirements to Receive Contributed Sick Leave

1. To be eligible to receive a sick leave donation, an employee will have:
 - a. Met the 90-day qualifying period to use sick leave;

- b. Suffered an extensive illness or accident or be required to provide necessary care as defined in subsection B. 7. above, which resulted in the employee's absence from work for no less than ten (10) consecutive working days;
 - c. Used all available accrued sick leave, annual leave, other accrued paid leave, and compensatory time;
 - d. Taken twenty (20) consecutive hours of leave of absence without pay following the use of all accrued paid leave and compensatory time (departments may not prorate this amount for part-time employees);
 - e. Received approval from the supervisor for leave of absence;
 - f. Received approval from the elected official/department director (or designee) to receive sick leave donations; and
 - g. Provided a medical provider's certification of extensive illness or accident when requested by the employing department.
2. In any twelve (12) month period, an employee may receive either 1) a total equal to half (1/2) the sick leave hours the employee would have accrued since the start of employment with the County or 2) a total of two hundred forty (240) credit hours of donated sick, whichever is less. For the purposes of this section, the twelve (12) month period begins with the pay period of the first draw of donated leave.
 3. Donations are applied based on hours (credits), not on rate of pay of the donating employee.
 4. Meeting the requirements to receive sick leave donation does not guarantee that the employing elected official/department director (or designee) will approve the employee's use of donated sick leave.

Section 08-08- Bereavement Leave Pay

Upon the death of a member of the employee's immediate family, a Regular, Seasonal or Temporary status employee will be granted up to twenty-four (24) hours of paid bereavement leave. Immediate family is defined as the employee's spouse, parents, spouse's parents, grandparents, spouse's grandparents, brothers, sisters, household dependents, brothers-in-law, and sisters-in-law. Bereavement leave may be extended using vacation leave and sick leave, with proper authorization.

Section 08-09- Leave of Absence Without Pay-General Provisions

Leave of absence without pay is an **unpaid leave status authorized by the elected official/department director and the Human Resource Director**. An employee may be allowed to request and take a leave of absence without pay at the elected official/department director's discretion, unless the purpose of leave is to serve in a public office, active duty or another extended military service, or leave taken under terms and conditions of the Family and Medical Leave Act.

- A. Leave of absence without pay will be for use as outlined under disability leave, maternity leave, parental leave, family and medical leave, public office leave, or military leave (See Sections 08-11-, 08-12, 08-13, 08-14, 08-15 and 08-16- below), or for up to one month for other valid and good reasons if authorized by the elected official/department director.
- B. Leave of absence without pay for situations in excess of thirty (30) calendar days will be granted only with the approval of the employee's elected official/department director and the Human Resource Director.

Section 08-10- Leave of Absence Without Pay-Guidelines

Elected official/Department directors may grant a leave of absence without pay by following these guidelines:

- 1. The elected official/department director must receive a written request from an employee for use of leave without pay. The request should include a reason for the request and the amount of leave time requested.
- 2. Upon receipt of a written request, the elected official/department director will base the decision on whether or not to grant leave of absence without pay using a cost/benefit analysis that may include weighing both direct and indirect costs against benefits to the department. The elected official/department director's assessment may include, but is not limited to, the following: loss of productivity by the employee; overtime or compensatory time for other current employees; hiring and training a temporary replacement; and the impact on the department budget and customers; and long-term retention of an employee and improved job performance as a result of the leave.
- 3. While an employee is on leave of absence without pay, the County's contribution to health, dental, vision, and life insurance plans stop unless the leave is in conjunction with family and medical leave provisions (see 08-14- below).
- 4. Employees on authorized leave of absence without pay will make arrangements with the Human Resource Department to pay health plan contributions.

5. The elected official/department director (or designee) will provide written notice to the Human Resource Department whenever an employee is authorized to take a leave of absence without pay. The notice will include information about the start and end dates for the leave, together with a general explanation about the need for leave.
6. Notice will be provided to the Human Resource Department prior to the start of the first pay period affected by the leave of absence without pay.
7. Absence from work does not constitute an authorized leave of absence without pay.

Section 08-11- Disability Leave

Disability leave is available to Regular and Seasonal status employees. Employees may use sick leave credits, vacation leave credits, or leave of absence without pay for the purpose of recovering from physical disabilities or injuries.

- A. For purposes of this section and Section 08-12-, the following definitions will apply:
 1. "Disability" means any illness, injury, or other condition that prevents the employee from performing some or all of the duties of the position. A disability may be the result of a short-term illness or injury, pregnancy or child-birth, or industrial accident. "Disability" also includes, as provided in [49-2-101](#) and [49-3-101](#), MCA:
 - a. A physical or mental impairment that substantially limits one or more of a person's major life activities;
 - b. A record of an impairment; or
 - c. A condition regarded as an impairment.
 2. "Industrial accident" means an injury or accident, as defined in [39-71-119](#), MCA.
 3. "Maternity leave" means any leave of absence granted to or required of an employee because of the employee's disability due to pregnancy. It may be a paid or unpaid leave of absence.
 4. "Reasonable accommodation" means, in accordance with section 504 of the Rehabilitation Act of 1973 and Title I of the Americans with Disabilities Act of 1990:
 - a. Modifications or adjustments to a job application process that enable a qualified applicant with a disability to be considered for the position the qualified applicant desires;

- b. Modifications or adjustments to the work environment, or to the manner or circumstances under which the position held or desired is customarily performed, that enable a qualified individual with a disability to perform the essential functions of that position; or
 - c. Modifications or adjustments that enable an employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by its other similarly situated employees without disabilities.
 - 5. "Short-term illness or injury" means a condition of limited duration, such as a cold, the flu, or a sprained ankle, which in and of itself does not limit employability.
- B. An employee requesting disability leave must:
- 1. Substantiate the request with proper medical certification;
 - 2. Make a written request for a specific period of time to their immediate supervisor; and
 - 3. Have approval by the elected official/department director and the Human Resource Director.
- C. Disability leave of absence without pay for up to six (6) calendar weeks for employees in a Regular status may be granted by the employee's elected official/department director and the Human Resource Director, and must be substantiated by proper medical certification.
- 1. When a leave of absence is due to disability, the Human Resource Director may approve a combination of paid leave and leave of absence without pay.
 - 2. Extensions beyond six (6) calendar weeks may be granted with the approval of the elected official/department director and Human Resource Director.
 - 3. An employee who requests disability leave may be required to provide medical certification certifying that the employee is fit to perform the duties of the position.
 - 4. If the employee who requests disability leave is a qualified individual with a disability, the County may be required to provide a reasonable accommodation for the employee unless to do so would impose an undue hardship in accordance with Section 503 and 504 of the Rehabilitation Act of 1973 and Title I of the Americans with Disabilities Act of 1990.
 - 5. When the period of authorized leave of absence without pay has expired and the employee is unable to return to work either with or without reasonable accommodation, the County is relieved of employment responsibility to the employee.

6. Section 08-10- (Leave of Absence Without Pay) will dictate the accrual of benefits during the disability leave of absence without pay.
7. While an employee is on disability leave of absence without pay, the County's contribution to health, dental, vision, and life plans stop unless the leave is in conjunction with family and medical leave provisions (see 08-14 below). Employees on authorized disability leave of absence without pay will make arrangements with the Human Resource Department to pay the health plan contributions.

Section 08-12- Maternity Leave Policy

The County will grant a leave of absence without pay for pregnancy or childbirth for any Regular or Seasonal status employee. Maternity or pregnancy leave will be authorized for a period of up to 60 calendar days and will be subject to the same terms and conditions as a leave of absence without pay. Maternity leave may be extended with written approval of the Human Resource Director.

- A. Maternity leave will be granted with the approval of the employee's elected official/department director and the Human Resource Director.
- B. While an employee is on maternity leave, no vacation or sick leave credits accrue and service time for retirement will be adjusted accordingly.
- C. While an employee is on maternity leave, the County's contribution to health, dental, vision, and life insurance plans stop unless the leave is in conjunction with family and medical leave provisions (see 08-14 below). Employees on authorized maternity leave will make arrangements with the Human Resource Department staff to make health plan contributions.
- D. If an employee elects to extend maternity leave beyond 60 days, the elected official/department director may require appropriate certification by a medical provider.
- E. Employees using leave of absence without pay for pregnancy and related maternity time off who have signified on the request for leave that they have an intention to return to work at the end of the agreed to leave time will be reinstated to the original job, or to an equivalent position with equivalent pay if and when the employee is physically able to return to work as certified by a licensed medical provider.
- F. It is the objective of this policy to establish minimum standards for leave requests and approval, medical certification and reinstatement when an employee is unable to work due to maternity. Nothing in this policy guarantees the approval or granting of leave requested. The County will approve a reasonable leave of absence, as provided in this policy, when maternity leave is requested.

Section 08-13- Parental Leave

The County will permit Regular or Seasonal status employees a reasonable leave of absence without pay not to exceed fifteen (15) working days for parental leave immediately following the birth of a child or placement of a child with the employee for adoption. Parental leave may be extended with written approval of the Human Resource Director.

- A. Parental leave will be granted with the approval of the employee's elected official/department director and the Human Resource Director.
- B. While an employee is on parental leave, no vacation or sick leave credits accrue and service time for retirement will be adjusted accordingly.
- C. While an employee is on parental leave, the County's contribution to health, dental, vision, and life insurance plans stop unless the leave is in conjunction with family and medical leave provisions (see 08-14 below) or unless the employee requests use of sick leave, vacation leave or compensatory time. Employees on authorized leave of absence without pay will make arrangements with the Human Resource Department staff to pay health plan contributions.
- D. If an employee elects to extend parental leave beyond fifteen (15) days, the elected official/department director may require appropriate certification or documentation of birth or adoption.
- E. An employee may request the use of sick leave, vacation leave, compensatory time or leave of absence without pay as parental leave.

Section 08-14- Family and Medical Leave

Employees are eligible for family and medical leave if they have worked for the County for at least one (1) year and for 1,250 hours over the previous twelve (12) month period. Family and medical leave for up to twelve (12) weeks in a twelve (12) month revolving period will be granted to Regular status employees for any of the purposes described below. The twelve (12) month period will begin on the date the employee requests leave. Employees using family and medical leave will be reinstated to their original job, or to an equivalent position with equivalent pay providing that they have indicated a desire to return to work at the end of the leave period. During the first 12 weeks of leave, the employee will receive health plan coverage according to the terms and conditions that were in effect for the employee prior to the request for leave. Employees must still make the employee portion of health plan contributions while on family and medical leave.

- A. Leave Requirements:

Unpaid leave will be granted for any of the following reasons:

- 1. To care for the employee's child after birth, or placement for adoption or foster care;

2. To care for the employee's spouse, son, daughter, or parent, who has a serious health condition; or
3. For a serious health condition that makes the employee unable to perform the employee's job; or
4. For any qualifying exigency arising from the fact that the spouse, son, daughter or parent is on active duty, or has been notified of an impending call to active duty status, in support of a contingency operation; or
5. To care for a spouse, son, daughter, parent or next of kin who is recovering from a serious illness or injury sustained in the line of duty while on active duty. [In this case only, the caregiver is entitled to 26 weeks of leave in a single twelve (12) month period.]

B. Leave Requests:

To request family and medical leave, the employee will:

1. Make a written request for a specific period of time to their immediate supervisor; and
2. Have approval by the elected official/department director and the Human Resource Director.
3. Provide medical certification of the health condition or qualifying exigency upon request.
4. Upon receipt of a request for family and medical leave, the Human Resource Department staff will provide the employee with the appropriate form to complete the leave request.

C. Notice Requirements

1. The elected official/department director (or designee) must notify the Human Resource Director (or designee) any time an employee is absent from work the three (3) consecutive days.
2. The Human Resource Department staff will provide the employee with FMLA leave request paperwork upon receiving notice of absence.
3. The Human Resource Department staff will notify the employee and the elected official/department director if FMLA leave is approved or denied.

D. Combining Family and Medical Leave With Other Leave

Family and medical leave is a twelve (12) week leave of absence without pay that provides the employee with reinstatement rights and paid health plan coverage while the employee is on leave, subject to the following conditions:

1. Use of Sick Leave

Employees taking FMLA leave for purposes that qualify for use of sick leave will be required to take at least 20 hours of accrued sick leave each week before leave without pay will be approved, except as provided below.

- a. Employees with fewer than 20 hours of accrued sick leave must take all accrued sick leave each week before leave without pay will be approved.
- b. When an employee requires leave due to a job-related injury or illness covered by workers' compensation insurance, use of sick leave will not be required.

2. Use of Vacation Leave

- a. Employees may request to take their accrued annual vacation leave during an approved FMLA leave.
- b. Employees will not be required to take accrued annual leave during FMLA leave if the reason for absence is illness.

3. Use of Compensatory Time

- a. Department may allow employees to use accrued nonexempt compensatory time, but the hours will not count toward the employee's entitlement to 12 weeks of FMLA leave each year as provided in the FMLA regulations.
- b. Department may require employees to use accrued exempt compensatory time when approving any type of FMLA leave.

E. Return to Work

Employees must provide the Human Resource Director (or designee) with notice of return to work from FMLA leave within 24 hours of their return.

Section 08-15- Public Office Leave

- A. The County will grant a leave of absence, not to exceed 180 days per year, to any County employee elected or appointed to a public office in the city, county, or state. The leave will apply to the time period while the employee is performing public service.
- B. Upon completion of the public service, the employee will be restored to the position occupied prior to the leave, with the same seniority, status, compensation, hours, locality, and benefits as existed immediately prior to the leave of absence for public service under this section.
- C. An employee granted a leave of absence will make arrangements to return to work within 10 days following the completion of the service for which the leave was granted unless the employee is unable to do so because of illness or disabling injury certified to by a licensed medical provider.

- D. Unemployment benefits paid to a person by application of this section may not be charged against an employer under the unemployment insurance law.

Section 08-16- Military Leave

Military leave will mean a period of absence from employment for the purpose of attending regular encampments and training courses of the military forces of the United States.

- A. Military leave with pay, not to exceed 120 working hours in a calendar year, will be granted to employees who have been employed continuously for six months and who are members of the organized State Militia, National Guard, Reserved Corps, or other military forces of the United States.
- B. In addition to using military leave, County employees with orders have the option of using annual vacation leave or requesting leave of absence without pay status when ordered to active duty with the State National Guard.
- C. While an employee is on leave of absence without pay, the County's contribution to health, dental, vision, and life insurance plans stop unless the leave is in conjunction with family and medical leave provisions (see 08-12 above).

Employees on authorized leave of absence without pay will make arrangements with the Human Resource Department to pay health health plan contributions. Employees should consult the health plan summary plan description for reasonable notice requirements for and plan limitation of County health plan coverage.

- D. Departments will provide written notice to the Human Resource Department whenever an employee takes military leave or is authorized to take a leave of absence without pay in conjunction with military training or service. The notice will include information about the starting and end dates for the leave, together with copies of military orders.
- E. Notice will be provided to the Human Resource Department prior to the start of the first pay period affected by the military leave or leave of absence without pay.
- F. For the purpose of determining the number of years of employment used in vacation leave credits, the period of absence from employment due to a war involving the United States or in any other national emergency and for ninety (90) days thereafter, the period is considered as service if one of the following instances apply:
 - 1. Employee is ordered to active duty with the Armed Forces of the United States.
 - 2. Voluntary service on active duty in the Armed Forces or on ships operated by or for the United States Government.
 - 3. Direct assignment to the United States Department of Defense for duties related to National Defense, if leave of absence without pay has been authorized.

Section 08-17- Holiday Leave and Holiday Pay

The following are legal holidays:

1. New Year's Day, January 1.
 2. Martin Luther King Day, third Monday in January.
 3. President's Day, third Monday in February.
 4. Memorial Day, last Monday in May.
 5. Independence Day, July 4.
 6. Labor Day, first Monday in September.
 7. Columbus Day, second Monday in October.
 8. Veteran's Day, November 11.
 9. Thanksgiving Day, fourth Thursday in November.
 10. Christmas Day, December 25.
 11. State-wide election day in November of even years.
- A. Holiday benefits are calculated based on an employee's regular schedule. For purposes of this section, changes to an employee's schedule that extend beyond one pay period are changes to the regular schedule. An employee's regular schedule may be changed in ways including:
1. A change initiated by management, or
 2. A change initiated by an employee and approved by management, including, but not limited to, requests to work fewer hours on an ongoing basis, or requests to use leave without pay by itself or in combination with accrued paid leave.

An employee must be in a pay status either the last regularly scheduled working day before or the first regularly scheduled working day after a holiday is observed to be eligible to receive holiday benefits.

An employee will not be eligible to receive holiday benefits if:

1. The employee is a new employee and begins work on the day after a holiday is observed; or

2. The employee is reinstated or reemployed following a reduction in force, returns to work following a leave of absence without pay of more than one pay period or a disciplinary suspension, or is called back to seasonal or temporary employment on the day after a holiday is observed.
- B. All full-time Regular, Seasonal or Temporary status employees will receive eight (8) hours off with pay for days observed as legal holidays or authorized proclaimed work days off, provided they are in an active pay status on the last regularly scheduled working day prior to the holiday.
 - C. Full-time Regular, Seasonal or Temporary status employee who is scheduled for a day off, which is observed as a legal holiday or authorized proclaimed work day off, will be entitled to receive eight (8) hours off with pay either on the day preceding or the day following; whichever allows a day off in addition to the employee's regularly scheduled day off. Employees under scheduling restrictions will be allowed to use the holiday hours when the scheduling allows.
 - D. Part-time Regular, Seasonal and Temporary status employees will receive holiday benefits on a prorated basis. Holiday benefits will be an average of the employee's hours regularly scheduled to work in the pay period. To find the average number of regularly scheduled work hours, divide the number of hours regularly scheduled to work in a pay period by 10 (the number of work days in a pay period).

If the pay period in which the holiday falls is not characteristic of the employee's regular schedule, the department will approximate the employee's schedule for purposes of determining holiday benefits. If the agency cannot determine an employee's regular schedule, the number of hours in a pay status divided by 10 may be used to determine the holiday benefit.

If part-time employees are scheduled to work on a holiday, they will take their holiday time off within fourteen (14) calendar days with the elected official/department director's authorization. The Human Resource Director must authorize any diversions from these guidelines.

- E. If an employee's regular work day schedule is more than eight (8) hours, he/she may use vacation or comp time for those additional hours in order to receive a full work day's wages on a holiday. (EXAMPLE 1: a full-time employee scheduled to work ten (10) hours on a holiday would earn eight (8) hours holiday time and would need to use two (2) hours of vacation or compensatory leave to receive a full work day's wages. EXAMPLE 2: a part-time employee scheduled to work five (5) hours a day four (4) days a week would earn four (4) hours of holiday time and would need to use one (1) hour of vacation or compensatory leave to receive a full work day's wages.)

Section 08-18- Education Leave

Education leave will mean employees attending courses at an accredited vocational or post-secondary educational institution for up to eight (8) credit hours per academic year. Education leave is available to Regular status employees, subject to the guidelines below:

- A. Education leave may be granted to any Regular status employee, with the elected official/department director's approval, after 6 months of continuous employment.
- B. The elected official/department director will forward the employee's approved request for the education leave to the Human Resource Director outlining the nature of the coursework, the length of leave, impact on department services, person(s) involved, and estimated cost to the County.
- C. Employees on education leave will report back to work for the balance(s) of their work day after scheduled class(es) is/are over and within a reasonable time allowed for travel.
- D. The County, upon receiving evidence of satisfactory completion of approved job related courses, will reimburse the employee for tuition and books for up to \$500.00 per fiscal year. The employee's department will submit claims and payment will be taken from department funds appropriated for the purpose of education.

Reimbursements of funds to the employee are subject to County budget constraints.

- E. Graduate credit classes may be taken under the terms and conditions stated above. However, reimbursement will be subject to Internal Revenue Service rules governing educational assistance programs (Section 127). Specifically, reimbursement received for graduate credit is not exempt from the income exclusion under Section 127, and must be reported to the IRS as income for the employee.

Notification that a requested class is being taken for graduate credit must be included in the educational leave request and must also be noted on the claim form when the request for reimbursement is submitted. The department making the request must forward a copy of the original request and the reimbursement claim to the County Clerk/Treasurer or Finance Director.

Section 08-19- Disaster and Emergency Leave

Lewis and Clark County will provide paid time off not charged to an employee's accrued leave or compensatory time for an employee affected by a disaster or emergency as declared under the authority of [10-3-302](#) and [10-3-303](#), MCA, subject to the terms and conditions described below.

A. Definitions:

As used in this section, the following definitions apply:

1. "Affected employee" means an employee of Lewis and Clark County whose life, the lives of members of his immediate household or whose property is endangered during a declared disaster or emergency. A County employee who is a member of the national guard of the state of Montana and who is ordered to active federal or state service by competent authority is not an affected employee under this rule.
2. "Affected work site" means portions of a department's premises that are directly threatened or affected by disaster or emergency conditions as described in this policy.
3. "Disaster" means, as defined in [10-3-103](#), MCA, "the occurrence or imminent threat of widespread damage, injury, or loss of life or property resulting from any natural or man-made cause, including tornadoes, windstorms, snowstorms, wind-driven water, high water, floods, wave action, earthquakes, landslides, mudslides, volcanic action, fires, explosions, or air or water contamination requiring emergency action to avert danger or damage, blight, droughts, infestations, riots, sabotage, hostile military or paramilitary action, or accidents involving radiation by-products or other hazardous materials."
4. "Emergency" means, as defined in [10-3-103](#), MCA, "the imminent threat of a disaster causing immediate peril to life or property which timely action can avert or minimize."
5. "Personal emergency" means circumstances affecting a County employee which are the same or similar to those covered by the definitions of disaster or emergency, but which are not covered by a declaration of disaster or emergency by the governor or during a work site closure.
6. "Volunteer service" means participation in local volunteer emergency services, including, but not limited to, volunteer fire fighting, search and rescue, or civil defense.

B. Emergency Leave Procedures

1. When the governor of the state of Montana, pursuant to [10-3-302](#) and [10-3-303](#), MCA, or the Board of County Commissioners declare a disaster or emergency, an affected employee of the County will receive paid time off which is not charged to any accrued leave or compensatory time.

2. An elected official/department director (or designee) will determine on a case-by-case basis:
 - (a) Whether or not an employee of the department is affected by a declared disaster or emergency; and
 - (b) The period of time for which the employee should receive paid time off under this section.
3. When the declaration does not define affected employees, employees who want paid time off under this policy will make a request through their supervisor stating the reasons they were affected.
4. An employee who reports for work and performs regular duties and responsibilities during a declared disaster or emergency will be paid for hours worked at the regular pay rate. No additional leave will be granted.
5. If an employee is requested to return to work to perform essential services during a declared disaster or emergency which requires the general closure of County offices, that employee will be authorized compensatory time in addition to his/her regular pay rate. This provision applies to all exempt employees and to non-exempt employees who have not worked in excess of 40 hours during the work week.

C. Personal Disaster/Emergency and Volunteer Service

1. An employee who is affected by a personal disaster, emergency, or who wishes to provide volunteer service is eligible to apply to take annual vacation leave, accrued compensatory time or leave of absence without pay. The employee may not take sick leave except for reasons outlined in the sick leave policy.
2. Application for and approval of use of leave or compensatory time will be in compliance with rules on annual vacation leave, leave of absence without pay and/or compensatory time.
3. An employee must provide written verification of participation in the emergency if requested by the elected official/department director.

D. Affected Worksite Closures

1. An elected official/department director may declare an affected work site closed when the site is under his or her authority and with the approval of the Board of County Commissioners (or designee).
2. The elected official/department director may temporarily reassign an employee to an alternate work site during the closure of the employee's regular work site.

3. An elected official/department director will determine which employees are affected by the work site closure. An employee may receive paid time off under this policy only for regularly scheduled hours that fall during the work site closure.
4. County employees may be assigned to a work site that is not a County-controlled facility, for example a state office or facility leased from a private owner. In the event the facility is ordered closed by those with the authority to do so and under circumstances similar to those described in this rule, an affected employee may receive paid time off under conditions described in this rule.
5. An employee who voluntarily reports for work and performs regular duties during the closure of an affected work site will be paid the regular wage for hours worked. No additional pay or leave will be granted.
6. If management requests that an employee remain at work or report to work to perform essential services during the closure of an affected work site, that employee will be authorized hour-for-hour compensatory time in addition to his regular pay rate. This provision applies to all exempt employees and to non-exempt employees who have not worked in excess of 40 hours during the work week.

CHAPTER IX: GENERAL WORK RULES AND WORK POLICY GUIDELINES

Section 09-01- General Work Rules Statement

Lewis and Clark County strives to create a work environment that is conducive to performing work as efficiently and effective as is practical while maintaining a work environment that adheres to all applicable County, state and federal workplace rules and regulations.

Section 09-02- Standards of Conduct

Employees and officers of the County are subject to a code of ethics prohibiting conflict between public duty and private interests. Montana Code Annotated, Title 2, Chapter 2, describes the standards of conduct.

A County Commissioner, any other officer, any employee, or any member of an appointed board or bureau, may not, using discretionary authority, take any official action when the officer, employee, or board member or any relative thereof is directly or indirectly interested in the profits received as a result of or produced by the official action.

The following acts by County employees or officers violate the rules of conduct and constitute grounds for disciplinary action, up to and including suspension or dismissal:

- A. Using public time, facilities, equipment, supplies, personnel, or funds to solicit support for or opposition to any political committee, the nomination or election of any person to public office, or the passage of a ballot issue unless the use is:
 - 1. Authorized by law; or
 - 2. Properly incidental to another activity required or authorized by law, such as the function of an elected public officer, the officer's staff, or the legislative staff in the normal course of duties.
- B. Using public time, facilities, equipment, supplies, personnel, or funds for the employee's private business purposes.
- C. Engaging in a substantial financial transaction for the employee's private business purposes with a person whom the employee inspects or supervises in the course of official duties.
- D. Performing an official act directly and substantially affecting the economic benefit of a business or other undertaking in which the employee or officer either has a substantial financial interest or is engaged as counsel, consultant, representative, or agent.
- E. Soliciting or accepting employment, or engaging in negotiations or meetings to consider employment, with a person whom the employee or officer regulates in the course of official duties without first giving written notification to the employee's supervisor and elected official/department director.

- F. Employees or officers maintaining other employment if it conflicts with the interests of the County or the employee's or officer's ability to perform his/her job duties in full.

Section 09-03- Outside Employment

Employees may maintain outside employment with employers other than the County. Employees who hold positions with other employers must notify the elected official/department director and Human Resource Director. In the event that a conflict arises between the outside employment and the County position, the employees will give precedence to the County position.

Any elected official/department director who maintains outside employment must provide written notice of employment to the Chief Administrative Officer.

Section 09-04- Nepotism

A person under service to the County who, by virtue of his/her position, has the right to hire, promote, supervise or otherwise appoint any person to render services to the County, will not appoint or enter into any agreement or promise to do so with the person or persons related to him/her or connected to him/her by consanguinity within the 4th degree, or by affinity within the 2nd degree.

Section 09-05- Drug and Alcohol Free Workplace Policy

Lewis and Clark County is committed to maintaining a safe, healthy, and productive work environment that is drug and alcohol free. Substance abuse increases the potential for accidents, absenteeism, substandard performance, and poor employee morale. Impaired judgment of employees may have serious financial consequences for the County through increased risk of accidents, potential accident liabilities, increased Workers' Compensation liabilities, and potential faulty decision-making. Substance abuse undermines the County's mission to provide the community with an excellent quality of life through leadership, communication and delivery of services that are responsive to citizen's needs, cost effective, and oriented to the future.

The Drug-Free Workplace Act (D.F.W.A.) of 1988 requires that agencies receiving grants from any federal agency certify that they will maintain a drug-free workplace.

The intent of this policy is to:

1. Provide clear guidelines and consistent procedures for handling incidents of employee use of alcohol, drugs, or other controlled substances;
2. Provide substance abuse prevention education to employees;
3. Establish an employee assistance program to help workers and their family members resolve problems that affect job performance; and
4. Ensure compliance with state and federal laws.

Written notice is hereby given that compliance with this policy statement is a condition of continued employment for all employees. Employees will abide by the terms of this statement. Employees who violate the provisions of this policy may be required to successfully complete a drug/alcohol abuse rehabilitation program as a condition of continued employment.

Violations of this policy will result in disciplinary action, up to and including dismissal. (See sections 11-02, 11-03 and 11-04.)

A. Drug Free Workplace Act Guidance

In order to comply with the Drug-Free Workplace Act, the County has adopted the following guidance:

1. Any time supervisors believe they have evidence or an indication that an employee may have a drug/alcohol problem, the supervisor should contact the elected official/department director and the Human Resource Director for guidance and assistance in dealing with aspects of the problem in the workplace setting.
2. Employees are prohibited from engaging in either the unlawful or unauthorized use, possession, manufacture, distribution, dispensing or sale of any controlled substance or alcohol while at work or in and on work sites.
3. Employees are prohibited from arriving to work under the influence of alcohol or illegal drugs.
4. Employees are prohibited from using, possessing, distributing, or manufacturing illegal drugs on company property or while performing company business.
5. Employees cannot bring or consume alcoholic beverages on company property except in connection with company-authorized events.
6. Employees being treated with a drug or controlled substance that might adversely affect their ability to perform their work must provide a written statement from their doctor to the Human Resource Department. Only the person for whom a prescription drug is issued can bring that medication onto County property.
7. Employees are required to notify their supervisor in writing within five (5) calendar days of their conviction of a violation of a criminal drug statute occurring in the workplace. Supervisors are responsible for notifying the Human Resource Director in writing immediately upon receiving notice of violation from an employee.
8. **Federally Funded Programs Notice Requirement**
The County is required to notify the appropriate federal contracting agency within ten (10) calendar days of notice of a conviction.

9. **Drug Testing Requirement**

In compliance with the Federal Highway Administration (FHWA) of the U. S. Department of Transportation (DOT) regulations 49 CFR Part 382, 391, 392 and 395, as amended, the County will maintain a urine drug testing program for employees who are subject to CDL testing requirements and perform safety sensitive functions.

B. Disciplinary Action.

Employees who violate these provisions are subject to the following:

1. Employees who use alcohol while on company property or on company business or who report to work under the influence of alcohol will be removed from the workplace and may be required to undergo testing, referred to the Employee Assistance Program, and/or disciplined, up to and including dismissal.
2. Employees who use, possess, purchase, or dispense any illegal drug while on County property or while on County business will be removed from the workplace, and may be required to undergo testing, referred to the Employee Assistance Program (EAP), and/or disciplined, up to and including dismissal.
3. Employees who are arrested for or convicted of violating a criminal drug statute while at work must be removed from the work site, required to seek counseling from the EAP, and/or disciplined, up to and including dismissal.

Section 09-06- Drug and Alcohol Abuse Policy Implementation: Qualified Testing Program-General

County employees engaged in the performance, supervision, or management of work in a security position, position affecting public safety, or fiduciary position or hazardous work environment, may be subject to random testing for alcohol or controlled substances. Hazardous work environments include but are not limited to positions:

1. Positions where controlled substance and alcohol testing is mandated by federal law, such as aviation, commercial motor carrier, railroad, pipeline, and commercial marine employees;
 2. Positions that involve the operation of or work in proximity to construction equipment,
 3. Positions that involve handling or proximity to flammable materials, explosives, toxic chemicals, or similar substances.
- A. The County may test any prospective employee subject to testing as a condition of hire.
- B. The County will use random testing procedures, including the following conditions:
1. An established calendar period for testing;
 2. An established testing rate within the calendar period;

3. A random selection process that will determine who will be tested on any given date during the calendar period for testing;
 4. All supervisory and managerial employees in the random selection and testing process; and
 5. A procedure that requires the employer to obtain a signed statement from each employee that confirms that the employee has received a written description of the random selection process and that requires the employer to maintain the statement in the employee's personnel file. The selection of employees in a random testing procedure must be made by a scientifically valid method, such as a random number table or a computer-based random number generator table.
- C. An employer may require an employee to submit to follow-up tests if the employee has had a verified positive test for a controlled substance or for alcohol. The follow-up tests must be described in the employer's controlled substance and alcohol policy and may be conducted for up to 1 year from the time that the employer first requires a follow-up test.
- D. An employer may require an employee to be tested for controlled substances or alcohol if the employer has reason to suspect that an employee's faculties are impaired on the job as a result of the use of a controlled substance or alcohol consumption. An employer will comply with the supervisory training requirement in 49 CFR, part 382.603, whenever the employer requires a test on the basis of reasonable suspicion.
- E. An employer may require an employee to be tested for controlled substances or alcohol if the employer has reason to believe that the employee's act or failure to act is a direct or proximate cause of a work-related accident that has caused death or personal injury or property damage in excess of \$1,500.

Section 09-07- Workplace Intimidation

- A. Policy Statement:** County employees have the right to work in an environment free from physical violence, threats of violence or intimidation. This type of behavior undermines work relationships, hampers productivity and causes unnecessary stress. The County expects each employee to perform his/her job without violence, threats to or intimidation of other individuals in the workplace.
- B. Prohibited Activities:** The County specifically prohibits the following acts and behaviors:
1. Verbal or physical threats to personal or collective safety (including, but not limited to, the display of weapons, shouting, swearing, name calling, and sarcastic comments).
 2. Threatening gestures, statements, behaviors or actions (public or private behaviors that are threatening, intimidating, humiliating, or offensive).

3. Abuse of authority (unsubstantiated negative evaluations, arbitrary instructions, or unsafe assignments).
4. Interference with work performance (sabotaging, undermining, or ensuring failure of another employee).
5. Destruction of workplace relationships (among coworkers, supervisors, clients, or citizens).
6. Verbal assaults or behaviors that prevent or hinder an employee from performing to expectation.
7. Fighting.

C. Incident Reporting and Investigation

Employees who are victims of or witnesses to workplace violence, threats of violence or intimidation incidents should immediately report the conduct to a supervisors or the Human Resource Department. Reported incidents of violence, threats of violence or intimidation will be handled using the complaint resolution process (Chapter XII).

D. Remedial Action

Elected officials/department directors and supervisors are responsible for ensuring that all employees are informed of and aware of this policy. Any employee who fails to perform his/her job in a fashion that refrains from violence, threats of violence or intimidation will be subject to disciplinary action up to and including dismissal.

Section 09-08- Solicitation in the Workplace

Solicitation by charities or organizations in County workplaces during work hours is prohibited, unless the charity or organization has secured approval in advance from the elected official/department director. Elected Officials/department directors will notify the Human Resource Department when permission to solicit is granted. Gifts or expressions of sympathy to fellow employees or their families may be permitted without prior authorization.

CHAPTER X: GENERAL WORK RULES- HOURS OF WORK, OVERTIME AND TRAVEL

Section 10-01- Employee Work Rule Policy

Lewis and Clark County's work rules are designed to provide public access to County services and programs. The following provisions will apply to all County departments in accordance with or in addition to departmental rules and regulations.

Section 10-02- Hours of Work-Policy Statement

Regular hours for County employees are 8:00 a.m. to 5:00 p.m. with an hour unpaid break for lunch. All full-time Regular, Seasonal and Temporary employees will work a minimum of 40 hours per week. The work week will run from 12:00 a.m. Sunday to 11:59 p.m. Saturday. A department may adopt other work day schedules that are deemed more appropriate for a particular function.

Departments are responsible for administering work schedules and monitoring use of overtime according to County guidelines outlined in the Personnel Policy Manual. Departments are required to keep a copy of the County's Personnel Policy Manual and any department work rules at each work site for review and inspection by employees. Reasonable access to these materials must be granted to employees during work hours.

Variation from guidelines described in the Personnel Policy Manual must receive prior approval from the Human Resource Director and copies of alternate work rules must be placed on file in the Human Resource Director's office.

Employees should periodically review County and department guidelines to ensure that they know and understand what is expected of them while in the workplace.

Section 10-03- Hours of Work-Guidelines

- A. Elected officials/department directors are responsible for the maintenance of daily records of employee attendance and hours of work.
- B. Employees are expected to work their scheduled shifts. Employees leaving the job site during hours of work without proper authorization may be subject to disciplinary action up to and including dismissal.
- C. If an employee is unable to be present at the designated working time, he/she must contact his/her supervisor as directed by departmental procedure.

- D. Departments may adopt flexible scheduling plans, subject to the approval of the Chief Administrative Officer. Any flexible scheduling plan will provide citizen access to programs and facilities required by state law and resolution of the Board of County Commissioners.
- E. Copies of any flexible scheduling plan will be filed with the Human Resource Department.

Section 10-04- Overtime Guidelines-Non-Exempt Employees

Employees required to work overtime and eligible to receive overtime pursuant to the Fair Labor Standards Act must be paid at the rate of 1-1/2 times their current hourly wage for all time worked for the County in excess of 40 hours per week. Compensatory time should be administered in accordance with the provisions below.

- A. Elected officials/department directors or responsible supervisor will authorize all overtime in advance of its occurrence. Unless the employee requests compensatory time in lieu of overtime, all overtime will be reported in the pay period when it is accumulated and paid accordingly.
- B. Non-exempt employees entitled to overtime compensation may be given the option of earning and using compensatory time in lieu of overtime compensation. Compensatory time (comp time) granted to non-exempt employees must be granted at the rate of 1-1/2 hours for every hour of overtime worked.
- C. Compensatory time should be used at the earliest possible date. Elected officials/department directors should ensure that compensatory time does not accumulate to more than twenty-four (24) hours per employee. Any deviation from the twenty-four (24) hour accumulation limit must be requested in writing and must be authorized by the Human Resource Director.
- D. The use of compensatory time is subject to elected official/department director approval. Whenever possible, accumulated comp time should be used prior to termination of employment with the County. Unused accumulated comp time must be cashed out when the non-exempt employee terminates employment with the County.

Section 10-05- Exempt Compensatory Time Guidelines-Exempt Employees

The Fair Labor Standards Act generally presumes that an exempt employee is paid a wage and has a work schedule that may vary from a standard forty (40) hour workweek. The County recognizes that the duties and responsibilities of exempt employees vary widely and require various measures to ensure the smooth operation of the County. Exempt compensatory hours for exempt employees are not intended to provide any compensation in addition to the salaries provided to these employees. Rather, it provides the elected official/department director and those affected employees greater flexibility in scheduling. All exempt employees will keep records of actual hours worked.

- A. All exempt employees must have a regular work schedule and the elected official/department director must authorize all work beyond regular work hours. Elected official/department directors are responsible for defining and promulgating the terms and conditions of work outside regular work hours. Copies of these terms and conditions must be approved by the Human Resource Director and kept on file at the department office and with the Human Resource Director.
- B. Exempt compensatory hours are those hours beyond the standard forty-hour work week worked by exempt employees. Departments authorizing exempt employees to work more than 40 hours in a work week may allow exempt employees to accumulate up to eighty (80) exempt compensatory hours at the rate of one (1) hour earned for one (1) hour worked. Employees must request deviation from the eighty (80) hour accumulation limit from the elected official/department director. The elected official/department director will consult with the Chief Administrative Officer before granting the request.
- C. The use of accumulated exempt compensatory hours is subject to approval by the supervisor.
- D. There will be no lump sum cash compensation for accrued exempt compensatory hours upon transfer or at the date of termination.
- E. The County is under no obligation to extend an exempt employee's termination date to allow an exempt employee to take off or use exempt compensatory hours upon termination. However, the Chief Administrative Officer (or designee) may approve the use of exempt compensatory hours to extend an employee's termination date up to eighty (80) hours. The extension may be approved when the Chief Administrative Officer determines that:
 - 1. Exempt compensatory hours were accrued upon the supervisor's request in order to complete projects or meet objectives or,
 - 2. The employee has been denied reasonable opportunity to take off exempt compensatory hours.

Section 10-06- Travel and Training Reimbursement Guidelines

Employees will be reimbursed for transportation, lodging, meals, and certain incidental expenses while traveling on legitimate business for the County.

- A. General Reimbursement Guidelines
 - 1. Employees must obtain prior approval for travel from the elected official/department director (or designee).
 - 2. Claims for reimbursement will be submitted on travel voucher forms approved by the Finance Director and must include receipts when receipts are required.
 - 3. All reimbursements will be subject to applicable IRS regulations.

B. Travel Time

Employees will be compensated for travel time when traveling on approved County-related business or to attend required training, subject to the following guidelines:

1. Travel time that occurs within the time period that the employee is regularly scheduled to work is compensable, whether or not the travel occurs on a day that the employee would regularly work.
2. When the employee is the driver of an automobile as part of travel for approved County-related business or to attend required training, the driver may claim all the driving hours as compensable hours.
3. Passengers in an automobile may only claim travel time that occurs within the time period that the employee is regularly scheduled to work as compensable.

C. Transportation Costs

1. Whenever it is cost effective to use an automobile for travel, employees will travel by car. Use of a County vehicle is preferred whenever car travel is necessary. In the event that a private automobile is used for approved County-related business or to attend required training, the employee will be reimbursed according to the IRS established mileage allowance.
2. Employees who drive County vehicles or who use a private vehicle for approved or required County business will be required to provide copies of certifications, licenses and/or proofs of insurance as may be required by the department director.
3. The employee will receive reimbursement for the full cost of round-trip coach airfare, taxi or transportation costs as approved by the elected official/department director.
4. If an employee is traveling for an agency other than the County, i.e. the federal government, the employee will follow that agency's expense policies.

D. Meals Costs

1. **Overnight Travel**

Employees are reimbursed for meals in accordance with allowances established by IRS regulations. The amount of per diem paid varies depending on the location. Per Diem amounts are available on the web at www.irs.ustreas.gov, Forms and Publication, Publication #1542. This site provides per diem rates for travel anywhere within the continental United States.

If travel is not for a full day, the per diem breakdown is as follows:

- a. Breakfast allowance – 20% of the total per diem rate. (Travel more than three hours between 12:01 a.m. and 10:00a.m.)

- b. Lunch allowance – 30% of the total per diem rate. (Travel more than three hours between 10:01 a.m. and 3:00 p.m.)
- c. Dinner allowance – 50% of the total per diem rate. (Travel more than three hours between 3:01 p.m. and 12:01 a.m.)
- d. Any combination of above not to exceed the appropriate per diem amount.

Per Diem reimbursements provided by subsections a, b, and c above are representative of the maximum allowable for any meal, or series of meals. Employees are encouraged to make efforts to minimize travel expenses.

Meal receipts are not required as long as lodging receipt is attached indicating the date, location and purpose of the travel.

2. Same Day Travel – Reimbursement for same day travel expenses do not require meal receipts provided expenses are adequately accounted for. Expenses will be considered adequately accounted for if the *date, place and the business purpose relating to the expense* is provided. Reimbursement rates will be calculated using the per diem rate and the percent allowed for each meal as outlined in “Overnight Travel” above.

3. Other Eligible Meal Expenses – Meals are also reimbursed at the per diem rate in the following situations:

- a. When employees are required to eat at the employer’s premises for the employer’s convenience; or
- b. When employees are required to attend a business luncheon or dinner; or
- c. When meals are provided for a County board while conducting business.

Any amount an employee claims for meal reimbursement that is below the actual per diem amount will be paid without receipts. Adequate accounting, as defined above, must be provided to be eligible for this reimbursement.

Per Diem expenses are paid through the normal claim process.

E. Lodging

Lodging in Montana will be reimbursed based on the state reimbursement rate as established by the Montana State Department of Administration. Lodging, per the State of Montana Department of Administration, in Big Sky, Colstrip, Bozeman and Cooke City will be reimbursed at actual costs all year. Lodging in Gardiner, Kalispell, Polson, West Glacier, West Yellowstone, Whitefish and Red Lodge will be paid at actual costs from May 1 through September 30 of each year. Receipts are required. No payment will be made without a receipt.

F. Incidental Expenses

The County will reimburse the employee for incidental costs such as tips, including tips for porters and baggage handlers, and transportation as necessary. Receipts will be required for transportation expenses in order to be reimbursed. Unique transportation expenses that are not receipted will be paid, i.e. bus, metro, expense, as long as a written explanation is attached.

In addition, employees are reimbursed for one telephone call home upon arrival at their destination and every second day while out of town. The phone calls should not exceed ten (10) minutes in length. Additional telephone expenses will be paid for when an employee experiences a family emergency while traveling. Explanation of the nature of the emergency should be attached to the travel voucher.

Any business related phone calls employees are required to make while traveling will be paid in full.

Employees may submit a request for other incidental expenses incurred as the result of County authorized and necessary travel. Expenses will be itemized and receipts provided, using the travel voucher forms approved by the Finance Director.

G. Travel Advances

Upon approval by the employee's supervisor, advances may be granted for travel expenses up to 100% of the per diem costs, including hotel costs. Requests should be made as early as possible to insure adequate time for processing the claim. Employees must submit a Travel Reimbursement Request form, available from your supervisor, within ten (10) working days of the completion of travel to account for the travel advance. Any unspent or unaccounted for advance money must be repaid within sixty (60) days of completion of the trip.

H. Elected Officials

As allowed by state law, County Commissioners, County Attorney, Sheriff, Justice of the Peace, Clerk of Court and Treasurer/Clerk and Recorder will be allowed actual travel expenses for attending their respective association meetings or conventions held within the state (Section [7-5-2142](#), [7-5-2143](#), [7-5-2144](#) and [7-5-2145](#) MCA).

CHAPTER XI: EMPLOYEE WORK RULES-DISCIPLINE, DISMISSAL, AND TERMINATION

Section 11-01- Policy

In order to ensure that employees are treated fairly and equitably in discipline, dismissal and termination decisions, the County has established procedures and guidelines for elected officials, department directors, supervisors, and affected employees.

Section 11-02- Disciplinary Procedures

Prompt feedback on performance and regular communication is necessary between supervisors and their employees. In addition, if an employee is not performing his/her duties in a satisfactory manner, it is the responsibility of his/her supervisor to give proper notice and guidance outlining the deficiencies. In general, the Human Resource Department staff should be consulted before any disciplinary procedure is taken. In the case where discipline involves suspension or dismissal, the Human Resource Director must be consulted. The following progressive disciplinary procedures will be used when deemed appropriate by the supervisor. However, it should be understood that depending on the nature and circumstances of the unsatisfactory performance, an elected official/department director may use any disciplinary measure deemed appropriate within his or her judgment, up to and including dismissal, without first using the progressive disciplinary steps described below:

- A. LEVEL ONE: A verbal counseling from the employee's supervisor outlining the unsatisfactory job performance and the corrective measures that need to be taken.
 1. The verbal counseling should include:
 - a. Specific identification of the performance deficiency, work rule or policy violation,
 - b. Corrective measures,
 - c. Time period the employee has in which to improve his/her performance or correct his/her behavior, and
 - d. Further actions that may be taken if the employee does not improve his/her performance or correct his/her behavior.
 2. Written record of the verbal counseling will be created on form provided by Human Resource Department staff. The written record will be placed in the employee's files.

- B. LEVEL TWO: A written warning by the employee's supervisor outlining the unsatisfactory job performance and the corrective measures that need to be taken.
1. Using the form provided by Human Resource Department staff, the supervisor will issue a written warning that will include the following:
 - a. Date and time the warning was given,
 - b. Specific identification of the performance deficiency, work rule or policy violation,
 - c. Corrective measures,
 - d. Time period the employee has in which to improve his/her performance or correct his/her behavior, and
 - e. Further actions that may be taken if the employee does not improve his/her performance or correct his/her behavior.
 2. Copies of the notice outlining the warning will be forwarded to the employee and to the Human Resource Director for placement in the employee's personnel file. Notice of previous verbal warning should be included in the written warning.
 3. The employee will have the right to make a written response to the warning and to have that response placed in the personnel file together with the written warning.
 4. The warning will remain in effect for twelve (12) months for the unsatisfactory job performance stated on the written reprimand form. Further remedial actions, including dismissal, may be taken in this time frame if the unsatisfactory job performance is not corrected.
- C. LEVEL THREE: The employee may be suspended without pay for continued unsatisfactory job performance after the employee has been notified through a warning or written reprimand that his/her performance is unsatisfactory. Suspension may also be used for extremely unsatisfactory behavior. Under most circumstances, suspension will not exceed five (5) working days. All suspensions without pay must be discussed and approved with the Human Resource Director prior to imposition. Suspensions are subject to the following guidelines:
1. The elected official/department director will document the instance of unsatisfactory job performance using the form provided by Human Resource Department staff. The form will state the date, time, and nature of the unsatisfactory job performance and the corrective measures that need to be taken.
 2. The elected official/department director will forward one copy of the form to the employee and one copy to the Human Resource Director for placement in the employee's personnel file.

D. LEVEL FOUR: After a suspension, the elected official/department director, with the approval of the Human Resource Director may dismiss the employee for disciplinary reasons involving violation of work rules, regulations, or other personnel or departmental policies and procedures. Dismissals will proceed as follows:

1. The elected official/department director will consult with the Human Resource Director to discuss the violation and recommended action. No dismissal may proceed without the prior approval of the Human Resource Director.
2. Within five (5) working days of approval, the elected official/department director will schedule a hearing with the affected employee to provide the affected employee with an opportunity to present a reason or reasons for deferring dismissal.
3. The elected official/department director will draft a letter to the employee stating the date, time, and reason for the dismissal hearing and submit the letter to the Human Resource Director for approval.
4. The hearing will include the elected official/department director, the affected employee and at least one person who will serve as a witness to the proceeding.
5. At the conclusion of the hearing, the elected official/department director will submit a written recommendation to the Human Resource Director. The Human Resource Director may accept, reject or modify the recommendation.
6. The elected official/department director will draft a letter notifying the affected employee of the decision. The letter will be submitted to the Human Resource Director for approval.
7. Following the approval of the letter, an original will be sent to the employee, with a copy to the personnel file.

E. ADMINISTRATIVE SUSPENSION: Prior to a Level 4 disciplinary action, the elected official/department director (or designee) will conduct an investigation into the circumstances surrounding the alleged infraction. **In the event that the infraction involves an extended review, the employee may be suspended with pay pending the outcome of the investigation.** Administrative suspensions will proceed as follows:

1. The elected official/department director will consult with the Human Resource Director to discuss the violation and the need for further investigation.
2. The elected official/department director will draft a letter to the employee stating the reason for the administrative suspension, the start and end date of the suspension, and the date and time for a meeting to discuss the findings of the investigation. The Human Resource Director must approve the letter.

F. Standards for Disciplinary Suspension or Dismissal

County departments will endeavor to follow procedures that are consistent and fair when investigating and determining the need for disciplinary action beyond issuing a written warning. Investigations will observe the following guidelines:

1. Was proper notice provided to the employee? Was notice clear, consistent and understood?
2. Was the rule or policy reasonable and necessary for the orderly and efficient operation of the workplace?
3. Was there an investigation before discipline was determined or imposed?
4. Was the investigation fair and objective?
5. Did the investigation produce substantial evidence that the employee committed the charged offense and is the evidence direct or circumstantial?
6. Were the rules applied evenhandedly and without discrimination in the particular situation?
7. Does the penalty fit the offense and is the penalty appropriate given the employee's record?

G. It should be understood that depending on the nature and circumstances of the unsatisfactory performance, the supervisor may use any disciplinary measure deemed appropriate within his or her judgment and is not bound to follow the sequence outlined above. The Human Resource Director must approve any variation from progressive discipline. Also see Section 11-03, Terminations.

H. The Human Resource Director will consult the County Attorney prior to any action to suspend or dismiss an employee.

I. Within seven (7) calendar days of dismissal, the Human Resource Director will provide the dismissed employee with a copy of the County's grievance procedure. The Human Resource Director will notify the appropriate agent in those cases where the dismissed employee is represented by a labor union.

Section 11-03- Other Terminations

Under the authority of the Board of County Commissioners, the Chief Administrative Officer has the authority to terminate or end the employment of any County employee not covered by a termination procedure set forth in Montana state law or collective bargaining agreement for any of the following reasons:

- A. Dismissal During Probationary Period-Refer to Section 03-02-I.
- B. Termination Due to Lack of Funds-Curtailment of Work (Lay-Off)-Employees may be laid off, without prejudice, at any time because of lack of funds or curtailment of work.

1. No Regular full-time employee may be laid off when there are Probationary, Temporary, or Seasonal employees in the class of work affected by the reduction in work force.
2. Elected official/Department directors will determine the number of employees to be laid off based on where he/she can reduce personnel and still maintain the essential services of the department.
3. When considering reductions in staff, elected official/department directors will consider the following:
 - a. Mandated services the department is required to provide;
 - b. The job performance (which may be measured by conduct, knowledge, skills, and ability) of those employees in the classification being reduced during their tenure both with the County and in the classification being reduced, and
 - c. Employee's length of service with the County and in the current classification.
4. Employees will be given ten (10) working days' notice of impending layoffs.
5. Laid-off personnel from a department will receive preference if and/or when the department rehires for that position within twelve (12) months of the lay off.
6. Laid-off personnel do not accrue sick or vacation leave credits, service time for longevity, retirement or seniority, and the County payment of health, dental and vision plan coverage cease.

Upon approval of the elected official/department director, laid-off personnel may carry over sick and vacation leave credits with the County for use upon reemployment. If credits are carried over, time worked from the previous year will count towards the qualifying periods. Sick and vacation credits must be jointly carried over OR cashed out, but not a combination thereof.

7. The Human Resource Director (or designee) will work with laid-off personnel to identify and coordinate benefits due the employee upon termination.
- C. Disciplinary Dismissals/Dismissal for Cause-The following non-inclusive reasons may be sufficient for dismissal for cause:
1. Incompetence or inefficiency in the performance of duties.
 2. Conviction of a criminal offense involving a felony and directly related to or impacting assigned duties and responsibilities.

3. Violation of any lawful or official regulation or order, or failure to obey any lawful direction made and given by a supervisor where the violation or failure amounts to an act of insubordination or a breach of proper discipline, or has resulted or might reasonably be expected to result in loss or injury to the County or public.
4. Wanton use of offensive conduct or language toward citizens, County officials or other employees while present in the workplace.
5. Carelessness and negligence in the handling and control of County property.
6. Working in an unsafe manner or in flagrant disregard for safe work practices and procedures.
7. Inducing or attempting to induce any County employee to commit an unlawful act or to act in violation of any lawful and reasonable official regulation or order.
8. Taking any fee, gift, or other valuable thing in the course of work or in connection with work, for personal use when the fee, gift, or other valuable thing is given with the expectation of receiving a favor or better treatment.
9. Dishonesty in the performance of duty.
10. Unauthorized absence from work.
11. Drinking of alcoholic beverages or using any drug(s) or medication to the extent that the use affects workplace safety or job performance.
12. Consumption or use of alcoholic beverages or illegal drugs while at work.
13. Possession, use, distribution, or manufacture of a controlled substance in the work place.
14. Failure to satisfactorily perform job duties, disruption of the employer's operation, or other legitimate business reason.

D. Predetermination Hearing

Prior to a suspension without pay, involuntary demotion, or involuntary termination (dismissal) when just cause is required, Regular and Seasonal status employees are entitled to oral or written notice of the charges against him (or her), an explanation of the employer's investigation and evidence, and an opportunity to present contrary evidence or facts.

E. Dismissal

Employees who are dismissed for good cause will be paid all the unpaid wages on the next regular payday for the pay period during which the employee was separated from employment or 15 days from the date of separation from employment, whichever occurs first.

An employee who terminates employment for a reason not reflecting discredit on the employee and who has worked the qualifying period to earn vacation time is entitled to cash compensation for unused vacation leave. Abuse of sick leave is cause for dismissal and forfeiture of the lump-sum payments for unused sick leave.

Within seven (7) calendar days of dismissal, the Human Resource Director will provide the terminating employee with a copy of the County's grievance procedure or collective bargaining agreement language. The Human Resource Director will notify the appropriate agent in those cases where the terminating employee is represented by a labor union.

Section 11-04- Corrective Action Plans

The Human Resource Director and elected official/department directors may use corrective action plans to address certain persistent or repeated workplace performance issues. Corrective action plans most generally apply to situations where written notice is deemed appropriate (LEVEL 2). Corrective action plans will contain specific tasks with specific accomplishment dates. Corrective action plans may not take longer than six (6) months to complete unless both parties agree to extend the length of time for completion. The Human Resource Director must approve corrective action plans and extensions of corrective action plans. A copy of the plan must be placed in the employee's personnel file.

CHAPTER XII: COMPLAINT PROCEDURES: EMPLOYEE GRIEVANCES AND UNLAWFUL DISCRIMINATION COMPLAINTS

Section 12-01- Complaint Policy-General

Employees, job applicants and citizens have certain rights that are protected by state and federal statutes. In order to ensure that these rights are honored and protected, the County has established procedures to resolve complaints.

Section 12-02- Employee Complaint Procedure-General

The purpose of this section is to establish a uniform County procedure for the adjudication of complaints for the following:

1. Any employee may initiate an inquiry or complaint over the application, meaning or interpretation of this Personnel Policy Manual. Layoffs and dismissals or terminations may be considered appropriate subjects for inquiries or complaints.
 2. Any employee or applicant may initiate an inquiry or complaint over alleged unlawful discrimination or sexual harassment in recruitment or employment.
 3. Any employee, applicant or visitor may initiate an inquiry or complaint over alleged unlawful discrimination or denial of access to County facilities and programs due to a mental or physical disability.
- A. Nothing in this complaint procedure is intended to take the place of any rights an employee may have under terms and conditions of a ratified collective bargaining agreement.
 - B. Retaliation: No County employee will be subjected to demotion, termination, dismissal or any other form of punishment or harassment as a result of initiating an inquiry or complaint under this procedure.
 - C. The Human Resource Director or Chief Administrative Officer may attempt to resolve the grievance informally at any time within the specified time limits.
 - D. Alternative Staffing Arrangements for Complaints
 1. Upon request by a charging party, the Chief Administrative Officer, County Attorney (or designee) may perform any of the informal or formal complaint procedure duties designated for the Human Resource Director, Equal Employment Opportunity (EEO) Officer or Americans with Disabilities Act (ADA) Coordinator.

2. The Chief Administrative Officer, County Attorney (or designee) will perform any of the informal or formal duties designated for the Human Resource Director, Equal Employment Opportunity (EEO) Officer or Americans with Disabilities Act (ADA) Coordinator in the following situations:
 - i. When the charging party demonstrates that the Human Resource Director, Equal Employment Opportunity (EEO) Officer or Americans with Disabilities Act (ADA) Coordinator is a party to the complaint.
 - ii. When the Human Resource Director, EEO Officer or ADA Coordinator originates the complaint.

E. Human Resource Director: The Human Resource Director will have the following responsibilities:

1. To receive complaints and conduct informal inquiries under the Informal Complaint Procedure described below.
2. To act as staff to the Board of County Commissioners and prepare an agenda and documentation setting forth a formal complaint to be acted upon by the Board of County Commissioners
3. To call meetings of the Board of County Commissioners. Meetings will be held at the convenience of the Commission members and any other personnel appearing before the Committee.
4. To detail the agenda topics, arrange for the appearance of witnesses, assemble relevant documentation and other related materials necessary for conducting the hearing. He/She will not “defend” or “prosecute” complaints but rather gather and supply information necessary for the Board of County Commissioners to conduct its investigation.
5. To communicate the recommendations of the Board of County Commissioners to the affected charging party and respondent. The Human Resource Director will also be responsible for carrying through the actions directed by the Board of County Commissioners.
6. To maintain all files and records relating to the complaints filed.
7. The Equal Employment Opportunity Officer will assume the Human Resource Director’s role for complaints about unlawful discrimination or sexual harassment in recruitment or employment, except that the Americans with Disabilities Act Coordinator will assume the Human Resource Director’s role for complaints about alleged unlawful discrimination or denial of access to County facilities and programs due to a mental or physical disability.

F. Informal Complaint Procedure:

1. The Human Resource Director or Chief Administrative Officer may attempt to resolve the grievance informally at any time within the specified time limits.

2. An employee who initiates an inquiry or complaint over the application, meaning or interpretation of this Personnel Policy Manual will present the complaint to the employee's immediate supervisor or elected official/department director within ten (10) working days of the incident resulting in the complaint. If the supervisor and employee are unable to resolve the grievance to the latter's satisfaction within five (5) working days after presentation of the grievance, the charging party may proceed with the formal grievance procedure.
3. Any employee or applicant may initiate an inquiry or complaint over alleged unlawful discrimination or sexual harassment in recruitment or employment. Charging party will present the complaint to the Equal Employment Opportunity Officer within ten (10) working days of the incident resulting in the complaint. If the EEO Officer is unable to resolve the grievance to the latter's satisfaction within five (5) working days after presentation of the grievance, the charging party may proceed with the formal grievance procedure.
4. Any employee, applicant or visitor may initiate an inquiry or complaint over alleged unlawful discrimination or denial of access to County facilities and programs due to a mental or physical disability. Charging party will present the complaint to the Americans with Disabilities Act Coordinator within ten (10) working days of the incident resulting in the complaint. If the ADA Coordinator is unable to resolve the grievance to the latter's satisfaction within five (5) working days after presentation of the grievance, the charging party may proceed with the formal grievance procedure.

G. Formal Complaint Procedure:

1. **Appeal from the Informal Procedure to the Formal Procedure:**
 - a. **Written Appeal.** If the charging party chooses to appeal the recommendation from an informal procedure, the charging party will file a written request for a hearing before the Board of County Commissioners within five (5) working days of receipt of the decision from the informal procedure. The request for a hearing must be filed with the Human Resource Director, EEO Officer or ADA Coordinator.
 - b. **Notice of Hearing.** Within ten (10) working days of receipt of the written request for a hearing, the Human Resource Director, EEO Officer or ADA Coordinator will notify the charging party and the respondent of the time and place of the formal hearing before the Board of County Commissioners. The hearing will be scheduled within thirty (30) calendar days of receipt of the written appeal.
2. **Preparation for the Hearing**
 - a. **Charging party's Statement.** At least fifteen (15) working days prior to the hearing the charging party must submit to the Human Resource Director, EEO Officer or ADA Coordinator the following information (where applicable):

- 1) Concise statement of facts relevant to the grievance.
- 2) The names of all supervisory personnel and staff with whom the complaint has been discussed and the results of the discussions.
- 3) The remedy sought by the charging party.
- 4) The names of witnesses or persons who can speak on behalf of the charging party.
- 5) Copies of any documents and descriptions of any physical evidence that may be used to support the charging party's position.

In addition, the charging party will supply any additional materials the charging party wishes the Committee to consider fifteen (15) working days prior to the hearing.

- b. **Respondent's Statement.** At least ten (10) working days prior to the hearing the person(s) named as respondent(s) to the complaint will submit to the Human Resource Director, EEO Officer or ADA Coordinator the following:

- 1) A statement of facts relevant to the charging party's allegations;
- 2) Names and addresses of witnesses; and
- 3) A summary of testimony; copies of documents or other materials to be submitted in response to the complaint.

- c. **Legal Counsel Representation.** In the event that the charging party elects to have legal representation at the hearing, the charging party will notify the Human Resource Director, EEO Officer or ADA Coordinator. If the charging party chooses to be represented by counsel, County legal counsel or other counsel if necessary will represent the respondent if the respondent is a County employee or officer.

- d. **Forwarding Appeal Documents.** The Human Resource Director, EEO Officer or ADA Coordinator will forward copies of the above materials to the members of the Board of County Commissioners at least ten (10) working days prior to the hearing.

3. **The Hearing.** The formal hearing before the Board of County Commissioners will be presided over by the Chair of Board. The hearing will be a non-adversarial proceeding, and strict rules of evidence will not be applied. The Chair will be the final arbiter of all matters of procedure. In the absence of a compelling public interest, preference will be given to the charging party's and respondent's request for an open or closed hearing.

4. **The Recommendation.** Within ten (10) working days of the conclusion of the formal hearing or receipt of the hearing transcript, if a transcript is deemed necessary, the Board of County Commissioners will provide a written decision to the charging party. The decision will contain the following:
 - a. A summary of the allegations of the charging party.
 - b. A statement of the relief sought by the charging party.
 - c. Specific citations of any policies, laws or regulations alleged to be violated.
 - d. A statement of the findings of fact and conclusions of the board regarding whether the evidence substantiated the allegations of the charging party.
 - e. Remedy, if any, for the charging party's grievance as well as any applicable policy or procedural changes to the case under review.
5. **Signed Acceptance of Resolution.** Prior to implementation of any remedial action approved by the Human Resource Director, EEO Officer or ADA Coordinator, the charging party will be asked to sign a release indicating acceptance of the proposed remedial action as complete satisfaction for any and all claims or causes of action relative to the complaint.
6. Employees or job applicants bringing a unlawful discrimination claim will be informed by the Human Resource Director, EEO Officer or ADA Coordinator that he/she may file a complaint with the Montana Human Rights Commission and/or the Equal Employment Opportunity Commission.

Section 12-03- Unlawful Discrimination and Sexual Harassment Claims

A. Reporting and investigation of unlawful discrimination and harassment

The purpose of the following section is to establish uniform guidelines for reporting and investigating unlawful discrimination and harassment claims. The procedures set forth in this section will apply to all job applicants, County employees and disabled persons who feel they have been unlawfully discriminated against or harassed in the admission or access to, treatment of, or employment in, the programs or activities of Lewis and Clark County.

1. Definition of an unlawful discrimination claim: Any claim by an employee, applicant or visitor, who believes that he or she has been discriminated against based upon the individual's race, color, religion, sex, national origin, age, disability, sexual partner preference, receipt of public assistance, political belief and/or ex-offender status.

2. Definition of a sexual harassment claim: Any claim made by an employee, who believes that he or she has been the recipient of unwelcome verbal, physical contact or behavior of a sexual nature that created a hostile, offensive or intimidating work environment which unreasonably interferes with, or negatively impacts the individual's work performance; or any claim made by an employee, applicant or program participant who believes that the basis of an employment decision, benefit or program access was based on the individual's sex.
3. Unwelcome advances that may be sexual in nature, requests for sexual favors or verbal comments or physical contact of an intimidating or sexual nature constitute examples of sexual harassment when:
 - a. Submission to the conduct is made either explicitly or implicitly a term or condition of an individual's employment (*quid pro quo*);
 - b. Submission to or rejection of the conduct by an individual is used as the basis for employment decisions affecting the individual (*quid pro quo*); or
 - c. The conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment (unwanted sexually oriented jokes, innuendoes, obscenities, pictures or any action with a sexual connotation that makes an employee feel uncomfortable in the workplace or any aggressive, harassing behavior in the workplace or that affects the workplace, whether or not sexual in connotation, is directed toward an employee, applicant or visitor based on the employee's sex, such as, hazing which includes daring or asking an employee to engage in unsafe work practices or activities.) (*Hostile work environment*)
4. Employees, applicants or visitors that believe they have been subjected to unlawful discrimination or harassment should contact the Equal Employment Opportunity Officer for Lewis and Clark County. All complaints will be investigated in a timely and confidential manner.
5. Unlawful discrimination and harassment claims are subject to the Complaint Procedures described in Section 12-02 of this policy manual.
6. Any employee found to have unlawfully discriminated against, harassed, or who has participated in the unlawful discrimination or harassment of another employee, applicant or visitor will be subject to disciplinary action, up to and including dismissal. Retaliation against persons who file complaints is also a violation of laws prohibiting unlawful discrimination and harassment and will result in disciplinary action to the offenders up to and including dismissal.
7. Supervisors who knowingly condone or knowingly fail to report incidents of unlawful discrimination or harassment will be subject to disciplinary action up to and including dismissal.

B. Prevention and reporting of unlawful discrimination and harassment:

1. All Lewis and Clark County supervisory personnel are required to:
 - a. Inform employees of their right to work in an environment free of unlawful discrimination and harassment.
 - b. Provide training to all department employees regarding the prevention and reporting of unlawful discrimination and harassment.
 - c. Express strong disapproval of any type of unlawful discrimination and harassment.
 - d. Make it clear to employees that anyone who engages in unlawful discrimination and/or harassment will be subject to disciplinary action and that victims and informers will be protected from retaliation.
 - e. Be aware of activities in the workplace that may result in unlawful discrimination and or harassment and take immediate corrective action if unlawful discrimination or harassment occurs.
2. Employees have a responsibility to:
 - a. Report all incidents or actions of unlawful discrimination and/or harassment as soon as possible after the alleged incident occurs to their supervisor, elected official/department director or Equal Employment Opportunity Officer.
 - b. Make it known to the harasser, if possible, that the behavior in question is unwelcome, offensive, or inappropriate and request that the behavior stop immediately.
 - c. Keep written records of the dates and facts of all sexual harassment and the names of witnesses.

C. Employees may file a complaint through the County Equal Employment Opportunity Officer, through the complaint procedure outlined in this Personnel Policy Manual or through the Human Rights Bureau, Department of Labor and Industry, Helena, Montana.

Section 12-04- Mental or Physical Disability Discrimination Claims

The purpose of this section is to establish uniform guidelines for the investigation and resolution of complaints regarding access or alleged discrimination under the Montana Human Rights Act and the Americans with Disabilities Act. The guidelines set forth in this section will apply to all job applicants, County employees, and disabled persons who feel they have been discriminated against in the admission or access to, or treatment or employment in, the programs or activities of the County.

- A. Definition of Mental or Physical Disability Discrimination Claim-A mental or physical disability discrimination claim is defined as any claim filed by an employee, job applicant, or disabled person who believes he/she has been discriminated against on the basis of mental or physical disability, who believes that unlawful discrimination has occurred due to a perception of a mental or physical disability, or who believes that access to a particular County facility, program or service has been obstructed by a removable barrier or obstruction.
- B. Disability discrimination claims are subject to the Complaint Procedures described in Section 12-02 of this policy manual.
- C. Employees, applicants or visitors that believe they have been subjected to unlawful disability discrimination contact the Americans with Disabilities Act (ADA) Coordinator for Lewis and Clark County. All complaints will be investigated in a timely and confidential manner.

CHAPTER XIII: WORKPLACE SAFETY PROGRAM

Section 13-01- County Workplace Safety Policy Statement

Lewis and Clark County acknowledges that our most valuable resource is its employees. The safety of County employees is of utmost importance and the primary focus of all County activities. The County also recognizes its legal obligation in maintaining a safe and healthy workplace as described in the Montana Safety Culture Act (Title 39, Chapter 71 part 15 MCA) and other state and federal statutes including but not limited to those administered by the Montana Department of Labor and Commerce and the Occupational Safety and Health Administration.

The County is committed to providing a safe and healthy work environment for all County employees. The County recognizes that a safe workplace is a shared responsibility that must be fostered and cultivated as a part of regular work duties and responsibilities. County administrators are committed to providing a workplace free of avoidable health and safety hazards. County employees are encouraged to fulfill vital roles in providing a safe and healthful workplace.

Education is the key to a successful safety program. Therefore, the County has developed a program that has strong education and training components.

Section 13-02- County Safety Mission Statement

The Lewis and Clark County's safety mission is to elevate workplace safety to a preeminent position in the minds of all County employees, thereby preserving precious human resources, as well as controlling financial losses.

Section 13-03- Workplace Safety Program

Lewis and Clark County endeavors to provide safe working conditions for its employees. The County has adopted a Workplace Safety Program to implement the Safety Policy and reduce work place accidents. The County Safety Committee serves as a watchdog, coordinator, and liaison for the County's Safety Program. Employees will receive a copy of the Safety Program as part of the orientation process.

Section 13-04- Employee Responsibility Statement

Each employee is responsible for maintaining safe and healthful working conditions in his/her work area. Employees are expected to promptly report unsafe working conditions or practices to the immediate supervisor and/or safety representative.

Each employee is responsible for following all safety directives, procedures, laws and ordinances that have a bearing on safety in the work place, and is expected to develop the knowledge and behaviors that foster a safe, accident-free work place.

Section 13-05- Supervisor Responsibility Statement

Supervisors will work at all times to prevent job-related injuries, accidents and minimize workplace hazards. The supervisor will:

- A. Assume reasonable responsibility and accountability for safe and healthful working conditions for the employees under his/her jurisdiction.
- B. Make recommendations for the correction of deficiencies present in facilities, work procedures, employee job knowledge, behaviors, or attitudes that adversely affect the safety of County's employees.
- C. Enforce safety rules and recommend or take appropriate disciplinary action when employees do not conform to the rules.
- D. Provide instruction and training to employees about specific work hazards.
- E. Cooperate with inspectors in shutting down operations considered hazardous to employees.
- F. Act upon safety suggestions, observe working conditions and methods that prevent possible safety hazards, and set a good example by working safely him/her self.
- G. Perform preliminary accident investigations and take initial corrective actions.
- H. Promptly report all accidents to the elected official/department director or supervisor regardless of the extent of injury or property damage.

Section 13-06- Accident Reporting Procedure

All County related accidents, personal injury or vehicle accidents will be reported on appropriate departmental forms within twenty-four (24) hours to the elected official/department director, the Human Resource Director and the County safety officer.

All vehicle accidents must be immediately reported to the appropriate law enforcement agency for investigation.

Section 13-07- Training Policy

- A. Employees who operate County equipment will possess a valid Montana Operator's Permit and enroll in approved safe driver courses.
- B. Employees are encouraged to take advantage of training courses offered through the Human Resource Director or their departments. Training courses may include:
 - 1. First aid courses.
 - 2. Cardio-pulmonary resuscitation courses.
 - 3. Driver safety courses.

4. Preventive health maintenance courses.
5. Other courses deemed to be beneficial to County employees by the elected official/department directors or Human Resource Director.

CHAPTER XIV: PERFORMANCE REVIEW

Section 14-01- Policy

The performance review is intended to stimulate and facilitate discussions between the employee and the supervisor on the performance of job duties. Performance reviews recognize good work, provide an opportunity to offer suggestions leading to improvements in the employee's work and identify possible career development opportunities.

Section 14-02- Applicable Employees

Each County department will determine the frequency of performance reviews in consultation with the Human Resource Director.

Section 14-03- Scheduling of Reviews

A. Departments will perform performance reviews for County employees on a periodic basis as determined by the elected official/department director in consultation with the Human Resource Director.

Employees who have assumed a new position due to transfer or promotion will be given a performance appraisal on the schedule adopted by the employee's new department.

B. Two performance reviews are recommended for probationary employees the probation period:

1. An appraisal is recommended at three (3) months in the new position.
2. A second appraisal is recommended prior to the end of the employee's probationary period.

Section 14-04- Appraisal Administration

A. The employee's immediate supervisor will give the performance review and rate the execution of the duties and responsibilities pertaining to the position held by the employee.

B. The Human Resource Director will provide performance review forms to elected official/department directors upon request.

Section 14-05- Records

Performance reviews will be forwarded to the Human Resource Director for inclusion of the appraisal in the employee's personnel file.

Section 14-06- Performance Review Forms

The Human Resource Director will maintain and provide performance review forms. If a supervisor has a question regarding the performance review process, he/she should consult the Human Resource Director.

Departments may modify forms when it has been determined that the appraisal form adopted by the County does not meet the needs of the department. The Human Resource Director must approve any alternate form.

CHAPTER XV: WELLNESS PROGRAM

Section 15-01-Employee Wellness Program Policy Statement

Lewis and Clark County recognize that a well-developed, integrated and coordinated wellness program can significantly contribute to the health and well being of County employees. To encourage and facilitate this program, the County Human Resource Department is responsible for the administration of the County Employee Wellness Program. Under the direction of the Wellness Coordinator designated by the Human Resource Director, the program will include the following:

A. Wellness Screenings:

Health screenings will be offered at least once per year. The County Human Resource Director will review the vendor used to administer the screening process, the frequency in which the screenings are offered, the health data measured, and any incentives tied to participation or results on an annual basis. Recommended changes made regarding the screening vendor, screening criteria, or incentives dependent on participation and results will be authorized by the CAO and coordinated by the designated Human Resource staff member. Data gathered through the screening process is subject to HIPAA rules and regulations.

B. Health and Nutrition Trainings:

Education and training on a variety of wellness topics will be offered to employees throughout the year. When possible, elected official/department directors will allow flexibility in employee work schedules to attend the classes.

C. Physical Activity Opportunities:

Lewis and Clark County recognizes that aerobic exercise and other health improvement activities can be a significant factor in preventing or delaying the onset of disease. The County also recognizes that studies show that the benefits generated by aerobic activity increases employee productivity and reduces sick leave use.

The County supports opportunities for physical activity during the work day. When feasible, elected official/department directors will allow employees scheduling flexibility to integrate physical activity into the work day. The time for this activity will be determined by agreement between the employee and the immediate supervisor so that these activities do not interfere with work requirements. Employees working less than their regular work hours in a week due to participation in physical activity will be required to use vacation or compensatory time.

Lewis and Clark County also encourages opportunity for employees to attend education classes on the benefits of physical activity and exercise instruction when offered. The time for these activities will also be established by agreement between the employee and the immediate supervisor so that these activities do not interfere with work requirements. Employees working less than their regular work hours in a week due to participation in physical activity education classes will be required to use vacation or compensatory time.

The County Wellness Coordinator will develop informational materials and notices including but not limited to:

1. Encouraging employees to use stairs in place of elevators when possible.
2. Supporting the formation of walking groups that employees can participate in during work breaks or after work hours.
3. Developing materials explaining the benefits of walking, the location of walking paths, and pedestrian safety.
4. Encouraging the use of bicycles to get to and from the work place and develop a support system for these efforts by making secure space available for bicycle storage.
5. Developing materials on the topics of bicycle safety and safe bicycle routes.

Section 15-02- Tobacco-Free Worksite Provisions

Lewis and Clark County is dedicated to providing a healthy and productive work environment; and, therefore supports a smoke-free environment. The County complies with the Montana Clean Indoor Air Act (CIAA) and provides resources for employees and family members interested in quitting both smoking and smokeless tobacco.

Lewis and Clark County complies with the Montana CIAA by requiring all County buildings, workspaces, and public places to be smoke-free. Notices of the smoke-free zone will be posted outside each public entrance.

Lewis and Clark County provides coverage for tobacco cessation treatments prescribed by a health care provider for participants and dependents 18 or older enrolled in the Health Benefits Plan.

The County offers financial support for employees for the purchase of over-the-counter tobacco cessation products through the Tobacco Cessation Reimbursement Benefit.

The County also offers tobacco cessation programs at no cost to the employee.

Section 15-03- Support For Breastfeeding Employees

Lewis and Clark County recognizes the well-documented health advantages of breastfeeding for infants and mothers. Furthermore, the County understands its responsibility to comply with the requirements of 50-19-501 MCA, Nursing Mother and Infant Protection and 39-2-215 MCA, Public Employer Policy On Support of Women and Breastfeeding

In order to accommodate the needs of breast-feeding mothers, the County will ensure that affected employees are provided with adequate facilities for breastfeeding or the expression of milk for their children by following procedures:

- A. Provide sufficient time for breastfeeding employees to breastfeed or express milk during scheduled work hours. For time that may be needed beyond the usual break times, employees may use personal leave or extend their regular scheduled work day if this option is negotiated with their supervisor.
- B. Provide a private and sanitary room with an electrical outlet and a sink with running water for washing hands and rinsing out breast pump parts room. If employees prefer, they may also breastfeed or express milk in their own private office, or in other comfortable locations agreed upon in consultation with the employee's supervisor. Expressed milk may be stored in general refrigerators in break areas accessible to employees; or, in designated refrigerators provided in the lactation room; or in an employee's personal cooler.
- C. Identify prenatal and postpartum breastfeeding classes and informational materials.
- D. Provide supervisors and managers with information about the County's lactation support program and requirements for ensuring that breastfeeding mothers can meet their infant feeding goals.
- E. Employees who wish to express milk while at work will observe the following guidelines:
 1. Notify supervisors and managers of requirements as soon as possible so that they can make appropriate space available to accommodate employees without disrupting work.
 2. Maintain areas used for the expression of breast milk.
 3. Label all milk expressed with their name and date collected so it is not confused with another employee's expressed milk. Each employee is responsible for proper storage of her milk in either a County-provided or personal storage cooler.
 4. Use break time to express milk whenever possible.
 5. Use a sign-in log sheet to coordinate usage when more than one breastfeeding employee needs to use the room designated for milk expression,